SENATE—*Thursday, June 25, 1992*

(Legislative day of Tuesday, June 16, 1992)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

PRAYER

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

Let us pray:

Except the Lord build the house, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain.—Psalm 127:1.

Creator God, Lord of the universe, Ruler of the nations, the psalmist exposes a fundamental fact—the futility of man's best without God. Carl Marx proclaimed the doctrine, "Religion is the opiate of the people," and precipitated 70 years of tragic, destructive history in the Soviet Union, confirming the psalmist's word.

The words of Thomas Jefferson, engraved in his memorial, declare the reason for America's greatness—and potential peril. He said, "God who gave us life gave us liberty." He asked, "Can the liberties of a nation be secure when we have removed from the hearts of the people the belief that those liberties are the gift of God?" History ratifies the biblical truth, "* * * the Lord knoweth the way of the righteous: but the way of the ungodly shall perish."—Psalm 1:6.

Gracious, patient, loving Lord, help us see that indifference toward God is the most subtle form of rejection and the primary cause of social/cultural decay. Awaken us to our need of You, and grant us grace to give You priority in our personal and corporate lives. For the glory of God and the renewal of the Nation. 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 25, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DASCHLE 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. Also under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 o'clock, with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Nevada is currently recognized to speak for up to 15 minutes.

Mr. REID. I thank the Chair.

THE PONY EXPRESS TRAIL

Mr. REID. Mr. President, yesterday the Senate Energy and Natural Resources Committee ordered to be reported legislation that would designate the California and Pony Express Trails as National Historic Trails under the National Trails System. I have asked the majority leader to put this legislation on the calendar at the earliest possible date so the Senate can pass it and send it to the President for his signature.

This is the culmination of nearly 4 years of effort on the part of many who patiently and diligently worked toward a solution to difficult issues related to this legislation.

It is also a truly historic bill because the two trails to be designated embody the great pioneering ingenuity that helped settle the West. By preserving these trails, we guarantee this period of history will be passed on to future generations.

Long before Nevada became known for bright lights, we were a Western frontier State known for rugged independence. The Pony Express is an important part of our heritage. The wily youth who risked their lives daily to deliver the mail helped pave the way for the telegraph, railroads, and highways. The Pony Express bill will pass on to all Americans the vision, courage, ingenuity, and robust spirit of the early West.

In an era of our history where self-determination is an everyday buzzword, it is fitting that we designate these colorful historic trails that are characterized by such great can-do past Americans as "Buffalo Bill" Cody and "Wild Bill" Hickock. These legends and their trails deserve a permanent place in the history of Nevada, the West, and this country.

I commend my colleagues on the Energy and Natural Resources Committee for their willingness to resolve disagreements associated with this legislation and assist me in giving the Pony Express Trail and California Trail their rightful place in history.

MINING LAW—MINERAL POLICY

Mr. REID. Mr. President, my reason for coming to the floor this morning is primarily to again look at the issue of the Federal statutes that have been passed and amended relating to the 1872 mining law. I started this discussion earlier this month. Today, I want to direct my remarks toward the failure of our country to develop a minerals policy for this Nation.

Mr. President, we long have heard complaints about this country not having an energy policy, which we do not have. But we have heard little about not having a minerals policy, which we also should have.

The reason we need a minerals policy is, No. 1, our national security demands we address this issue and the importance of such a policy in the economic future of this country cannot be overstated. Second, the debate that consumes much of the Congress' time each year on the mining law could be avoided or partially answered by a comprehensive mineral policy.

Many believe that mining law provides a long-range mineral policy for the people of this country. This simply is not factual. The simple truth is the mining law lays the groundwork for the discovery and exploration of minerals. Nowhere in the mining law does it address the issue of which minerals can and should be produced in this country, what critical materials or minerals the national security of this country is dependent upon, nor the inherent values these minerals have in terms of our long-range economic future.

The mining law, like many other documents that have survived and been amended many times, as I previously pointed out, is a living document that must adjust to meet the needs of a growing and ever-changing society. That is what the mining law was all about. In addition to being amended

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

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many times, it has been succeeded by a heavy load of case law that has served to interpret specific legal issues and establish precedent for future decisions affecting the mining industry. But it is not a minerals policy.

In 1988, 1989, and 1990, I began to make an argument for mineral policy for this country. In spite of strong support from many of my colleagues, especially the distinguished Senator from the State of Arizona [Mr. DECONCINI], I failed to convince the administration that a critical materials council that had already been passed into law could assist in outlining a minerals policy for this country. They ignored and in effect overruled the aims of Congress when this law was established.

At that time I said, "Without clearly stated and aggressively implemented Federal policies concerning minerals, advanced materials and super conductivity, our Nation will be unable to compete in these critical areas against Japan and several Western European nations." I believe that the past 4 years will bear witness to the fact that Japan and Europe are taking the lead in many technological areas and developing the resources to back up that technology.

There has been some focus placed on the development of a policy for advanced materials, or the Advanced Materials and Processing Program, known as AMPP. While I am encouraged to see breakthroughs in such areas as process control for advanced ceramic structures, via a process called hot-isostatic pressing and microwave sintering along with the construction of various composites, I am at a loss to understand why we cannot develop a policy for our more basic minerals and critical materials.

Last week Secretary Lujan of the Department of the Interior was asked by me if he felt it was important to develop a minerals policy for this country, and he wholeheartedly agreed that such a policy would be helpful.

Mr. President, this area about which I speak is an important area, and it is distressing to find numerous instances where we are at a competitive disadvantage in mining because we have imposed costs on the mining industry that other countries simply do not have to bear. Subsequently, jobs are lost and our trade deficit increases because we are forced to import these materials.

As I said before in this body, this was true in the gold industry until the late 1980's when we began to produce enough gold in this country to take care of our own production demands.

This has been largely due to technological developments far outpacing the picks and shovels prospectors used in the early 1900's. With the advent of computers and satellites, investment companies are allowed to locate gold so fine that it can only be seen through an electron microscope.

Mr. President, as a young boy I watched my father many times grind up rock, put it in a little saucer-like container, shake it, and see if there was gold in it. The kind of gold now that is being discovered could not be seen by my father even through a regular microscope. You need an electronic microscope to see that. Things have changed.

Since 1982, the U.S. gold industry has invested over $7 billion in development and exploration. This phenomenal growth within the industry has resulted in the establishment of jobs in the hundreds of thousands in all sectors of the economy, and along with them, new life to many regions of the country. Current information reflects that mining jobs directly related to the mining industry totaled 78,000 in 1990. Indirect jobs are in the hundreds of thousands.

Far removed from the actual goldfields of the Western United States, the manufacturing and refining industry, which is responsible for the jewelry that is made and sold in this country, employs another 35,000 people. And as I said in a recent statement, there are as many as 750,000 jobs throughout this country that are indirectly related to the mining industry.

Japan's explosive demand for gold jewelry has stimulated United States mine production as well. The export of jewelry in the global market increased 37 percent between 1988 and 1989, and in Japan alone during that time, it increased 70 percent.

Beyond the jewelry industry, gold serves us in many other walks of life. We fail to recognize that. Think about the many other uses of gold. We only think about it in a gold watch or a gold ring. In the telecommunications industry, virtually all telephone jacks are gold coated to assure perfect voice or digital transmission.

Gold compounds provide the most effective treatment for rheumatoid arthritis, and research is underway on the use of gold for treatment in AIDS, gout, and other intractable diseases. This precious metal offers hope in the medical field for countless victims of tragic diseases and gives hope to mankind for a better quality of health in our lives.

The field of electronics is another area where gold plays an important role. Ninety-five percent of all the electrical contacts used in computers are gold-coated to provide a more consistently perfect digital signal transmission, much like it does in the telecommunication field.

Because gold has certain qualities that other metals do not have; namely, it is a clean, noncorroding, excellent electrical conductor, it protects astronauts, satellites, and the sophisticated electronic equipment in the airplanes and on the ships that protect this country.

These are but a few of the uses for gold in this country and how our production meets global demand and provides jobs; and all this takes place in a vacuum. That is, there is no policy that determines, directs, or evaluates what the economic importance of these activities are in terms of our future.

We are a net exporter of gold. One of the few areas we can look to with confidence that we export more than we bring in. And this happened only in the last few years.

But gold is not the only strategic or critical mineral that is produced in this country. Let us take a look at some of the other strategic minerals and the cost it takes to produce them to see what effect the lack of a mineral policy has had on them.

The Mollycorp mine in Mountain Pass, CA, just a few miles from the Nevada-California border, produces a category of minerals known as "Rare earths." Rare earths consist of such materials as lanthanum, cerium, praseodymium, neodymium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, ytterbium, and lutecium.

This mine is the only mine in the United States to produce these strategic materials, and it is currently partially shut down because it is not cost beneficial to produce two of these materials: samarium and gadolinium. Why: because the Chinese can produce it and ship it to this country for less than the Mollycorp mine can get it out of the ground. As a result, the Chinese control the bulk of the global market for these critical minerals.

You may be asking, for what are these strategic materials used? Well, samarium-cobalt permanent magnets are used in traveling wave tubes for satellites, computers, and guidance systems for the Patriot, Sidewinder, Sparrow, Stinger, Phoenix, Maverick, and Hawk missiles.

Gadolinium-iron-garnets and gadolinium-aluminum-garnets are used for microwave filtration, and gadolinium is also used in some nuclear reactors.

Now some of you may want to depend on the Chinese for these materials to ensure that our missile systems operate the way we hope and expect them. As for me, I would much prefer to have a strategic minerals policy that defines the value of these minerals to the country and establishes guidelines to continue mining them.

Much has been said about the Stillwater Mine in Montana because of the value of the minerals they are going to take out of that mine. Nothing, however, has been said about the fact that this mine is the only mine in the country where palladium or platinum is produced. Most of the palladium and platinum that has been produced in the past has come from the former Soviet Union and South Africa.

It took a great deal of effort to develop this mine.

Let us take a look at the uses of these materials. Over 50 percent of the platinum consumed in the United States is used in the production and manufacturing of pollution-reduction mechanisms that we know as the catalytic converters used in automobiles. Palladium is primarily used in the electronics industry and computers, but both can be found in the production of gasoline, fertilizer, and chemicals.

Again, I suppose that we can lose the catalytic converter business to a foreign country, but we should not. If we do lose it, along with it goes the jobs associated with it.

So I hope we will take a look at these businesses and determine the importance of the platinum and palladium mining business.

At the present time, the Stillwater Mine owners have invested a total of $146 million in exploration and developing the mineral potential of a small portion of the mine. It employs almost 400 people, will expand that employment to 1,100 if the mine expands, and eventually produce 5 percent of the world's platinum and 20 percent of the world's palladium.

I want to ask all of my colleagues here in the Senate; what is it worth that we can hire American workers to produce these minerals at this one location in the United States rather than to pay a foreign country whatever the market can bear to import these materials as we need them? If there was a shortage of these materials in the world market, could we get along without the contribution these minerals make in terms of those products that we absolutely need. These questions can be extended to every mining operation throughout the United States.

I submit that we all know the answer to the jobs question; we need every one of them. As for the other questions that I have raised today, a minerals policy would provide many of the answers and stop us from floundering around in the muddy waters of this ambiguous mining law debate.

I urge all of my colleagues to see this issue for what it is. An assault on the mining law would lose the potential to disrupt State and local economies, deny every American the benefits of the uses of the strategic and critical materials mined in this country, and send more jobs and workers beyond the borders of this country or into the unemployment line. A minerals policy would help us develop the economic potential that we have in this country, and the future of our country depends on this, especially the national security needs.

Thank you, Mr. President.

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

The Senator from Delaware is now recognized to speak for up to 1 hour and 15 minutes.

REFORM OF THE CONFIRMATION PROCESS

Mr. BIDEN. Mr. President, I would like to apologize in advance for trespassing on the President's time and the time of the Senate. In my over 19 years in the Senate, I have never sought to speak before the Senate for as long a period as I sought today in morning business.

But the subject to which I speak is something that I have given a great deal of thought, been asked by the Senate to spend some considerable time thinking about, and it is extremely controversial. And in light of the fact that we are within a day of the time that historically the Supreme Court Justices make judgments about whether or not they are going to stay on for another year, it seems somewhat propitious, although I know of no Justice who intends to resign—I do not mean to imply that—my speech this morning is about reforming the confirmation process and the need for a new dawn with regard to how we conduct ourselves relative to the confirmation process involving Supreme Court nominees.

Seven years ago, Harvard law professor, Laurence Tribe, reflected on what was then the second-oldest Supreme Court in history, and he wrote:

> A great Supreme Court is a sort of Halley's Comet in our constitutional universe, a rare operation arriving once each lifetime, burning intensely in our legal firmament for a brief period before returning to the deep space of constitutional history.

He added that a quiet period in which there were just two Supreme Court nominations in 15 years was "the calm before the constitutional storm that surely lies ahead," predicting that, sometime in this decade, we will be tossed into the turbulent process that has gripped this Nation in the past. And, today, after the naming of seven men to fill five vacancies on the Supreme Court in just 5 years, we find ourselves in the midst of the storm Professor Tribe forecasts.

In these past 5 years, the U.S. Senate has endured three of the most contentious confirmation fights in the history of the United States:

The 1986 nomination of William Rehnquist, who was confirmed by the most votes cast against him of any judge to the Supreme Court in our history up to that point.

The 1987 rejection of Robert Bork at the end of an epic conflict between competing constitutional visions.

The subsequent withdrawal of Douglas Ginsburg just days after President Reagan had selected him to succeed Bork as his nominee.

The fierce flight in 1991, which none of us, I suspect, will ever forget, over Clarence Thomas' confirmation to the Court, which broke Chief Justice Rehnquist's record for receiving the most negative votes in Senate history.

The immediate product of these conflicts, the change in the Court over the past few years, has already been dramatic. But as Duke professor, Walter Dellinger, pointed out, there is every reason to believe we may see as many as five more Justices retire within the next 4 years. In all likelihood, Mr. President, we stand at only the halfway point in the remaking of the Supreme Court, with as many confirmation controversies in the coming Presidential term as we saw over the past two terms combined.

By the time we arrive at the next election year in 1996, there is a substantial chance that no member of the Court who was serving on the Court in June of 1986 will remain on the bench. Such a complete replacement of the Court in just 10 years has only one precedent since the Court was permanently expanded to nine members over 100 years ago. Today, as we stand at the midpoint in this dramatic change, I would like to discuss what has transpired over the past few years with respect to the confirmation process.

Mr. President, I also want to discuss the question of what should be done if a Supreme Court vacancy occurs this summer. Finally, I want to offer four general proposals for how I believe the nomination and confirmation process should be changed for future nominations.

Let me start first with a consideration of the confirmation process of the past decade. As I mentioned earlier, Presidents Reagan and Bush have named eight nominees for six positions on the Court during their Presidential terms. This is not the first time in our history that a strong ideological President and his loyal successor have combined to shape the Court.

Presidents Washington and Adams made 18 nominations, of which 14 were confirmed and served among the Court's 6 Justices.

Presidents Lincoln and Grant nominated 13 candidates for the Court, of whom 9 were confirmed and served.

Presidents Roosevelt and Truman named 13 Justices, all confirmed, in their combined terms in the White House.

What distinguished the Reagan-Bush Justices from these historical parallels, however, is that half of them have been nominated in a period of a divided Government. In each of these previous times, a sweeping nationwide consensus existed, as reflected by the election of both political branches of like-minded officials, which justified the sweeping changes that took place at the Supreme Court.

But over the past two decades, Mr. President, no such consensus has existed, unlike the eras to which I pointed—Washington-Adams, Lincoln-Grant, Roosevelt-Truman.

Since 1968, Republicans have controlled the White House for 20 of 24

years. Democrats have controlled the Senate for 18 years of this period. The public has not given either party a mandate to remake the Court into a body reflective of a strong vision of our respective philosophies, and both of our parties should finally, honestly admit to that fact. Both of our parties should honestly have conceded this fact. But neither has, thus far.

Of course, this is not the first period when a divided Government has been required to fill the third branch of Government. About one-fifth of all Supreme Court Justices have been confirmed by a party different from the President. One-third of all Justices confirmed since 1930 have been approved under these circumstances.

It was a Senate controlled by progressive Republicans and Democrats that confirmed three of President Hoover's four nominees for the Court, and a Democratic Senate reviewed and approved Eisenhower nominees. Yet, in these previous periods of divided Government, Mr. President, indeed in some periods where a President and the Senate shared the same party, Presidents commonly have taken the Constitution at its word and asked for the Senate's advice—advice—as well as its consent. These Presidents have consulted with the Senate about their choices for the Court and/or chose nominees with balanced or diverse ideologies. Thus, the conservative Republican, Hoover, named conservative Chief Justice Charles Evan Hughes, but also named a moderate, Owen Roberts, and a liberal, Benjamin Cardoza; the latter, Benjamin Cardoza, after heated executive-Senate consultations.

Similarly, President Eisenhower's choices for the Court included conservative John Harlan and Charles Whittaker, moderate Potter Stewart, and liberals Earl Warren and William Brennan. Even President Nixon, who showed no reluctance to take full advantage of Presidential prerogatives, balanced his choices of conservatives Warren Burger and William Rehnquist with those of moderate Republican Harry Blackmun and conservative Democrat Lewis Powell.

This, of course, has not been the model that Presidents Reagan and Bush have followed. Indeed, even lacking the broad support for their vision of the Court which Presidents Washington and Adams, Lincoln and Grant, and Roosevelt and Truman had, Presidents Reagan and Bush have tried to recast the Court in their ideological image, as these Presidents did.

Put another way: This is not the first time that a tandem of Presidents have sought to remake the Supreme Court, nor is it the first time that divided Government has had to fill a number of seats in that body.

But it is the first time that both have been attempted simultaneously and that, more than anything else, has been at the root of the current controversy surrounding the selection of the Supreme Court Justices.

It was to cope with this stress, a stress created by the decision of Presidents Reagan and Bush to attempt to move the Court ideologically into a radical, new direction which this country does not support, it was to cope with this stress that the modern confirmation process was created. And on this point, there should be no doubt and no uncertainty.

The use that Presidents Reagan and Bush made of the Supreme Court nominating process in a period of divided Government is without parallel in our Nation's history. It is this power grab that has unleashed the powerful and diverse forces that have ravaged the confirmation process. If the American people are dissatisfied with where they find the process today, they must understand where the discord that has come to characterize it began: With Presidents Reagan and Bush and their decision to cede power in the nominating process to the radical light within their own administration.

It was in the face of this unprecedented challenge to the Supreme Court's selection process that we in the Senate developed an unprecedented confirmation process. The centerpiece of this new process was a frank recognition of the legitimacy of Senate consideration of a nominee's judicial philosophy as part of the confirmation review.

I ask unanimous consent at this point that a previous speech I have made on the Senate's right to look at and obligation to look at the ideology of the nominees be printed in the RECORD.

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

ADVICE AND CONSENT: THE RIGHT AND DUTY OF THE SENATE TO PROTECT THE INTEGRITY OF THE SUPREME COURT

Mr. BIDEN. Mr. President, on July 1, 1987, President Reagan nominated Judge Robert Bork to be an Associate Justice of the Supreme Court. I am delivering today the first of several speeches on questions the Senate will face in considering the nomination.

In future speeches, I will set out my views on the substance of the debate—and there is room for principled disagreement. But in this speech, I want to focus on the terms of the debate—and I hope to put an end to disagreement on the terms of the debate. Arguing from constitutional history and Senate precedent, I want to address one question and one question only: What are the rights and duties of the Senate in considering nominees to the Supreme Court?

Some argue that the Senate should defer to the President in the selection process. They argue that any nominee who meets the narrow standards of legal distinction, high moral character, and judicial temperament is entitled to be confirmed in the Senate without further question. A leading exponent of this view was President Richard Nixon, who declared in 1970 that the President is "the only person entrusted by the Constitution with the power of appointment to the Supreme Court." Apparently, there are some in this body and outside this body who share that view.

I stand here today to argue the opposite proposition. Article II, section 2, of the Constitution clearly states that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint * * * Judges of the Supreme Court. * * *" I will argue that the Framers intended the Senate to take the broadest view of its constitutional responsibility. I will argue that the Senate historically has taken such a view. I will argue that, in case after case, it has scrutinized the political, legal, and constitutional views of nominees. I will argue that, in case after case, it has rejected professionally qualified nominees because of the perceived effect of their views on the Court and the country. And I will argue that, in certain cases, the Senate has performed a constitutional function in attempting to resist the President's efforts to remake the Supreme Court in his own image.

THE INTENT OF THE FRAMERS

How can we be sure of the scope of the Senate's constitutional rights and duties under the "advice and consent" clause? We should begin—but not end—our investigation by considering the intent of the Framers. Based on the debates of the Constitutional Convention, it is clear that the delegates intended the Senate to set into play a broad role in the appointment of judges.

In fact, they originally intended even more. At the beginning of the Constitutional Convention, they intended to give the Congress exclusive control over the selection process and to leave the President out entirely. On May 29, 1787, the Constitutional Convention began to deliberate in Philadelphia. It adopted as a working paper the Virginia Plan, which provided that "a National Judiciary be established * * * to be chosen by the National Legislature."

A few weeks after debate began, some delegates questioned the wisdom of entrusting the selection of judges to Congress alone. They feared that Congress was large and lumbering and might have some trouble making up its mind. James Wilson of Pennsylvania was an advocate of strong Executive power, so he proposed an obvious alternative: giving the President exclusie power to choose the judges. This proposal found no support whatsoever. If one concern united the delegates from large States and small States, North and South, it was a determination to keep the President from amassing too much power. After all, they had fought a war to rid themselves of tyranny and the royal prerogative in any form. John Rutledge of South Carolina opposed giving the President free rein to appoint the judiciary since "the people will think we are leaning too much toward monarchy."

James Madison, the principal architect of the Constitution, agreed. He shared Wilson's fear that the legislature was too large to choose, but stated that he was "not satisfied with referring the appointment to the Executive." He was "rather inclined to give it to the Senatorial branch" of the legislature, which he envisioned as a group "sufficiently stable and independent" to provide "deliberate judgments." Accordingly, on June 13, Madison formally moved that the power of appointment be given exclusively to the Senate. His motion passed without objection.

On July 18, 200 years ago last Saturday, James Wilson again moved "that the Judges be appointed by the Executive." His motion was defeated, by six States to two. It was

widely agreed that the Senate "would be composed of men nearly equal to the Executive and would of course have on the whole more wisdom." Moreover, "it would be less easy for candidates to intrigue with them, than with the Executive."

Obviously, we can see here the fear that was growing on the part of those at the Convention was that respective nominees would be able to intrigue with a single individual, the President, but not the Senate as a whole. So Mr. Ghorum of Massachusetts suggested a compromise proposal: to provide for appointment by the Executive "by and with the advice and consent" of the Senate. Without much debate, the "advice and consent" proposal failed on a tie vote.

Up until now, no one, no single vote at the Convention, gave the Executive any role to play in this process.

All told, there were four different attempts to include the President in the selection process, and four times he was excluded. Until the closing days of the Convention, the draft provision stood: "The Senate of the U.S. shall have power to * * * appoint * * * Judges of the Supreme Court." But the controversy would not die, and between August 25 and September 4, the advice and consent compromise was proposed once again. On September 4, the Special Committee on Postponed Matters reported the compromise, and 3 days later, the Convention adopted it unanimously.

What can explain this 11th hour compromise? Well, historians have debated it for years.

Gouverneur Morris of Pennsylvania offered the following paraphrase. The advice and consent clause, he said, would give the Senate the power "to appoint Judges nominated to them by the President." Was his interpretation correct?

Well, we can never know for sure, but it seems to be the overwhelming point of view among the scholars. But it is difficult to imagine that after four attempts to exclude the President from the selection process, the Framers intended anything less than the broadest role for the Senate—in choosing the Court and checking the President in every way.

The ratification debates confirm this conclusion. No one was keener for a strong Executive than Alexander Hamilton. But in Federalist Papers 76 and 77, Hamilton stressed that even the Federalists intended an active and independent role for the Senate.

In Federalist 76, Hamilton wrote that Senatorial review would prevent the President from appointing justices to be "the obsequious instruments of his pleasure." And in Federalist 77, he responded to the argument that the Senate's power to refuse confirmation would give it an improper influence over the President by using the following words: "If by influencing the President, be meant restraining him, this is precisely what must have been intended. And it has been shown that the restraint would be salutary. * * *"

Now, this is the fellow, Hamilton, who argued throughout this entire process that we needed a very strong executive, making the case as to why the Senate was intended to restrain the President and play a very important role.

Most of all, the Founders were determined to protect the integrity of the courts. In Federalist 78, Hamilton expressed a common concern: "The complete independence of the courts of justice," he said, "is peculiarly essential in a limited Constitution. * * * Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void."

So, in order to preserve an independent Judiciary, the Framers devised three important checks: life tenure, prohibition on reduction in salary and, most important, a self-correcting method of selection. As they relied on the Court to check legislative encroachments, so they relied on the Legislature to check Executive encroachments. In dividing responsibility for the appointment of judges, the Framers were entrusting the Senate with a solemn task: preventing the President from undermining judicial independence and from remaking the Court in his own image. That in the end is why the Framers intended a broad role for the Senate. I think it is beyond dispute from an historical perspective.

THE SENATE PRECEDENTS

The debates and the Federalist Papers are our only keys to the minds of the Founders. Confining our investigation to "original intent," you would have to stop there. But there is much more. Two centuries of Senate precedent, always evolving and always changing with the challenges of the moment, point to the same conclusion: The Senate has historically taken seriously its responsibility to restrain the President. Over and over, it has scrutinized the political views and the constitutional philosophy of nominees, in addition to their judicial competence.

I ask unanimous consent to insert in the RECORD a list of all nominations rejected or withdrawn over the last 200 years.

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

I. SUPREME COURT NOMINATIONS REJECTED OR WITHDRAWN, 1795–1970

Supreme Court nominee	Nominating president	President's party	Senate party	Rejected (R)/postponed (P)/withdrawn (W)	Vote	Reasons for Senate opposition
John Rutledge (1795)	Washington	Federalist	F	R	14–10	Attacked by his fellow Federalists for his opposition to the Jay Treaty of 1794.[1,2]
Alexander Wolcott (1811)	Madison	Dem.-Repub.	DR	R	24–9	Unpopular with Federalists for strong enforcement of Embargo and Non-intercourse Act as U.S. Collector of Customs for Connecticut; also questionable legal qualifications.[1,2]
John Crittenden (1829)	J.Q. Adams	DR	DR	P	23–17	Adams was a lame duck President (nomination came after his 1828 defeat by Jackson).[1,2]
Roger Brooke Taney (1835)	Jackson	Dem	Whig	P, Later confirmed as Chief Justice 1836.		Unpopular with Whips because, as Secretary of the Treasury, removed government funds from the Bank of the United States in compliance with Jackson anti-Bank policy.[1,2]
John Spencer (1844)	Tyler	W/D	W	RD	26–21	Tyler was the first to succeed to the presidency as Vice-President and his power was questioned generally; Tyler viewed as only a nominal Whig; Spencer defeated because of his close political association with Tyler.[1,2]
Reuben Walworth (1844)	Tyler	W/D	W	P	27–20	Partisan opposition to Walworth by Senate Whigs.[1]
Edward King (1844)	Tyler	W/D	W	P	29–18	Senate Whigs anticipated that Tyler would not be nominated for President, and was thus effectively a lame duck.[1]
Edward King (1845)	Tyler	W/D	W	W		Tyler became a lame duck in fact after Polk's election (King nomination resubmitted in December 1844).[1]
John Read (1845)	Tyler	W/D	W	No action		Nomination made February 1845, Senate adjourned without taking action.[1]
George Woodward (1846)	Polk	D	W	R	29–20	Woodward's home state Senator, Simon Cameron, insisted on right to approve appointment ("senatorial courtesy"); Woodward also attacked as extreme "American nativist."[1,2]
Edward Bradford (1852)	Fillmore	W	D	W, No action		Fillmore effectively a lame duck because not nominated for President in 1852; Senate adjourned without taking action.[1]
George Badger (1852)	Fillmor	W	D	P	26–25	Fillmore a lame duck in fact after Pierce's election; nomination of Sen. Badger (a Whig) "postponed" by Senate Democratic majority to protect Court seat for Democrat Pierce to fill.[1]
William Micou (1853)	Fillmore	W	D	No action		Same reasons as with Badger nomination, above.[1]
Jeremiah Black (1861)	Buchanan	D	Some Dems. had quit Senate after secession.	R	26–25	Black was opposed politically by Democratic Sen. Stephen Douglas (loser of 1860 election); Buchanan was a lame duck in fact (nomination made after Lincoln's election); Senate anti-slavery forces opposed because Black had advised Buchanan that force could not be used to prevent secession and maintain in the Union.[1,2]
Henry Stanbury (1866)	A. Johnson	D	R	Court seat eliminated		Radical Republicans controlling Senate reduced size of Supreme Court by two seats to deny Democratic President Johnson a chance to make any nominations.[1,2,3]
Ebenezer Hoar (1870)	Grant	R	R	R	33–24	Hoar rejected for his stands on policital issues: for merit nominations of lower court judges, for civil service reforms, against impeachment of President Johnson; also desire of some Senators to have a southern nominee.[1,2,3]
George Williams (1874)	Grant	R	R	W		Withdrawn because of questions about Williams' capabilities and financial integrity; and his connection, as Attorney General, to the scandal-ridden Grant Administration.[1,3]
Caleb Cushing (1874)	Grant	R	R	W		Cushing had changed political parties several times; attacked constitutionality of Reconstruction Laws; sent indiscreet letter to Jefferson Davis in 1861 after secession.[1,2,3]
Stanley Matthews (1881)	Hayes	R	D	No judiciary Comm. action; renominated by Garfield and confirmed by 24–23 vote.		Matthews opposed for his close ties to Jay Gould and railroad interests; less importantly, he was Hayes' brother-in-law and Hayes' lawyer before the Electoral Count Commission adjudicating the disputed 1876 Hayes-Tilden vote.[1,2,3]

I. SUPREME COURT NOMINATIONS REJECTED OR WITHDRAWN, 1795–1970—Continued

Supreme Court nominee	Nominating president	President's party	Senate party	Rejected (R)/postponed (P)/withdrawn (W)	Vote	Reasons for Senate opposition
William Hornblower (1893)	Cleveland	D	D	R	30–24	Hornblower's opposition to machine politics in New York led to "senatorial courtesy" veto of nomination by New York Democratic Sen. Hill; also Republican fear of Hornblower's opposition to protective tariffs.[1, 2, 3]
Wheeler Peckham (1893)	Cleveland	D	D	R	41–32	Same reasons as with Hornblower nomination, above.[1, 2, 3]
John J. Parker (1930)	Hoover	R	R	R	41–39	Opposed by unions for close adherence to anti-labor precedents; opposed by civil rights groups for racist statements made as candidate for Governor of North Carolina in 1920.[1, 2, 4]
Abe Fortas (1968)	L. Johnson	D	D	W		Senate filibuster from opposition to Warren Court, Fortas' membership on Court; Johnson effectively a lame duck in summer of 1968 (not running for renomination).[1, 2]
Homer Thornberry (1968)	L. Johnson	D	D	W		No Court vacancy after withdrawnal of Justice Fortas' nomination to Chief Justice.[1, 2]
Clement Haynsworth (1969)	Nixon	R	D	R	55–45	Criticism of civil rights and civil liberties record; questions of financial impropriety.[1, 3, 4]
G. Harrold Carswell (1970)	Nixon	R	D	R	51–45	Mediocre legal qualifications; criticism that part statements and actions were racist.[1, 3, 4]

[1] Henry J. Abraham, Justices and Presidents (New York: Penguin Books, 1975).
[2] Philip B. Kurland, "The Appointment and Disappointment of Supreme Court Justices," in Law and the Social Order (1972 Arizona State Univ. Law Journal), No. 2, p. 183.
[3] Richard D. Friedman, "The Transformation in Senate Response to Supreme Court Nominations: From Reconstruction to the Taft Administration and Beyond," 5 Cardozo Law Review 1 (1983).
[4] Donald E. Lively, "The Supreme Court Appointment Process: In Search of Constitutional Roles and Responsibilities," 59 Southern California Law Review 551 (1986).

Mr. BIDEN. In many cases, the Senate rejected technically competent candidates whose views it perceived to clash with the national interest. The chart lists 26 nominations rejected or withdrawn since 1789. In only one case, George Williams—a Grant nominee whose nomination was withdrawn in 1874—does it appear that substantive questions played no role whatsoever. The rest were, in whole or in part, rejected for political or philosophical reasons.

The precedent was set as early as 1795, in the first administration of George Washington. And the precedent setter was none other than poor John Rutledge who I quoted earlier. Remember Rutledge? He was the one who argued at the Constitutional Convention that to give the President complete control over the Supreme Court would be "leaning too much toward monarchy." Well Old John would come to wish he had not uttered those words.

Rutledge was first nominated to the Court in 1790, and he had little trouble being confirmed. As one of the principal authors of the first draft of the Constitution, he was clearly qualified to judge original intent. In 1791, however, he resigned his seat to become chief justice of South Carolina, which—as our two South Carolina Senators probably still think—he considered a far more important post. But then, Chief Justice John Jay resigned from the Supreme Court in 1795, and Washington nominated Rutledge to take his seat. The President was so confident to a speedy confirmation that he had the commission papers drawn up in advance and gave him a recess appointment.

But that was not to be. A few weeks after his nomination, Rutledge attacked the Jay Treaty, which Washington had negotiated to ease the last tensions of the Revolutionary War and to resolve a host of trade issues. Because of the violent opposition of the anti-British faction, support of the treaty was regarded as the touchstone of true federalism. One newspaper reported that Rutledge had declared "he had rather the President should die (dearly as he loved him) than he should sign that treaty." Another paper reported that Rutledge had insinuated "that Mr. Jay and the Senate were fools or knaves, duped by British sophistry or bribed by British gold * * * prostituting the dearest rights of freemen and laying them at the feet of royalty."

Debate raged for 5 months, and Rutledge was ultimately rejected, 14 to 10. To the minds of many Senators, Rutledge's opposition to the treaty called into question his judgment in taking such a strong position on an issue that polarized the Nation. Some even feared for his mental stability. But make no mistake: the first Supreme Court nominee to be rejected by the Senate—one of the framers, no less—was rejected specifically on political grounds. And the precedent was firmly established that inquiry into a nominee's substantive views is a proper and an essential part of the confirmation process.

Since Washington's time, the precedent has been frequently reinforced and extended—often at turning points in our history. In 1811, Alexander Wolcott, a Madison nominee, was rejected at least in large part because of his vigorous enforcement of embargo legislation and nonintercourse laws. His rejection was fortunate for our legal history, since he later endorsed the view that any Judge deciding a law unconstitutional should be immediately expelled from the Court.

In 1835, Roger Taney, a Jackson nominee, was opposed for much more serious and substantive reasons. I will discuss the historic details of the Taney case later. But, for now, though, a sketch will suffice. Jackson was attempting to undermine the Bank of the United States. Taney had been a crucial ally in his crusade, so Jackson nominated him to the Court. Those favoring confirmation urged the Senate to consider Taney's constitutional philosophy on its own merits. "It would indeed be strange," said a leading paper in the South, "if, in selecting the members of so august a tribunal, no weight should be attached to the views entertained by its members of the Constitution, or their acquirements in the science of politics in its relations to the forms of government under which we live." Those opposing confirmation had no reservation about doing so on the ground that Taney's views did not belong on the Court. In the end, the Whigs succeeded in defeating the nomination by postponement, but Jackson bided his time and resubmitted it the following year—this time for the seat of retiring Chief Justice Marshall.

Between the Jackson and Lincoln Presidencies, no fewer than 10 out of 18 Supreme Court nominees failed to win confirmation. Whigs and Democrats were equally divided in the Senate. While the issue of States rights versus a nationalist philosophy inflamed some of the debates, most of the struggles were strictly partisan. John Tyler set a Presidential record: the Senate refused to confirm five of his six nominees. At one point, after the resignation of Justice Baldwin in 1844, the struggle became so intense that a seat remained vacant for 28 months.

Twentieth century debates have been on the whole more civil but no less political. The last nominee to be rejected on exclusively political or philisophical grounds was John J. Parker, a Herbert Hoover nominee, in 1930. And in Parker's case, debate focused as much on the net impact of adding a conservative to the Court as on the opinions of the nominee himself. Parker's scholarly credentials were beyond reproach. But Republicans, disturbed by the highly conservative direction taken by the Court under President Taft, began to organize the opposition.

Their case rested on three contentions—I have this right, by the way; it is Republicans; and Republicans in those days were much more progressive in these matters, in my perspective—first, that Parker was unfriendly to labor; second, that he was opposed to voting rights and political participation for blacks; and third, that his appointment was dictated by political considerations.

Parker's opinions on the court of appeals drew attention to his stand on labor activism. He had upheld a "yellow dog" contract that set as a condition of employment a worker's pledge never to join a union.

But the case for the opposition was put most eloquently by Senator Borah of Idaho, in a speech that would be quoted for years to come:

"[Our Justices] pass upon what we do. Therefore, it is exceedingly important that we pass upon them before they decide upon these matters."

And Senator Norris of Nebraska added, in stirring words that we would do well to remember today:

"When we are passing on a judge * * * we ought not only to know whether he is a good lawyer, not only whether he is honest—and I admit that this nominee possesses both of those qualifications—but we ought to know how he approaches these great questions of human liberty."

Parker was denied a seat on the Court by a vote of 41 to 39. Justice Owen Roberts, the man appointed in his place, was less wedded to the wisdom of the past: his was the famous "switch in time" that helped defuse the Court-packing crisis in 1937—more on that later.

But what of our own times? In the past two decades, three nominees have been rejected by the Senate—Abe Fortas, Clement Haynsworth and G. Harrold Carswell—and, although there were other issues at stake, debate in all three cases centered on their constitutional views as well as their professional competence. I am inserting into the CONGRESSIONAL RECORD a list of the statements of Senators during the Fortas and Haynsworth hearings and debates concerning the relevance of a nominee's substantive views.

I ask unanimous consent that they be printed in the RECORD.

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

II. STATEMENTS OF SENATORS CONCERNING RELEVANCE OF NOMINEE'S SUBSTANTIVE VIEWS—FORTAS HEARINGS AND DEBATES

A. SENATORS WHO ARGUED DIRECTLY THAT THE VIEWS OF THE NOMINEE ARE RELEVANT

Senator Baker, 114 Cong. Rec. 28258 (1968).
Senator Byrd (Va.), 114 Cong. Rec. 26142 (1968).
Senator Curtis, 114 Cong. Rec. 26148 (1968).
Senator Ervin, Hearings on the Nomination of Abe Fortas and Homer Thornberry Before the Senate Comm. on the Judiciary, 90th Cong., 2nd Sess., at 107 (1968) [hereinafter cited as 1968 Hearings].
Senator Fannin, 114 Cong. Rec. 26704, 28755 (1968).
Senator Fong, 114 Cong. Rec. 28167 (1968).
Senator Gore, 114 Cong. Rec. 28780 (1968).
Senator Griffin, 1968 Hearings at 44.
Senator Holland, 114 Cong. Rec. 26146 (1968).
Senator Hollings, 114 Cong. Rec. 28153 (1968).
Senator McClellan, 114 Cong. Rec. 26145 (1968).
Senator Miller, 114 Cong. Rec. 23489 (1968).
Senator Thurmond, 1968 Hearings at 180.

B. SENATORS WHO DEBATED THE NOMINEE'S VIEWS

Senator Byrd (W. Va.), 114 Cong. Rec. 28785 (1968).
Senator Eastland, 114 Cong. Rec. 28759 (1968).
Senator Hart, 1968 Hearings at 276.
Senator Javits, 114 Cong. Rec. 28268 (1968).
Senator Lausche, 114 Cong. Rec. 28928 (1968).
Senator Montoya, 114 Cong. Rec. 20143 (1968).
Senator Murphy, 114 Cong. Rec. 28254 (1968).
Senator Smathers, 114 Cong. Rec. 28748 (1968).
Senator Stennis, 114 Cong. Rec. 28748 (1968).

C. SENATORS WHO ARGUED THAT THE NOMINEE'S VIEWS ARE NOT RELEVANT OR ONLY MARGINALLY RELEVANT

Senator Bayh, 114 Cong. Rec. 19902 (1968).
Senator Mansfield, 114 Cong. Rec. 28113 (1968).
Senator McGee, 114 Cong. Rec. 19638 (1968).
Senator McIntyre, 114 Cong. Rec. 20445 (1968).
Senator Proxmire, 114 Cong. Rec. 20142 (1968).
Senator Randolph, 114 Cong. Rec. 19639 (1968).
Senator Tydings, 114 Cong. Rec. 28164 (1968).

III. STATEMENTS OF SENATORS CONCERNING RELEVANCE OF NOMINEE'S SUBSTANTIVE VIEWS—HAYNSWORTH HEARING AND DEBATESI90{S25JN2-36]{S8857}A. SENATOR

A. SENATORS WHO ARGUED DIRECTLY THAT VIEWS OF THE NOMINEE ARE RELEVANT, OR WHO DEBATED THE NOMINEE'S VIEWS

Senator Baker, 115 Cong. Rec. 34432 (1969).
Senator Bayh, 115 Cong. Rec. 35132 (1969).
Senator Byrd (Va.), 115 Cong. Rec. 30155 (1969).
Senator Case, 115 Cong. Rec. 35130 (1969).
Senator Dole, 115 Cong. Rec. 35142 (1969).
Senator Eagleton, 115 Cong. Rec. 28212 (1969).
Senator Ervin, Hearings on the Nomination of Clement Haynsworth Before the Senate Comm. on the Judiciary, 91st Cong. 1st Sess., at 75 (1969) [hereinafter cited as 1969 Hearings].
Senator Fannin, 115 Cong. Rec. 34606 (1969).
Senator Goodell, 115 Cong. Rec. 32672 (1969).
Senator Gurney, 115 Cong. Rec. 34439 (1969).
Senator Harris, 115 Cong. Rec. 35376 (1969).
Senator Hart, 1969 Hearings at 463.
Senator Hollings, 115 Cong. Rec. 28877 (1969).
Senator Javits, 115 Cong. Rec. 34275 (1969).
Senator Kennedy, 1969 Hearings at 327.
Senator McClellan, 1969 Hearings at 167.
Senator Mathias, 1969 Hearings at 307.
Senator Metcalf, 115 Cong. Rec. 34425 (1969).
Senator Mondale, 115 Cong. Rec. 28211 (1969).
Senator Muskie, 115 Cong. Rec. 35368 (1969).
Senator Percy, 115 Cong. Rec. 35375 (1969).
Senator Stennis, 115 Cong. Rec. 34849 (1969).
Senator Young, 115 Cong. Rec. 28895 (1969).

B. SENATORS WHO ARGUED THAT THE NOMINEE'S VIEWS ARE NOT RELEVANT

Senator Allott, 115 Cong. Rec. 35126 (1969).
Senator Bellmon, 115 Cong. Rec. 31787 (1969).
Senator Boggs, 115 Cong. Rec. 34847 (1969).
Senator Cook, 115 Cong. Rec. 29557 (1969).
Senator Fong, 115 Cong. Rec. 34862 (1969).
Senator Hruska, 115 Cong. Rec. 28649 (1969).
Senator Mundt, 115 Cong. Rec. 35371 (1969).
Senator Murphy, 115 Cong. Rec. 35138 (1969).
Senator Prouty, 115 Cong. Rec. 34439 (1969).
Senator Spong, 115 Cong. Rec. 34444 (1969).
Senator Stevens, 115 Cong. Rec. 35129 (1969).
Senator Tower, 115 Cong. Rec. 34843 (1969).
Senator Tydings, 1969 Hearings at 57.

Mr. BIDEN. Mr. President, the list was compiled by three law professors in a memorandum prepared for several members of the Judiciary Committee in 1971 to address the proper scope of the Senate's inquiry into the political and constitutional philosophies of nominees.

The tone of the recent debates was established during the hearings for Justice Thurgood Marshall in 1967. Senator Ervin summarized the viewpoint of several Senators.

"I believe that the duty which that [advice and consent] provision of the Constitution imposes upon a Senator requires him to ascertain as far as he humanly can the constitutional philosophy of any nominee to the Supreme Court."

When Justice Marshall's nomination reached the floor, the Senators who spoke against confirmation rested their case on what they saw as his activist views. Senator Stennis said: "The nominee must be measured not only by the ordinary standards of merit, training, and experience, but his basic philosophy must be carefully examined." And Senator Byrd of West Virginia emphasized not only the nominee's own views but also the effect they would have in shifting the balance of the Court as a whole. Senator Thurmond emphasized the importance of balance: "This means that it will require the appointment of two additional conservative justices in order to change the tenor of future Supreme Court decisions." Of the numerous Senators who spoke in favor of Marshall's confirmation, many argued that his record of litigation aimed toward expanding the rights of black Americans was a positive factor in their decisions.

President Johnson's nomination of Abe Fortas to be Chief Justice in 1968 provoked the most protracted confirmation fight of recent times. There were personal as well as philosophical issues involved—particularly the propriety of a lameduck nomination and of the nominee's role as confidential adviser to the President—but his substantive positions were central to the debate. Of the 32 Senators who addressed the question, 14 explicitly stated that the nominee's political and constitutional views were relevant and should be discussed. Another 12 analyzed his views in explaining their own votes, implying that they regarded this consideration to be relevant. Six others seemed to argue that a nominee's constitutional philosophy was either not a proper topic for consideration by the Senate or of only marginal relevance.

Passions were high during that debate, but few disputed the terms of debate. Eloquent voices on both sides of the Senate agreed that the nominee's views, philosophy and past decisions were relevant to the question of his confirmation. Senator Fannin of Arizona quoted Senator Borah's stirring words from the Parker debate. He also quoted a letter from William Rehnquist, then a young lawyer in Arizona. As early as 1959, Mr. Rehnquist had called in the Harvard Law Record for restoring the Senate's practice "of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him."

Senator Miller of Iowa endorsed the sentiment:

"For too long, the Senate has rubber-stamped nominations * * *. But a time comes when every Senator should search his conscience to see whether the exercise of the confirming power by the Senate is for the good of the country."

Then Senator Thurmond rose again: "It is my contention," he said to the Chamber, "that the Supreme Court has assumed such a powerful role as a policymaker in the Government that the Senate must necessarily be concerned with the views of the prospective Justices or Chief Justices as they relate to broad issues confronting the American people, and the role of the Court in dealing with these issues."

Since Fortas's time, two more nominees have been rejected by the Senate—nominees for the seat that would come to be occupied by Justice Powell. There is no need to review the unhappy circumstances of the nominations of Clement Haynsworth and G. Harrold Carswell. They are as familiar now as they were then. But although both cases involved questions of ethics and competence, judicial philosophy played a central role. In the case of Judge Haynsworth, apparently 23 Senators argued for the relevance of his substantive views on labor law and race relations, while at least 13 Senators took the opposite position. Senator Case of New Jersey once more looked back to Borah: "How he approaches these great questions of human liberty—this for me is the essence of the issue in the pending nomination of Judge Haynsworth."

In the subsequent debate over G. Harrold Carswell, his views about racial equality received no less attention than his ability on the bench. Of particular concern was his always restrained, and often reversed, view of the scope of the 14th amendment. Senator INOUYE took particular exception to the nominee's "philosophy on one of the most critical issues facing our Nation today—civil rights." And Senator Brooke of Massachusetts argued the general proposition: "The Senate," he said, "bears no less responsibility than the President in the process of selecting members of the Supreme Court * * * (judicial competence) could not be sufficient (qualification) for a man who began his public career with a profound and far-reaching commitment to an anticonstitutional doctrine, a denial of the very pillar of our legal system, that all citizens are equal before the law."

DEVELOPING THE PROPER STANDARDS

This, then, is the history of the Senate debates. It is a rich and fractious history—always entangled with the passions of the moment and the questions of the day. But although the issues under review have changed, the terms of review have not. Until

recent times, few have questioned the Senate's right to consider the judicial philosophy, as well as the judicial competence, of nominees. The Founders intended it and the Senate has exercised it. Over and over, the Senate has rejected nominees who possessed otherwise distinguished professional credentials but whose politics clashed with the Senate majority or whose judicial philosophies were out of step with the times or viewed as tipping the balance in the Court.

It is easy to see why the Senate has subjected nominees to the Supreme Court to more exacting standards than nominees to the lower courts, for as the highest court in the land, the Supreme Court dictates the judicial precedents that all lower courts are bound to respect. But as the only court of no appeal, the Supreme Court itself is the only court with unreviewable power to change precedents. Thus, only the Senate can guard the guardians—by attempting to engage and gage the philosophies of Justices before placing them on the Court.

But to say that the Senate has an undisputed right to consider the judicial philosophy of Supreme Court nominees does not mean that it has always been prudent in exercizing that right. After all, some of our most distinguished Justices—such as Harlan Fiske Stone, Charles Evans Hughes, and Louis Brandeis—have been opposed unsuccessfully on philosophical grounds. To say, furthermore, that political philosophy has often played a role in the past does not mean that nominees' views should always play a role in the present. For there are obvious costs to political fights over judicial nominees. There are only costs to political fights over the Supreme Court seat. As history shows, tempers flare, factions mobilize, and the Court, and the country, wait for a truce.

There are costs that all of us would prefer to avoid. And these are costs that I have discussed before. In supporting the nomination of Justice O'Connor, whose views are more conservative than my own, I warned of the dangers of applying political litmus tests to Presidential nominees. I agreed with Justice O'Connor that to answer questions about specific decisions would jeopardize her independence on the Court. I cautioned that if every Supreme Court nomination became a political battle, then we would run the risk of holding the Court hostage to the internecine wars of the President and Congress. And I endorsed a modern convention that has developed in the Senate—a convention designed to keep the peace. In recent times, under normal circumstances, many Members have preferred not to consider questions of judicial philosophy in discharging their duty to advise and to consent. Instead, they have been inclined to restrict their standards for Presidential nominees to questions of character and of competence. These are the three questions we have preferred to ask:

First. Does the nominee have the intellectual capacity, competence and temperament to be a Supreme Court Justice?

Second. Is the nominee of good moral character and free of conflicts of interest?

Third. Will the nominee faithfully uphold the Constitution of the United States?

These were the questions asked by the Senate when President Eisenhower nominated Justice Brennan, when President Kennedy nominated Justice White, when President Nixon nominated Justice Powell and when President Reagan nominated Justice O'Connor, to name only a few recent examples.

But during what times and under what circumstances can this narrow standard be confidently applied? For obvious reasons, the narrow standard presumes a spirit of bipartisanship between the President and the Senate. It presumes that the President will enlist and heed the advice of the Senate; or it presumes that he will make an honest effort to choose nominees from the mainstream of American legal thought; or it presumes that he will demonstrate his good faith by seeking two qualities, above all, in his nominees—first, detachment and second, statesmanship.

Judge Learned Hand wrote of the necessity for detachment. He said that a Supreme Court Justice:

"* * * must have the historical capacity to reconstruct the whole setting which evoked the law; the contentions which it resolved; the objects which it sought; the events which led up to it. But all this is only the beginning, for he must possess the far more exceptional power of divination which can peer into the purpose beyond its expression, and bring to fruition that which lay only in flower * * * he must approach his problems with as little preconception of what should be the outcome as it is given to men to have; in short, the prime condition of his success will be his capacity for detachment."

And Justice Felix Frankfurter wrote of the necessity for statesmanship:

"Of course a Justice should be an outstanding lawyer in the ordinary professional acceptance of the term, but that is the merest beginning. With the great men of the Court, constitutional adjudication has always been statecraft. The deepest significance of Marshall's magistracy is his recognition of the practical needs of government, to be realized by treating the Constitution as the living framework within which the nation and the States could freely move through the inevitable changes wrought by time and inventions. Those of his successors whose labors history has validated have been men who brought to their task insight into the problems of their generation * * * Not anointed priests, removed from knowledge of the stress of life, but men with proved grasp of affairs who have developed resilience and vigor of mind through seasoned and diversified experience in a work-a-day world—(these) are the judges who have wrought abidingly on the Supreme Court."

Detachment and statesmanship—these are demanding standards. But they were standards admirably met by retiring Justice Lewis Powell—a practicing lawyer before his appointment to the Court. During a farewell interview, Justice Powell sought to express his own vision of the responsibilities of a Justice. "I never think of myself as having a judicial philosophy," he said. "* * * I try to be careful, to do justice to the particular case, rather than try to write principles that will be new, or original * * *." And Justice Powell called for "a consideration of history and the extent to which decisions of this Court reflect an evolving concept of particular provisions of the Constitution."

When the President selects nominees on the basis of their detachment and their statesmanship, with a sensitivity to the balance of the Court and the concerns of the country, then the Senate should be inclined to respond in kind. Individual Senators are bound to have individual objections. But at least since I have been in the Senate, many of us have made an effort to put aside our personal biases and to support even nominees with whom we were inclined to disagree.

But in recent years, it has struck many of us that the ground rules have been changed. Increasingly, nominees have been selected with more attention to their judicial philosophy and less attention to their detachment and statesmanship. When, and how, should a Senator respond when this happens? Constitutional scholars and Senate precedents agree that, under certain circumstances, a Senator has not only the right but the duty to respond by carefully weighing the nominee's judicial philosophy and the consequences for the country. What are those circumstances?

One circumstance is when a President attempts to remake the Court in his own image by selecting nominees for their judicial philosophy. Alone, Charles Black, a liberal scholar then at Yale Law School, wrote in 1970:

"If a President should desire, and if chance should give him the opportunity, to change entirely the character of the Supreme Court, shaping it after his own political image, nothing would stand in his way except the United States Senate * * *. A Senator, voting on a presidential nomination to the Court, not only may but generally ought to vote in the negative, if he firmly believes, on reasonable grounds, that the nominee's views on the large issues of the day will make it harmful to the country for him to sit and vote on the Court * * *."

I think that is a very important quote.

Another circumstance is when the President and the Senate are deeply divided, demonstrating a lack of consensus on the great issues of the day. Philip B. Kurland of the University of Chicago, a conservative scholar, wrote in 1972:

"Obviously, when the President and the Senate are closely aligned in their views, there is not likely to be a conflict over appointees. When their views are essentially disparate, suggesting an absence of consensus in the nation—a situation more likely to occur at the time of greatest constitutional change—it will become the obligation of the contending forces to reach appropriate compromise. It should not satisfy the Senate that the nominee is an able barrister with a record of unimpeachable ethical conduct. He who receives a Supreme Court appointment will engage in the governance of this country."

Let me repeat that. This is not repeated in the quote, but let me repeat that part of the quote.

"He who receives a Supreme Court appointment will engage in the governments of this country. The question for the Senate—no less than the President—is whether he is an appropriate person to wield that authority."

A final circumstance is when the balance of the Court itself is at stake. When the country and the Court are divided, then a determined President has the greatest opportunity of remaking the Court in his own image. To protect the independence of the Court and the integrity of the Constitution, the Senate should be vigilant against letting him succeed where they disagree. During the debate over the qualifications of Clement Haynsworth, our former distinguished colleague and my former seatmate, Senator Muskie of Maine spoke movingly of the Senate's duty to consider the impact of a nominee's views on the balance of the Court. He said:

"It is the prerogative of the President, of course, to try to shift the direction and the thrust of the Court's opinions in this field by his appointments to the Court. It is my prerogative and my responsibility to disagree with him when I believe, as I do, that such a

change would not be in our country's best interests."

These, in sort, are some of the circumstances when the Senate's right to consider judicial philosophy becomes a duty to consider judicial philosophy: When the President attempts to use the Court for political purposes; when the President and Congress are deeply divided; or when the Court is divided and a single nomination can bend it in the direction of the President's political purposes. These are all times when the Senate has a duty to engage the President.

In future speeches, I will attempt to support my belief that all three circumstances obtain today. But in turning to the future we should be guided by the past. Our predecessors have been met with similar challenges. How have they responded under fire?

A COURAGEOUS SENATE VERSUS A DETERMINED PRESIDENT: TWO FAMOUS PRECEDENTS

Fifty years ago, and 150 years ago, popular Presidents committed themselves to controversial political agendas. In both cases, the Supreme Court had ruled parts of the agenda unconstitutional. In both cases, the President attempted to tilt the balance of the Court by politicizing the appointments process. And in both cases, a courageous Senate attempted to block the President's efforts to bend the Court to his personal ends.

The first case is one I have already outlined—the case of Andrew Jackson's relentless efforts to place Roger Taney on the Supreme Court.

At its heart, the story of Andrew Jackson and Roger Taney versus the Senate and the Bank of the United States was a struggle over the broad ideological issues that split the fledgling Republic—a struggle between debtor and creditor, executive and legislative, States' rights and Federal power. Andrew Jackson arrived in Washington resolved to do battle with the the "monster" Bank. "I have it chained," he crowed after vetoing an attempt to recharter the Bank in 1832. "The monster must perish," he said.

To prosecute his vendetta against the Bank, Jackson sought to remove all Federal money from the "monster's" vaults. In late 1833, Jackson summoned his Cabinet and announced his resolve. By law, only Secretary of the Treasury Louis McLane was authorized to withdraw the funds. So Jackson commanded McLane to act. McLane, understanding the law, refused. So Jackson fired the staunch McLane and appointed William Duane to take his place. As a condition of his appointment, Duane promised to withdraw the funds. But, once in office, his conscience got the better of him. So he went to Jackson, who reminded him of his promise. "A Secretary, sir," said Jackson, "is merely an executive agent, a subordinate, and you may say so in self defense." "In this particular case," responded Duane, "Congress confers a discretionary power and requires reasons if I exercise it." Obviously, Duane was right. The law clearly stated that Duane had to report to Congress any decision regarding the deposit, and Congress was in recess. Duane asked for a delay. "Not a day," barked Jackson, "not an hour."

So Jackson fired his second Secretary. Who would carry out the executive order? In Attorney General Roger Taney, Jackson found a Cabinet member with a less scrupulous view of Executive power. Jackson designated Taney to take the Treasury and execute the order. And Taney wasted no time. Though not yet confirmed by the Senate, he immediately ordered the removal of funds. "Executive despotism!" cried the Whigs as soon as the Senate reconvened, and refused to confirm his Cabinet appointment.

But the deed was done, and the Bank was bleeding. The victory would not be complete, however, unless Jackson could tilt the balance of the Supreme Court. At first, the Court had leaned toward the Federalists in the battle of the Bank—John Marshall had upheld the Bank against attack by the States as early as 1819. But, after four Jackson appointments, the Court was rapidly shifting in favor of the States. In 1835, another vacancy arose, and Jackson was quick to reward his loyal henchman, Taney. But the Whigs could not forget Taney's earlier performance under fire. One New York paper said that he was "unworthy of public confidence, a supple, cringing tool of power."

In the minds of the Whigs—many of them giants of the Senate such as Calhoun and Crittenden, Webster and Clay—Taney's detachment and statesmanship were in serious doubt. And they defeated the nomination by postponing consideration until the last day of the Senate's session. Jackson was furious, and in his fury decided to bide his time. In December, with the resignation of Chief Justice Marshall, yet another vacancy arose. To fill the shoes of the great justice, Jackson resubmitted the name of Taney.

Once again, the lions of the Senate roared to the very end. Henry Clay, the "great compromiser," was said to use every "opprobrious epithet" in his vocabulary to fight the Taney nomination. The Whigs had no reservation about opposing him on the ground that they believed his views did not belong on the Court. As Senator Borah put it, in his classic speech against the Parker nomination in 1930:

"They opposed [Taney] for the same reason some of us now oppose the present nominee, because they believed his views on certain important matters were unsound. They certainly did not oppose him because of his lack of learning, or because of his incapability as a lawyer, for in no sense was he lacking in fitness except, in their opinion, that he did not give proper construction to certain problems that were then obtaining."

But the Democrats had gained the upper hand in the Senate, and Taney became Chief Justice by a vote of 29 to 15. Unfortunately, the Whig fears proved only too well justified. It would be hard to imagine a more inappropriate successor to Chief Justice Marshall than Chief Justice Taney. Where Marshall's broad reading of the Constitution was indispensable in strengthening the growing Union, Taney's narrow reading played a significant role in weakening the cohesion of the Union. In 1857, Taney wrote the infamous Dred Scott decision for a divided Court. And in refusing to read into the Constitution the power of Congress to limit slavery in newly admitted States, he nullified the Missouri Compromise and helped to precipitate the greatest constitutional crisis in our history—the Civil War.

I prefer to end on a happier note. It is another story of a powerful and popular President who attempted to bend the Court to suit his own ends. But it is a story of courage crowned with success. It unfolded in the Senate 50 years ago, in the summer of 1937.

America 50 years ago was a nation struggling against economic collapse. Under Franklin Roosevelt's inspiring leadership, Congress and the States enacted by overwhelming majorities a series of laws to stimulate recovery.

But by narrow margins—5 to 4 or 6 to 3—the Supreme Court had struck down a series of enactments, from minimum wage laws to agricultural stabilization acts. Representative government seemed paralyzed by the intransigence of the Court.

Moderates and progressives—Republicans and Democrats—searched for a way to thwart the "nine old men." They proposed a wide range of constitutional amendments and legislative limits on the Court. But Roosevelt was impatient for a quick remedy, and suspicious of indirect methods. In his view, the only way to save the New Deal was to change the composition of the Court itself.

Fresh from his landslide victory over Alf Landon, FDR sprang his Court-packing proposal: For every Justice over the age of 70 who failed to retire, the President would be able to nominate a new Justice, up to a limit of 15 members on the Court. The plan had been veiled in secrecy, and when Roosevelt announced it in February 1937, it was met with a storm of popular criticism.

Let me be clear. I am not for a moment suggesting that President Reagan is attempting to do what President Roosevelt attempted to do—enacting a constitutional change by enlarging the membership of the Court itself. But there are important similarities as well as important differences between the intentions of the two Presidents.

Both had in mind the same result. Both sought to use their power of appointment to shift the balance of Courts that had repeatedly rejected their social agendas. But there is a crucial difference. While President Reagan has used his nominations to shift the balance of the Court, in Roosevelt's case, the Court shifted on its own. Before the Court packing bill reached the Senate floor, before Justice Van Devanter's timely resignation, Justice Owen Roberts had already made his welcome "switch in time that saved nine"—giving Roosevelt the 5 to 4 majority that he sought.

But in May 1937, the outcome in the Senate was anything but certain. The Judiciary Committee was controlled by the Democrats—loyal New Dealers. Although they supported Roosevelt's political ends, they refused to allow him to pursue them through judicial means. In their minds, the integrity of the Court meant more than the agenda of the President. On June 14, they issued a report condemning the Court-packing plan. The President's legislation, they concluded, demonstrated, "the futility and absurdity of the devious." It was an effort to "punish the justices" for their opinions and was "an invasion of judicial power such as has never before been attempted in this country."

But the committee report went further still. Executive attempts to dominate the judiciary lead inevitably to autocratic dominance, "the very thing against which the American Colonies revolted, and to prevent which the Constitution was in every particular framed." The report concluded with a final thundering sentence that, before the day was out, would be quoted in newspapers across the land: "It is a measure which should be so emphatically rejected that its parallel will never again be presented to the free representatives of the free people of America."

It was a stinging rebuke to a beloved President—all the more remarkable in view of the fact its authors shared his legislative goals. The British Ambassador wrote to the British Prime Minister:

"Seven Democratic Senators have committed the unforgivable sin. They have crossed the Rubicon and have burned their boats; and as they are not men to lead a forlorn hope, one may assume that many others are

substantially committed to the same action. One can only assume that the President is beaten."

The formal verdict was delivered on the Senate floor on July 22, 1937. Though a meaningless rollcall vote lay ahead, it was clear that Roosevelt's effort to pack the Court, which for some time appeared destined to succeed, had come to an end. Arms outstretched, his eyes fixed on the galleries, Senator Hiram Johnson cried, "Glory be to God!"

Let me conclude by saying that my case today has been rooted in history, precedent, and common sense. I have argued that the framers entrusted the Senate with the responsibility of "advice and consent" to protect the independence of the judiciary. I have urged that the Senate has historically taken its responsibility seriously. I have argued that, in case after case, it has scrutinized Supreme Court nominees on the basis of their political and judicial philosophies. I have argued that, in case after case, it has rejected qualified nominees, because it perceived those views to clash with the interests of the country.

In future speeches I will make the case that today, 50 years after Roosevelt failed, 150 years after Jackson succeeded, we are once again confronted with a popular President's determined attempt to bend the Supreme Court to his political ends. No one should dispute his right to try. But no one should dispute the Senate's duty to respond.

As we prepare to disagree about the substance of the debate, let no one contest the terms of the debate—let no one deny our right and our duty to consider questions of substance in casting our votes. For the founders themselves intended no less.

I thank the Chair and thank my colleagues for their indulgence.

Mr. BIDEN. Mr. President, at the time I first set forth this notion during the Bork confirmation debate it was a widely controversial notion; that is, that we, as well as the President, had a right to look at ideology. Yet scholarly works reaffirmed by the recent articles of Prof. David Strauss and Cass Sunstein have always found a solid basis for this view in the intentions of our Framers and in the history of our Nation.

In my view, the debate over the Senate's review of ideology has been fruitful. We have quashed the myth that the Senate must defer to a President's choice of a Supreme Court Justice, the men and women at the apex of the independent third branch of Government. As the Senate properly does for nominees in the executive branch, the role of the Senate as a vital partner in reviewing Supreme Court nominations has been enhanced. And the debate over this role caused even those who were initially skeptical, like Prof. Henry Monaghan, who outlined the grounds for his conversion in a 1988 article in the Harvard Law Review, to join in the broad consensus over the propriety of more active Senate participation in the process.

More fundamentally, Mr. President, the serious and profound debate that the Bork nomination sparked was among the most important national discussions about our Constitution, its meaning, and the direction of our Supreme Court in this century.

Before the Bork confirmation fight, the legacy of the Warren court was seen as tenuous by scholars and was ill supported by the public. The legal right thought that judicial activism was a rallying cry that would move America against the Court's projection of protection of personal freedoms, its one person/one vote doctrine, and other progressive decisions that the legal right thought had no popular support and less legal foundation.

And the legal left, prior to the Bork fight, feared that the right might be correct in its assessment of popular opinion; that is, that the Warren court and its major decisions were not popularly supported. But the public reaction to Judge Bork's views, its rejection to the right's legal philosophy and judicial notions, proved just the opposite.

And while some aspects of the Warren Court decisions remain under assault, particularly in the area of criminal law, others have been irrevocably secured in the hearts and minds of most Americans, such as the Court's recognition of the right to privacy, a right that, if you recall, Mr. President, prior to the Bork fight, the ideological right in this country thought was not supported by Americans.

This could not have been said before the Bork confirmation fight. And yet it can be safely proclaimed today that Americans—Americans—strongly support the right to privacy, and find that there is such a right protected in the Constitution. Nor do I limit the success of this process to the Bork rejection only. I am equally satisfied, albeit for different reasons, as to how the process functioned in approving Justices Kennedy and Souter.

As I said when I supported their confirmations, neither man is one whom I would have chosen had I been President. But each reflects a balanced selection, a nonideological conservative that stands between the White House philosophy and the Senate.

I might just note parenthetically, in the decision yesterday on school prayer, or prayer before convocations in public schools, Justices Souter and Kennedy took a position diametrically opposed to that that has been proffered by this administration and the previous one for the past 11 years.

While I have disagreed with some of the decisions by each of these two Jurists, I know that President Bush must say the same thing: That he disagrees with some of the decisions of the two men, Kennedy and Souter. But I offer them as examples, Mr. President; that both men have issued some opinions that I sharply reject. But in a period of divided Government, both from the Court of compromise, candidates who are appropriate for consideration and whose confirmations I supported.

In my view, the contemporary confirmation process functioned well in rejecting Judge Bork and in approving Justices Kennedy and Souter. And yet, sadly, even in so succeeding, one could see within the process the seeds of an explosion that was to come with the Thomas nomination and the destructive forces that were going to tear it apart.

As I said earlier, the root of the current collapse of the confirmation process is the administration's campaign to make the Supreme Court an agent of an ultraright conservative social agenda which lacks support in the Congress and in the country.

I would just point out again, parenthetically, Mr. President, that the entire social agenda of the Reagan administration has yet to be able to gain a majority support in the U.S. Senate or the U.S. House of Representatives, or among the American people over the past 11 years. So failing the ability to do that, both Presidents have concluded, and did conclude, that the avenue to that change was to remake the Court.

In describing how the reactors of different forces and factions have brought about the difficulty we now have to face, I do not want anybody to lose sight of the fact that it is the administration's nomination agenda that is the root cause of this dilemma. That is, if you will, the original sin which has created all of the problems that plague the process today: The administration's desire to placate the rightwing of its party, which is driven by a single issue—overturning Roe versus Wade.

To the members of this Republican faction, no mere conservative such as Justice O'Connor or Justice Powell is safe, to use the word they often use. The administration has urged us to reach for a Scalia, a Bork, a Thomas. But if this is the original sin behind today's woes, it is not the only cause of the confirmation deadlock. And here are three consequences of the Reagan-Bush nomination strategy that have contributed to the problem.

First, Democrats and moderate Republicans have placed it into the hands of the Republican right by accepting Roe as the divining rod in reverse, making a nominee's views or refusal to state his views on this question the overriding concern in the confirmation process.

Yet, in enjoying the right to permit the single issue to dominate the debate, the center and the left have lost sight of the fact that nominees are chosen by Republicans, ultraconservatives. They tend to embrace other constitutional and jurisprudential views unrelated to abortion, but equally at the far end of the spectrum.

To put it another way, the center and the left, which won such broad public support for the position against Judge Bork's nomination, have allowed them-

selves to be divided as single-issue participants.

This has given rise to even more frustration about the process from both participants and observers, and was one cause for the schism that emerged in the Thomas confirmation debate. Moreover, the focus on Roe prevents the committee from exploring many legitimate issues in our hearing, because questions about the nominees on many matters, from the cutting-edge issue of the right to privacy to the age-old legal doctrine of stare decisis, are immediately assumed by all those who observed the process to be covert questions about abortion when they have nothing to do with abortion.

Among the most frustrating aspects of the Souter and Thomas hearings was that when I tried to question the nominees on whether they thought individuals had a right to privacy, everyone—the press, the public, the nominees, my colleagues—thought that I was trying to ask about abortion in disguise, no matter how many times I said, truthfully and frankly, and I quote:

> No; forget about abortion. To know how you will face the many unknown questions that will confront the Court into the 21st century, I must know whether or not you think individuals have a right to privacy.

No matter how many times I insisted, everyone believed I was asking about abortion. That is just how powerfully the issue dominates our process.

(Mr. KOHL assumed the chair.)

Mr. BIDEN. Second, in the period between the Bork and the Thomas nominations, there developed what could be called an unintended "conspiracy of extremism," between the right and the left, to undermine the confirmation process, and question the legitimacy of its outcomes.

Simply put, the right could not accept that any process which resulted in the rejection of Judge Bork was fair or legitimate. Notwithstanding the contemporaneous declaration of many Republican Senators that the hearings and process for handling the Bork nomination were fair, a subsequent mythology has developed that claims otherwise.

We are told that the hearings were tilted against Bork, but there were more witnesses who testified for him than appeared in opposition. I have heard his defeat blamed on scheduling of the witnesses. Well, we simply alternated, pro-con, pro-con, panel after panel.

And the list of excuses goes on and on. It was the camera angle, they said, the beard, the lights, the timing—all unfair, all engaged in by those who opposed Bork to bring him down.

In sum, the conservative wing of the Republican Party has never accepted the cold, hard fact that the Senate rejected Judge Bork because his views came to be well understood, and were considered unacceptable. And because this rejection of their core philosophy is inconceivable to the legal right, they have been on a hunt for villains ever since.

They have attacked the press, as in a recent, intemperate speech by a conservative Federal judge bashing two New York Times reporters who are among the finest to cover Supreme Court hearings. But most of all, these movement conservatives have attacked the confirmation process itself, and the Senate for exercising its constitutional duties to conduct it.

But it does not stop there, Mr. President.

At the same time, the left, too, has clothed its frustration with its inability to persuade the American public of the wisdom of its agenda, in anger about the confirmation process as well.

The left has refused to accept the fact that when one political branch is controlled by a conservative Republican, and the other has its philosophical fulcrum resting on key Southern Democrats, who hold the balance on close votes in the Senate, it is inevitable that the Court is going to grow more conservative. Acceptable candidates must be found among those who straddle this ideological gulf, such as Justices Kennedy and Souter, who were approved by a combined total of 188 to 9 in the Senate.

The left, Mr. President, is frustrated because a conservative President and a Senate, where the fulcrum is held by conservative Southern Democrats, is not going to nominate a Justice Brennan, who, I think, was a great Justice, and we should find people to replace him ideologically. They refuse to accept reality, Mr. President, just as the right refuses to accept the reality of a Bork defeat.

Bork was defeated because his views of what he thought America should become were different than those held by the vast majority of Americans and an overwhelming majority of Senators and had not a whit to do with whether or not he had a beard, a camera angle, an ad by an outside group, or the order of witnesses.

So, Mr. President, the confirmation process has thus become a convenient scapegoat for ideological advocates of competing social visions—advocates who have not been able to persuade the generally moderate American public of the wisdom of either of their views when framed in the extreme. In effect, then, Mr. President, these advocates have joined in an ad hoc alliance, the extreme right and the extreme left, to undermine public confidence in a process aimed at moderation—hoping, perhaps, to foment a great social and cultural war in which one or the other will prevail.

The third problem, Mr. President, is the confirmation process has been infected by the general meanness and nastiness that pervades our political process today. While I believe they played little or no role in the outcome, the inaccurate television ads that were run against Judge Bork's confirmation only taunted increasingly cutting responses from the right.

The Thomas nomination included a level of personal bitterness that may be typical of our modern political campaigns but is destructive to any process dependent upon consensus, as is the confirmation process. After the nomination was announced, one of the opponents of Judge Thomas outside the Senate threatened to "Bork him"—a menacing pledge that served no purpose. And then, as the hearings were about to begin, the same conservative group that produced the infamous Willie Horton ads ran television commercials attacking members of the Judiciary Committee, including myself, with the intent to intimidate—and they so stated—intimidate our review of the nomination.

I find it ironic, Mr. President, that we could recognize the cost—if not find the answers—for this nastiness in the context of Presidential elections, but lack the same insight with respect to the confirmation process.

Many of the same voices who have criticized the committee for not going hard enough after allegations that Judge Thomas had improper travel expenses, spitefully transferred a whistleblower at EEOC, or was friends with a proapartheid lobbyist—many of these critics of our committee are among the first to bemoan the fact that the Presidential campaign of 1992 has been dominated by questions of personal wrong-doing instead of the real issues.

We cannot have it both ways.

I, too, believe that the Nation would be better off if the current campaign was centered on disputes over public policy rather than gossip about marital fidelity and marijuana use. But I must say that the same is true about our review of Supreme Court nominees: the Nation is enriched when we explore their jurisprudential views; it is debased when we plow through their private lives for dirt.

As with Presidential campaigns, the press—perhaps because it is easier, perhaps because it sells papers—has too often focused their coverage of Supreme Court nominees on such gossip and personal matters, rather than on the substantial—but difficult—task of trying to discern their philosophy and their ideology, because it is their philosophy and their ideology that will affect how I am able to live my life, how my children will be able to live their lives, not whether or not when they were 17 years old they smoked marijuana, or anything else.

Let me make it clear, here, that I am not now speaking of Professor Hill's allegations against Judge Thomas, which were certainly serious and significant

enough to merit the full investigation that the committee conducted, both before and after their public disclosure. Rather, I am speaking of the numerous lesser allegations against nominees Bork, Kennedy, Souter, and Thomas which the most extreme committee critics say we have done too little to pursue.

Some examples of what these critics wanted to see us delve into come to mind: Judge Bork had his video rental records exhumed and studied for possible rental of pornographic films. Judge Souter has his marital status questioned and felt obligated to produce ex-girlfriends to testify to his virility. Judge Thomas was assaulted by a whispering campaign that spread unsubstantiated rumors of about the cause of the end of his first marriage.

Each time, the airing of these charges enraged Republican allies of these nominees, who considered the charges unfair and a violation of their right to privacy. And each time, when the committee—at my direction—refused to explore these tawdry rumors, the more extreme critics of our process grew more and more frustrated with the results.

This was another tension which came to a head during the Thomas nomination, and which exploded when Professor Hill's charges were made public.

To sum up, then: The confirmation process launched in 1987—an attempt to provide a means for dealing with the Reagan-Bush campaign to transform the Supreme Court ideologically at a time when those ideological views lacked public support—has been torn asunder. The process lacks the sort of broad-based support that could make it work, and its credibility has been slowly eroded by the criticism it has received from both liberal and conservative ideologues.

A legitimate process that was built in good faith to identify and confirm consensus nominees has been destroyed by many of the same corrosive influences that have so devastated our Presidential politics and our national dialog on public affairs.

Consequently, it is my view that—particularly if the reality of divided government during a time of great change at the Court continues in the next administration—future confirmations must be conducted differently than the preceding ones. The pressures and tensions on the existing process—which exploded during the Thomas nomination fight—make a restoration of what came before Judge Thomas' nomination—even if it was desirable—a practical impossibility.

THE UNIQUE HISTORY OF ELECTION YEAR NOMINATIONS

Having said that, we face one immediate question: Can our Supreme Court nomination and confirmation processes, so racked by discord and bitterness, be repaired in a Presidential election year? History teaches us that this is extremely unlikely.

Some of our Nation's most bitter and heated confirmation fights have come in Presidential election years. The bruising confirmation fight over Roger Taney's nomination in 1836; the Senate's refusal to confirm four nominations by President Tyler in 1844; the single vote rejections of nominees Badger and Black by lameduck Presidents Fillmore and Buchanan, in the mid-19th century; and the narrow approvals of Justices Lamar and Fuller in 1888 are just some examples of these fights in the 19th century.

Overall, while only one in four Supreme Court nominations has been the subject of significant opposition, the figure rises to one out of two when such nominations are acted on in Presidential election years.

In our own century, there are two particularly poignant cases. The 1916 confirmation fight over Louis D. Brandeis, one of America's great jurists—a fight filled with mean-spirited anti-Semitic attacks on the nominee—is an example of how election year politics can pollute Senate consideration of a distinguished candidate. And the 1968 filibuster against Abe Fortas' nomination—an assault that was launched by 19 Republican Senators, before President Johnson had even named Fortas as his selection—is similarly well known by all who follow this.

Indeed, many pundits on both the left and the right questioned our committee's ability to fairly process the Bork nomination—a year before the 1988 campaign—without becoming entangled in Presidential politics. While I believe this concern was misplaced, and ultimately disproved, it illustrates how fears of such politicization can undermine confidence in the confirmation process.

Moreover, the tradition against acting on Supreme Court nominations in a Presidential year is particularly strong when the vacancy occurs in the summer or fall of that election season.

Thus, while a few Justices have been confirmed in the summer or fall of a Presidential election season, such confirmations are rare—only five times in our history have summer or fall confirmations been granted, with the latest—the latest—being the August 1846 confirmation of Justice Robert Grier.

In fact, no Justice has ever been confirmed in September or October of an election year—the sort of timing which has become standard in the modern confirmation process. Indeed, in American history, the only attempt to push through a September or October confirmation was the failed campaign to approve Abe Fortas' nomination in 1968. I cannot believe anyone would want to repeat that experience in today's climate.

Moreover, of the five Justices who were confirmed in the summer of an election year, all five were nominated for vacancies that had arisen before the summer began. Indeed, Justice Grier's August confirmation was for a vacancy on the Court that was more than 2 years old, as was the July confirmation of Justice Samuel Miller, in 1862.

Thus, more relevant for the situation we could be facing in 1922 is this statistic: six Supreme Court vacancies have occurred in the summer or fall of a Presidential election year, and never—not once—has the Senate confirmed a nominee for these vacancies before the November election.

In four of these six cases—in 1800, 1828, 1864, and 1956—the President himself withheld making a nomination until after the election was held.

In both of the two instances where the President did insist on naming a nominee under these circumstances, Edward Bradford in 1952 and Abe Fortas in 1968, the Senate refused to confirm these selections.

Thus, as we enter the summer of the Presidential election year, it is time to consider whether this unbroken string of historical tradition should be broken. In my view, what history supports, common sense dictates in the case of 1992. Given the unusual rancor that prevailed in the Thomas nomination, the need for some serious reevaluation of the nomination and confirmation process and the overall level of bitterness that sadly infects our political system and this Presidential campaign already, it is my view that the prospects for anything but conflagration with respect to a Supreme Court nomination this year are remote at best.

Of Presidents Reagan's and Bush's last seven selections of the Court, two were not confirmed and two more were approved with the most votes cast against them in the history of the United States of America.

We have seen how, Mr. President, in my view, politics has played far too large a role in the Reagan-Bush nominations to date. One can only imagine that role becoming overarching if a choice were made this year, assuming a Justice announced tomorrow that he or she was stepping down.

Should a Justice resign this summer and the President move to name a successor, actions that will occur just days before the Democratic Presidential Convention and weeks before the Republican Convention meets, a process that is already in doubt in the minds of many will become distrusted by all. Senate consideration of a nominee under these circumstances is not fair to the President, to the nominee, or to the Senate itself.

Mr. President, where the Nation should be treated to a consideration of constitutional philosophy, all it will get in such circumstances is partisan bickering and political posturing from both parties and from both ends of Pennsylvania Avenue. As a result, it is

my view that if a Supreme Court Justice resigns tomorrow, or within the next several weeks, or resigns at the end of the summer, President Bush should consider following the practice of a majority of his predecessors and not—and not—name a nominee until after the November election is completed.

The Senate, too, Mr. President, must consider how it would respond to a Supreme Court vacancy that would occur in the full throes of an election year. It is my view that if the President goes the way of Presidents Fillmore and Johnson and presses an election-year nomination, the Senate Judiciary Committee should seriously consider not scheduling confirmation hearings on the nomination until after the political campaign season is over.

I sadly predict, Mr. President, that this is going to be one of the bitterest, dirtiest, Presidential campaigns we will have seen in modern times.

I am sure, Mr. President, after having uttered these words some will criticize such a decision and say it was nothing more than an attempt to save the seat on the Court in the hopes that a Democrat will be permitted to fill it, but that would not be our intention, Mr. President, if that were the course to choose in the Senate to not consider holding hearings until after the election. Instead, it would be our pragmatic conclusion that once the political season is under way, and it is, action on a Supreme Court nomination must be put off until after the election campaign is over. That is what is fair to the nominee and is central to the process. Otherwise, it seems to me, Mr. President, we will be in deep trouble as an institution.

Others may fret that this approach would leave the Court with only eight members for some time, but as I see it, Mr. President, the cost of such a result, the need to reargue three or four cases that will divide the Justices four to four are quite minor compared to the cost that a nominee, the President, the Senate, and the Nation would have to pay for what would assuredly be a bitter fight, no matter how good a person is nominated by the President, if that nomination were to take place in the next several weeks.

In the end, this may be the only course of action that historical practice and practical realism can sustain. Similarly, if Governor Clinton should win this fall, then my views on the need for philosophic compromise between the branches would not be softened, but rather the prospects for such compromise would be naturally enhanced. With this in mind, let me start with the nomination process and how that process might be changed in the next administration, whether it is a Democrat or a Republican.

It seems clear to me that within the Bush administration, the process of selecting Supreme Court nominees has become dominated by the right intent on using the Court to implement an ultraconservative social agenda that the Congress and the public have rejected. In this way, all the participants in the process can be clear well in advance of how I intend to approach any future nominations.

With this in mind, let me start with the nomination process and how that process might be changed in the next administration, and how I would urge to change it as chairman of the Judiciary Committee were I to be chairman in the next administration.

It seems clear to me that within the Bush administration, as I said, the process has become dominated by the right instead of using the Court and seeking compromise. As I detailed during the hearings and the subsequent nomination debate over Judge Thomas' nomination, this agenda involves changing all three of the pillars of our modern constitutional law. And I might add, the President has a right to hold these views, Mr. President, and the President has a right to try to make his views prevail, legislatively and otherwise. But let us make sure we know, at least from my perspective, what fundamental changes are being sought.

There are three pillars of modern constitutional law that are sought to be changed. First, it proposes to reduce the high degree of protection that the Supreme Court has given individual rights when those rights are threatened by governmental intrusion, imperiling our freedom of religion, speech, and personal liberty—and I am not just talking about abortion.

Second, it proposes, those who share the President's view for this radical change, to vastly increase the protection given to the interest of property when our society seeks to regulate the use of such property, imperiling laws concerned with the environment, worker safety, zoning, and consumer protection.

And the third objective that is sought is to change a third pillar of modern constitutional law. It proposes to radically alter the separation of powers, to move more power in our three branches of Government, divided Government, separated Government, to move more power to the executive branch, imperiling the bipartisan, independent regulatory agencies and the modern regulatory State.

As I noted before, efforts to transform the confirmation process into a good-faith debate over these philosophic matters, as was the Bork confirmation process, have been thwarted by extremists in both parties. These are legitimate issues to debate. Those who hold the view that we should change these three modern pillars of constitutional law have a right to hold these views, to articulate them and have them debated before the American people. But this debate has been thwarted by extremists in both parties and cynics who have urged nominees to attempt to conceal their views to the greatest extent possible. And the President, unwilling to concede that his agenda in these three areas is at odds with the will of the Senate and the American people seems determined to continue to try to remake the Court and thereby remake our laws in this direction.

In light of this, I can have only one response, Mr. President. Either we must have a compromise in the selection of future Justices or I must oppose those who are a product of this ideological nominating process, as is the right of others to conclude they should support nominees who are a product of this process.

Put another way, if the President does not restore the historical tradition of genuine consultation between the White House and the Senate on the Supreme Court nomination, or instead restore the common practice of Presidents who chose nominees who strode the middle ground between the divided political branches, then I shall oppose his future nominees immediately upon their nomination.

This is not a request that the President relinquish any power to the Senate, or that he refrain from exercising any prerogatives he has as President. Rather, it is my statement that unless the President chooses to do so, I will not lend the power that I have in this process to support the confirmation of his selection.

As I noted before, the practice of many Presidents throughout our history supports my call for more Executive-Senate consultations. More fundamentally, the text of the Constitution itself, its use of the phrase "advice and consent" to describe the Senate's role in appointments demands greater inclusion of our views in this process. While this position may seem contentious, I believe it is nothing more than a justified response to the politicizing of the nomination process.

To take a common example, the President is free to submit to Congress any budget that he so chooses. He can submit one that reflects his conservative philosophy or one that straddles the differences between his views and ours. That is his choice. But when the President has taken the former course, no one has been surprised or outraged when Democrats like myself have responded by rejecting the President's budget outright.

If the President works with a philosophically differing Senate or he moderates his choices to reflect the divergence, then his nominees deserve consideration and support by the Senate. But when the President continues to ignore this difference and to pick nominees with views at odds with the

constituents who elected me with an even larger margin than they elected him, then his nominees are not entitled to my support in any shape or form.

I might note parenthetically, Mr. President, and let me be very specific, if in this next election the American people conclude that the majority of desks should be moved on that side of the aisle, there should be 56 Republican Senators instead of 56 Democratic Senators, 44 Democratic Senators instead of 56 or 57 Democratic Senators, and at the same time if they choose to pick Bill Clinton over George Bush, we will have a divided Government and I will say the same thing to Bill Clinton: In a divided Government, he must seek the advice of the Republican Senate and compromise. Otherwise, this Republican Senate would be totally entitled to say we reject the nominees of a Democratic President who is attempting to remake the Court in a way with which we disagree.

As I say, some view this position as contentious, while others, I suspect—in fact, I know, and the Presiding Officer knows as well as I do—will say that I am not being contentious enough. They suggest that since the Court has moved so far to the right already, it is too late for a progressive Senate to accept compromise candidates from a conservative administration. They would argue that the only people we should accept are liberal candidates, which are not going to come, nor is it reasonable to expect them to come, from a conservative Republican President.

But I believe that so long as the public continues to split its confidence between the branches, compromise is the responsible course both for the White House and for the Senate. Therefore, I stand by my position, Mr. President. If the President consults and cooperates with the Senate or moderates his selections absent consultation, then his nominees may enjoy my support as did Justices Kennedy and Souter. But if he does not, as is the President's right, then I will oppose his future nominees as is my right.

Once a nomination is made, the evaluation process begins, Mr. President. And here there has been a dramatic change from the Bork nomination in 1987 to the Thomas nomination in 1991.

Let met start with this observation. In retrospect, the actual events surrounding the nomination of Judge Bork have been so misremembered that observers have completely overlooked one great feature of these events. That is, in most respects, the Bork nomination served as an excellent model for how the contemporary nomination and confirmation process and debate should be concluded and conducted.

Shortly after Judge Bork was nominated, after studying his records, writings and speeches, I announced my opposition to his confirmation and several other members of the committee did the same. What ensued was, I think, an educational and enlightening summer.

I laid out the basis for my position in two major national speeches and other Senators did likewise. The White House issued, as they should have, a very detailed paper proposing to outline Judge Bork's philosophy; a group of respective consultants to the committee issued a response to this White House paper; and the administration put out a response to that response.

While there were excesses in this debate, as I mentioned earlier, by and large, it was an exchange of views and ideas between two major constitutional players in this controversy, the President and the Senate, which the Nation could observe and then evaluate.

The fall hearing then was significant, not as a dramatic spectacle to see how Senators would jockey for position on the nomination but to see the final act of this debate. Unfortunately, though, those of us who announced our early opposition to Judge Bork were roundly criticized by the media. Major newspapers accused me of rendering the verdict first and trial later for the nominee. I say that this was unfortunate because this criticism of our early position on the Bork nomination has resulted in, as I see it, four negative consequences for the conformation process.

First, it gave rise to a powerful mythology that equates confirmation hearings to something closer to trials than legitimate legislative proceedings. The result has been in the end even more criticism for the process when the hearings do not meet this artificial standard of a trial.

Confirmation hearings are not trials. We are not a court; we are a legislative body. They are congressional hearings. Senators are not judges. We are Senators. Our decision on a nominee is not a neutral ruling as a judge would render. It is, as the Constitution designed it, a political choice about values and philosophy.

We should junk, Mr. President, this trial mythology and the attendant matters that go with it. Arcane debates over which way the presumption goes in the confirmation process, over what the standard of review is, over which side has the burden of proof, all of these terms and ideas are inept for our decisionmaking on confirmation as they are for our decisionmaking on passing bills or voting on constitutional amendments.

We do not apply a trial mythology in those circumstances, Mr. President.

Second, a second unintended and unfortunate consequence of the criticism of early opposition based on specifically stated reasons: The criticism of taking early stands on nominees has pushed Senators out of the summer debate over confirmation and left that debate to others, most especially the interest groups on the left and the right. Instead of respected Senators on the left and the right, arguing prior to the hearing about the philosophy of the nominee, when we stood back, that vacuum was filled, Mr. President, by the left and the right as is their right, I might add. But they are the only voices that we heard in the debate. They shaped the debate, Mr. President.

Instead of an exchange of ideas then, the summer becomes Washington at its worst. The nominee hunkers down with briefers at the Justice Department preparing for the hearing as a football team prepares for a game, watching films of previous hearings, studying the mannerisms of each Senator, memorizing questions that have been asked, practicing and rehearsing nonanswers. Outside, the two branches' busy efforts are underway to from coalitions, launch TV attack campaigns, issue press releases, and shout loudly past one another.

This transformation hit its peak during the Thomas nomination when by my count, there were twice as many summer news stories about how interest groups were lining upon the nomination than there were about the nominee's views. As with our Presidential campaigns, public attention in the prehearing period has been turned away from a debate by principles about real issues into a superficial scrutiny of a horse race. Is the nominee up; is the nominee down today? And discussions among spin doctors, insiders, and pundits about what the chances are.

The only way to move the focus from the tactics of the confirmation debate to the substance of it is for Senators to take our position on a nomination, if possible, assuming we know the facts of the philosophy, or believe we know the facts relating to the philosophy of the nominee, and debate them freely and openly before the hearing process begins.

Where Senators remain undecided about the nomination, I hope more will do what I did with the Souter and Thomas nominations, and try to publicly address the issues of concern for confirmation before the hearings get underway; to stand on the floor and say I do not know where the nominee stands on such and such but what I want to know as a Senator is, what is his or her philosophy on. Whatever it is that is of concern to the individual Member, begin the debate on the issues because, when we do not, we have learned this town, the press, interest groups, and political parties fill the vacuum. The notion of 3 months of silence in Washington is something that is not able to be tolerated by most who live in Washington, and who work in Washington.

So what happens? The vacuum is filled, Mr. President, by pundits, lobbying groups, interest groups, ideological fringes, to define the debate and dictating the tactics.

Third, Mr. President, the taboo against early opposition to a nominee has created an imbalance in the prehearing debate over the confirmation, for it seems that no similar taboo exists against prehearing support for a nominee.

I have not read a single article, heard a single comment, that when "Senator Smedlap" stands up and says I support the nominee that the President named 27 seconds ago, no one says, now, that is outrageous; how can that woman or man make that decision before the hearing? They all say, oh, that is OK. It is OK to be for a nominee before the hearing begins, but not to be against the nominee.

In the case of Judge Thomas, while no Senator announced his opposition to confirmation before the hearing started, at least 30 Senators announced their support for the nominee before the committee first met.

No Senator said, "I am opposed." Thirty Senators said they were for, as is their right, by the way. I am not criticizing that. Thus, my good friend, Senator RUDMAN for Judge Souter, and Senator DANFORTH for Judge Thomas, along with many other Senators became outspoken advocates, as is their right and as they firmly believed became outspoken advocates for the confirmation from day one, while not a single Senator spoke in opposition.

In my view, such an imbalance is unhealthy and again puts too much responsibility for and control over the confirmation debate in the hands of interest groups instead of elected officials.

Fourth, and perhaps least obvious, the taboo against early opposition to a nominee, assuming that a Senator knows enough to be opposed, has contributed to making the confirmation hearing far too significant, making the confirmation hearing a far too significant forum for evaluating the nominee.

Conservative critics of the modern hearing process often note that for the first 125 years of our history—and they are correct—we reviewed Supreme Court nominations without confirmation hearing. Yet what we ignore is that the rejection rate of nominees in the first 125 years of our history was even higher and the grounds of rejection far more partisan and far less principled than it has been since the hearing process began.

In my view, Mr. President, confirmation hearings, no matter how long, how fruitful, how thorough, how honest—no matter what—confirmation hearings cannot alone provide a sufficient basis for determining if a nominee merits a seat on our Supreme Court.

Let me say that again. In my view, confirmation hearings, no matter how long, how fruitful, how thorough, cannot alone provide a sufficient basis for determining if a nominee merits a seat on our Supreme Court.

Here again the burden of the trial analogy unfortunately confuses the role of the hearing process instead of elucidating it. As they did before there were confirmation hearings, Senators and the public should base their determination about a nominee on his or her record of service, writings, and speeches, background collection and investigations, a review of the nominee's experience in credentials and the weighing of the views of the nominee's peers and colleagues. Put another way: We have hearings not to prove a case against a nominee but, rather, in an effort to be fair to the nominee, and to give that nominee the chance to explain his or her record and writings before the committee. Thus the hearings can be the crowning jewel of the evaluation process, a final chance to clear up confusion, or firm up soft conclusions, but they cannot be the entire process itself as they have come to be viewed.

Anything we can do to broaden the base upon which Senators make their decisions will be a valuable improvement on the confirmation process. Having urged a lessening in the significance of the hearings, I nonetheless want to suggest some changes for this part of the process as well. And here, in this third area of reform, I have focused on questioning of the nominee at his or her confirmation process. As I talk to people about the confirmation process, Mr. President, one of the questions I am most often asked is: Why do you not make the nominee answer the questions? I am sure the Presiding Officer has been asked that question 100 times himself: Why do you not make the nominee answer the questions?

As I have said time and again, the choice about what questions to ask belongs to us on the committee. The choice about what questions to answer belongs to the nominee. Lacking any device of medieval inquisition, we have no way, as Senators to make someone answer questions.

Having said that, though, I do not want to undercut my strong displeasure with what has happened to this aspect of the confirmation process since the Bork hearings. As most people know, Judge Bork had a full and thorough exchange with the committee. After his defeat, many experts on the confirmation process came to associate this frankness with the outcome. But this is a false lesson of the Bork nomination. I believed then, and I believe now, that Judge Bork would have been rejected by an even larger margin had he been less forthcoming with the committee.

Justices Kennedy and Souter, with some exceptions, particularly in the area of reproductive freedom, were likewise fairly discursive in their answers to our questions, and they were overwhelmingly confirmed.

In contrast, Judge Thomas, who had the beginnings of a judicial philosophy that was quite conservative, decided not to be as forthcoming as were Justices Kennedy and Souter. Moreover, because the written record to establish his views was not as fully developed as Judge Bork's, Justice Thomas concluded that he did not need to use the hearings as an opportunity to explain his philosophy, to garner support notwithstanding, as Bork did. As a result, we saw in the Thomas hearings what one of my colleagues called a version of a "ritualized, Kabuki theater."

Committee members asked increasingly complex and tricky questions in an effort to parry the nominee's increasingly complex and tricky dodges. Perhaps some of the committee asked questions which we knew the nominee would not answer—could not answer—to gain advantage. Perhaps the nominee dodged some questions which we knew he could or should answer, but chose not to because he saw little cost in it.

In the end, each side struggled for advantage in a debate that generated far more heat than light.

The PRESIDING OFFICER. The Chair informs the Senator that the hour and a quarter previously set aside has expired.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be able to proceed for 15 more minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ADAMS. Reserving the right to object, and I shall not object, could the Senator make that until 10:15?

Mr. BIDEN. Yes.

Mr. ADAMS. I thank the Senator.

The PRESIDING OFFICER. Without objection, the time of the Senator from Delaware is extended until the hour of 10:15.

Mr. BIDEN. Mr. President, if we are to refocus the confirmation process so it pivots on the nominee's philosophy instead of questions of his personal conduct, the hearings must be performed for full exploration of that philosophy. Conservatives cannot have it both ways; they cannot ask us to refrain from rigorous questioning of judicial philosophy, and instead focus on the nominee's personal background, as they did during the early phases of the Thomas nomination, and then complain loudly when this examination of personal background turns into a bitter exploration of the nominee's conduct and character.

This turn in the process was the product of their disdain for our questioning on jurisprudential views more than anything else. The Senate cannot force nominees to answer our questions. But as I voted against Judge Thomas' confirmation, in part because of his evasiveness, I will not countenance any similar evasion on the part of any future nominees.

To make this point as clearly and as sharply as possible, I want to state the

following: In the future, I will be particularly rigorous in ensuring that every question I ask will be one that I believe a nominee should answer. And if the nominee declines to do so, I will—unless otherwise assured about a nominee's approach to the area in question—oppose that nominee.

Again, this is not to say that all nominees should have to answer every question directed at them by the committee in the past. Some refusals, such as those by Justice Marshall during his confirmation hearing, were wholly proper. I am not saying that I will vote against any nominee who refuses to answer any question by any Senator. But if we are to render this process and redeem it, give it clear guidelines and rules that we all know, and make it focus more on philosophy and less on personality, then the basic principle I have laid out must be included, in my view, in any of the future hearings. As a Senator, I cannot make a nominee answer questions that I deem appropriate or important. but I need not vote for one who refuses to do so either, and I will not.

Fourth, we must address the manner in which the committee handled investigative matters concerning Supreme Court nominees. No aspect of the confirmation process has been more widely discussed than our handling of Professor Hill's allegations against Judge Thomas before those charges became public. Many have questioned whether we took Professor Hill's charges seriously, investigated them thoroughly, and disseminated them appropriately.

Mr. President, in my view, we did all of these things within the limits that Professor Hill herself placed upon us.

I wrestled at length with the difficult decisions we faced. We can debate these anguishing choices over and over again: Should we have overridden Professor Hill's wishes for confidentiality? Should we have pushed her to go public with her charges even if she did not choose to do so?

Well, Mr. President, people of good conscience can differ over these dilemmas we faced. But in my view, the anger of the committee's handling of this matter goes far beyond how we resolve these difficult questions. As I see it, Mr. President, the firestorm surrounding Anita Hill's charges is an understandable rage, fueled by misperception of the facts, and ignited by disgust with the way in which Republican Senators questioned Professor Hill and Judge Thomas at this phase of the hearings.

But even that alone does not explain it, for this anger is rooted, Mr. President, at bottom, in a justifiable frustration with a lack of representation of women in our political system. Many Americans were, and still are, properly mad that there were no female members of the Judiciary Committee when we heard Professor Hill's charges. I, for one, join these people in the movement to make the 1992 election a watershed on this front.

And, yet, there is still a bigger issue at stake, Mr. President, for the public outcry over these hearings was not about Clarence Thomas and not about Anita Hill, at its root.

It was about years of resentment by women for the treatment they have received. They have suffered from men in the workplace, in the schools, and in the streets and at home for too long. It was about a massive power struggle going on in this condition, a power struggle between women and men, between the majority and minorities. These are issues that deeply divide us as a nation—issues of gender, race, and power—issues that were front and center at those dramatic hearings last fall.

I believe our handling of Professor Hill's charges, prior to their public disclosure, was proper. But I also believe that there are some things we should do differently in the future for the purposes of improving public confidence in our handling of investigative matters.

First, I do not want the committee ever again to be placed in the awkward position of possessing information about a Supreme Court nominee which it has pledged to keep confidential from other Members of the Senate, as we did with Professor Hill's charges.

In the future, all sources will be notified that any information obtained by the committee will be placed in the FBI file on the nominee, and shared on that confidential basis with all Senators, all 100 Senators, before the Senate votes on a Supreme Court nomination.

Second, to ensure that all Senators are aware of any charges in our possession, the committee will hold closed, confidential briefing sessions concerning all Supreme Court nominees in the future.

All Senators will be invited, under rigorous restrictions to protect confidentiality, to inspect all documents and reports that we compile.

Third, because, ultimately, the question with respect to investigations of a Supreme Court nominee is the credibility and character of that nominee, in the future, if, as long as I am chairman, the committee will routinely conduct a closed session with each nominee to ask that nominee—face-to-face, on the record, under oath—about all investigative charges against that person.

This hearing will be conducted in all cases, even where there are no major investigative issues to be resolved, so that the holding of such hearing cannot be taken to demonstrate that the committee has received adverse confidential information about the nominee. The transcripts of that session will be part of the confidential record of the nomination made available, with the FBI report, to all Senators.

No doubt, these rules, too, can be criticized. Frankly, I have labored over this for the better part of a year, and I think there are no easy answers when questions of fairness, thoroughness, civil liberties, and the future of the Court collide under the glaring klieg lights of television cameras. Other changes, too, may be needed, and I shall consider them as they are proposed.

But I hope that these three steps will increase confidence in our investigative procedures and the seriousness with which we take such matters as part of the confirmation process.

Let me conclude now, Mr. President, with a painful fact: The picture I have painted today about the state of the confirmation process and the future of our Supreme Court is largely negative. I am afraid that my tone is as it must be.

For though my fundamental optimism about this country remains unshaken, I know that the public's confidence in our institutions is not. Americans believe that their President is out of touch with their lives; their Congress is out of line with their ethical standards; and their Supreme Court is out of sync with their views.

I cannot predict whether the current political season will be the first step in restoring lost confidence in our institutions or the final act in shattering it. I only know that when this year is over—whoever wins control of the White House and the Senate this November—rebuilding trust between the American people and their Government must be a preeminent goal.

The confirmation process is an important component of such a reform agenda, for three reasons: First, it is a highly visible public act. More people watched the Thomas confirmation hearings than any act of American governance ever in our history. As a result, citizens' perceptions of the confirmation process profoundly color their perceptions of their Government as a whole.

Second, the confirmation process is the one place where all three of our branches come together. The President and the Senate decide jointly whether a particular person will become a member of the Court. Thus, the confirmation process asks the question: Can the branches function together as a government? That is a vital question to the American people, Mr. President, and how the confirmation process does much to shape their sense of the answer to that question.

And third, the confirmation process, at its best, is a debate over the most fundamental issues that shape our society, a debate about the nature of our Constitution, in both the literal and symbolic sense. What kind of country are we, Mr. President? What rights do we respect? What powers do we cede to the Government? These are the ques-

tions that the confirmation process should force us to ask.

However this process operates, our institutions will endure. But unless this process is repaired, unless all three branches take their responsibilities to it, to each other, and to the American people and take them seriously, the credibility of these institutions will continue to suffer.

To some, this may be of little concern. Indeed, some may be quietly pleased to see the public further lose faith in its Government.

For those who, like I, still believe that the Government can be the agent for social change, that our institutions can be harnessed to make our Nation more just, safe, and prosperous, the growing division between the American people and their Government is a disheartening development.

For unless that fundamental trust is restored, there is no hope that the American people will put confidence in their elected officials to rebuild our economy, to provide for the needs of our children, to deal with the failures of our health care and education systems, and to clean up our environment and our inner cities.

This, at bottom, Mr. President, is what is at stake in reforming the confirmation process. For the crisis of confidence that plagues that process is symptomatic of the crisis of confidence which plagues our Government and institutions at large.

Mr. President, together we must resolve this crisis and restore the bond of trust that has been severed. Nothing we can do in the next 6 weeks, 6 months, or 6 years is more important for the long-term course of our political system and our country.

This is our challenge, Mr. President, and we must act today.

I thank my colleagues for their indulgence and their time.

RESPONSE TO SENATOR BIDEN'S REMARKS ON THE CONFIRMATION PROCESS OF SUPREME COURT NOMINEES

Mr. THURMOND. Mr. President, I rise today to respond to the statement made earlier by the distinguished chairman of the Senate Judiciary Committee, my good friend, Senator BIDEN. Before I begin, however, I would like to thank him for his courtesy in informing me in advance of his plan to make such a statement. As usual, he has worked with me in a spirit of bipartisanship.

At the outset, I want to state that I am unaware of any planned resignation from the Supreme Court of the United States. However, it is not unusual to hear such speculation whenever the Supreme Court nears the end of each term. While I believe commenting upon potential vacancies may give rise to unwarranted speculation, I feel it necessary to respond to the comments of Chairman BIDEN.

Senator BIDEN has urged President Bush, should a vacancy arise, not to nominate any candidate for the Supreme Court until after the November election. Were a nominee named, he stated that he would oppose holding hearings on the nomination and I quote, "no matter how qualified," end of quote. His reason? Senator BIDEN has argued that the nominee would become a victim of a power struggle over control of the Supreme Court. Also, Senator BIDEN fears that because there are issues of paramount importance facing the Court, a nominee at this time would be unwise. Now, Mr. President, unfortunately, we do not have the luxury of coordinating vacancies on the Supreme Court with times when there are mundane and nonjusticiable matters before the Nation. The Senate should not shrink from its responsibility to act on a Supreme Court nominee simply because once confirmed as an Associate Justice there will be tough decisions to make.

Senator BIDEN has stated previously that he will only consider carrying out the Senate's constitutionally required role if the President chooses to compromise with the Senate before naming a nominee.

I believe the Senate should ask itself just what this purported consultation and compromise process really amounts to. Is it supposedly necessary to ensure that the individual nominated is qualified and will be confirmed by the Senate? President Bush has already demonstrated with each of his previous nominations to the High Court, all of whom were qualified and confirmed, that such a consultation is unnecessary. In fact, in the last 10 years, the Senate has confirmed 97 percent of the over 600,000 nominations it has received. Although the chairman has focused his remarks on Supreme Court nominees, I wanted to note that figure for the RECORD. The net result of Senator BIDEN's recommendation would require President Bush, or any President, to seek and obtain the approval of a small but vocal minority of Senators and special interest groups who have failed to defeat his previous nominees. If followed, the chairman's suggestion would turn the current nomination process on its head.

Article II of the Constitution sets out the powers of the President as head of the executive branch. Section 2 of this article grants the President power to nominate persons to fill judicial vacancies and further appoint them following the advice and consent of the Senate. As I read the Constitution, this is a two-step process. The President first nominates an individual to fill a vacancy and then the Senate approves before the official appointment.

I am aware that there have been administrations in the past that sought consultation with Members of Congress and party leaders prior to the actual nomination. That is understandable but clearly not mandated by article II, section II of the Constitution. It is my firm belief that the role of the Senate in the confirmation process is to provide its advice and consent following the President's nomination. However, this does not preclude a President, who is so inclined, from discussing a potential nominee with Members of the Senate.

It is the President, not the majority leader, the minority leader, chairman or ranking member of the Judiciary Committee who has the responsibility for putting forth a Supreme Court nominee. Following the nomination, it is then the responsibility of the Senate to ensure that the individual possesses the necessary qualifications to serve on the highest Court in the land.

It is this process—a process which should not be changed for election year expediency—which has signified the majesty of our system of government and underscores the brilliance of our Founding Fathers.

Mr. President, I also want to point out that the fanfare surrounding the nomination hearings for Associate Justice Thomas was a result of confidential information coming out in the press. It is a far stretch to suggest that it could have been avoided if only President Bush had consulted with the Senate prior to Justice Thomas' nomination.

In closing, Senator BIDEN has stated that it is a practical impossibility to avoid politicizing the conformation process of any Supreme Court nominee. I do not share this fatalistic view. I am pleased to hear my colleague express concern about the politicization and victimization of Supreme Court nominees. Yet, his proposed changes to the hearing process—which I have not had an opportunity to study—do recognize that it is within the power of the Senate to minimize the politicization of the nomination process. Each Senator must make the decision whether to abide by his or her duties under the Constitution, with fidelity thereto, or to give in to the extreme political forces which have brought such disdain upon previous Senate confirmations.

Previously, the chairman also stated that the liberals and conservatives are so self-righteous that each side is prepared to use any means necessary to win confirmation battles. Mr. President, I gather from this statement that the chairman is prepared to take on the role as an arbiter between the two sides. I am not so sure as to how the conservatives will fare under such an arrangement, but I welcome his willingness to ensure fairness at any possible nomination hearing for the Supreme Court.

The PRESIDING OFFICER (Mr. BRYAN). Under the previous order the

Senator from Washington [Mr. ADAMS] is recognized.

Mr. SIMON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SIMON. We have allotted times; is that correct? What is the present order here?

The PRESIDING OFFICER. The Chair informs the Senator from Illinois that, under the previous order, the Senator from Washington [Mr. ADAMS] is recognized for a period of up to 10 minutes; the Senator from Vermont [Mr. LEAHY] recognized for a period up to 10 minutes; the Senator from Arkansas [Mr. PRYOR] recognized for a period up to 20 minutes; the Senator from New Hampshire [Mr. RUDMAN] recognized for up to 35 minutes; the Senator from Wyoming [Mr. SIMPSON] or his designee recognized to speak for up to 10 minutes; and at that point morning business is closed and the Senate will resume consideration of S. 2733.

EXTENSION OF MORNING BUSINESS

Mr. SIMON. Mr. President, I ask unanimous consent that morning business be extended for another 5 minutes and I be given 5 minutes at the end of this period.

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

The RECORD will reflect that the Senator from Illinois will be accorded 5 minutes following the time allocated for the Senator from Wyoming [Mr. SIMPSON] or his designee.

The Senator from Washington [Mr. ADAMS] is recognized.

Mr. ADAMS. Mr. President, I compliment the chairman of the Judiciary Committee for an excellent statement, which I think is very important at this time.

(The remarks of Mr. ADAMS pertaining to the introduction of S. 2895 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois [Mr. SIMON] is recognized for a period of 5 minutes.

HELP SOMALIA

Mr. SIMON. Mr. President, we pick up the morning Washington Post and see the tragic picture in Bosnia of two fathers whose 10- or 11-year-old sons have been killed. And you see the fathers grieving, and it tears at our hearts, as it should. I was pleased the day before yesterday when Secretary of State Jim Baker came up and said we are going to have to do more on the Bosnia situation. As many as 30,000 or 40,000 people have been killed in that tragic situation

But, Mr. President, the world's greatest humanitarian tragedy right now is unfolding without television lights, without the press attention, and that is in Somalia. The International Red Cross has specifically called it the world's greatest humanitarian tragedy today. The United Nations has assigned Ambassador Mohammed Sahnoun, the former Algerian ambassador to the United States, to Somalia. And last week he reported that as many as 5,000 children under the age of 5 are dying each day in Somalia. He says the situation in Somalia is worse than 1984 to 1986 in Ethiopia, when 1 million people died.

I talked to Ambassador Sahnoun by phone last night. And he says the situation in Somalia has stabilized enough so that ships and planes can now get in. One ship has arrived. The International Red Cross, the International Medical Corps, and CARE are all providing assistance. But it is a small amount compared to the desperate need that is there. The ports of Mogadishu and Kismayo are now open so that shipments can get in, planes can get in, and we have to see that it gets there.

They need roughly 30,000 metric tons of grain on an emergency basis. They need about 3,000 metric tons of children's food, very desperately. Frankly, we also need helicopters to get it out to areas where you do not have highways and areas that are out in the middle of the desert.

Medical supplies are desperately needed. Somalia had 70 hospitals. They are now down to 15 partially functioning facilities there. Where we talk about hospitals we are not talking about hospitals as you and I know them but very primitive situations. The need is desperate.

I am communicating today to Ron Roskens, the head of AID, and Assistant Secretary of State Herman Cohen. I hope the United States will act with a sense of urgency, get food to desperate people—and get the food to them, as well as medical supplies, very, very quickly.

Again, this is not to in any way suggest that we should not be responding to Bosnia and other great tragedies. But the greatest tragedy today, right now, is people who are dying for lack of food. Again I point out, Ambassador Sahnoun says it is a greater tragedy than in Ethiopia from 1984 to 1986, when 1 million people died. He said last week that over 5,000 children a day are dying, children under the age of 5, dying for lack of food.

I hope we do the right thing. I hope we do the generous thing and respond very, very quickly.

Mr. President, if no one else seeks the floor I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Arkansas has 20 minutes.

THE FEDERAL GOVERNMENT: GIVING DRUG COMPANIES A LICENSE TO GOUGE

Mr. PRYOR. Mr. President, each year the Federal Government—through the National Institutes of Health—spends billions of dollars on the research and development of new drugs. Once our Federal Government finds and develops these drugs, it appears that we simply hand it over to the drug manufacturer—essentially giving the patent that provides the industry with a license, to price gouge. The bottom line is that we fail to hold drug companies accountable for the prices they charge us for drugs that were largely developed with Federal tax dollars.

Last week, on ABC news program "PrimeTime Live," the American public heard the story about the cancer drug Levamisol. They heard that this drug is sold to farmers at 6 cents a tablet to use it as a sheep dewormer. Johnson & Johnson charges Americans with cancer 100 times more, $6 per tablet.

While this price gouging is tough enough to swallow, what adds insult to injury is the fact that most of the research on the drug was done at the Federal taxpayers' expense, by the Federal Government, in Federal laboratories through the National Cancer Institute. Yet, the Federal Government, Mr. President, apparently, has given away the patent on this drug with no accountability to the Nation's taxpayers and is allowing the company to charge some $1,500 a year for this drug.

Mr. President, the Levamisol case may only be the tip of the iceberg. There are too many more examples of drugs whose development has been or is being paid for by the Federal taxpayer. Let me, if I might, cite a few more.

Last Monday, the Food and Drug Administration announced that it had approved a third drug to fight AIDS. This drug, Mr. President, is called DDC or Hivid. The manufacturer of this drug, Hoffmann-La Roche, is charging some $1,800 a year for the drug. Here again, it appears that the Federal Government, in particular the National Cancer Institute, had more than a significant role in bringing this drug to the market. Yet, we give it away to a drug manufacturer who price gouges the American public.

Mr, President, DDC is known as an orphan drug. Orphan drugs are medications that are developed to treat a disease that affects less than 200,000 persons in the United States. Those companies who produce these drugs are the recipients of very lucrative tax breaks and grants. They receive these breaks on top of the already generous tax

credits that we give them for the production of their nonorphan drugs. In the case of DDC, Mr. President, in addition to providing these generous tax subsidies, it was NIH, the National Institutes of Health, and not a private drug company that found in 1985 that DDC was possibly effective against AIDS infections. In fact, documents that I have obtained from the Food and Drug Administration, Office of Orphan Drugs show that it was the National Cancer Institute, not Hoffmann-La Roche, that first applied for and received orphan drug status for DDC in 1986. Hoffmann-La Roche then enters the picture. It received orphan drug status in June 1988, some 18 months later. It appears that the administration simply let Hoffmann-La Roche take off with the rights to this new drug, not requiring any accountability whatsoever in the price that this company charges.

Mr. President, what is going on here? In addition to being heavily involved in discovering DDC, there is now evidence that our Federal Government has already involved itself in paying for the clinical trials required by FDA. All of these taxpayer-supported trials obviously lower the research costs for the drug manufacturer and also help to bring the product to market quicker. However, I am very sorry to report, but not surprised, that the benefits to the American public in the form of a lower drug price for DDC is certainly much less obvious.

Let us take another example, Foscavir. Foscavir was recently approved by the Food and Drug Administration to treat certain eye infections in AIDS patients. The manufacturer of the drug, Astra Pharmaceutical, priced this drug at $21,000 a year. I repeat, this drug is priced today at $21,000 a year. The company said it needed to charge this price in order to recover its R&D costs.

Mr. President, let us look at what the reports are. Astra says that it cost them over $100 million to research this product. But published reports are that the company's R&D costs were actually only $15 million. Astra said that the Federal Government only contributed 1 to 2 percent of the total cost of R&D.

Secretary Sullivan comes into the picture. He recently wrote to me that the Federal Government spent about $22 million in research on this drug, not the 1 to 2 percent that the company claims. But in the attempt to resolve the issue, I have now asked the General Accounting Office to determine Astra's costs in bringing this drug to the market and the role of the Federal Government in its development.

Finally, Mr. President, there is the well-known case of AZT, the first drug approved to treat AIDS infections. There is overwhelming evidence to suggest that the Federal Government, supported by the Federal taxpayers' research, done in the Federal laboratories, discovered this drug, AZT, and paid for the studies to prove that AZT could be used to treat AIDS.

After having paid for the overwhelming cost of developing AZT, Mr. President, then our Federal Government licensed this drug scot-free to a private pharmaceutical manufacturer, Burroughs Wellcome Company. After $1 billion in sales of AZT and with a patent that extends into the next century, the company still has a monopoly, making it the only company that can sell this drug. This company can charge any amount they so desire. This company is going to continue laughing all the way to the bank, while at the same time gouging AIDS patients across this country who cannot afford to pay for this medication.

Mr. President, AZT costs AIDS patients somewhere between $2,000 and $3,000 a year. DDC costs $2,000 a year. DDC only appears to be effective, however, when it is taken in conjunction with AZT. That means that the AIDS patients are forced to pay anywhere from $4,000 to $5,000 a year for drugs that their own tax dollars helped to discover and develop.

Mr. President, this is not only a disgrace, this is a sham. And, once again, each of these new drugs, dependent upon each other for maximum effect and results, were researched and developed in Federal research institutions. They were paid for by the American taxpayer, and literally handed over to private drug manufacturers, who now are reaping enormous, unjustified profits on those who can least afford to pay for the drugs, and whose lives hang in the balance.

Mr. President, what these four examples tell me is that this administration has allowed the drug companies to price gouge the American public on drugs that were developed primarily with Federal funds. And it may not only be with AIDS or cancer drugs. There are many institutes at the NIH that are doing all kinds of fine research into treatments of heart disease, diabetes, arthritis, glaucoma and other diseases in our society. The American public has a right to know if it has already paid for a drug's research and development. They have a right to know if our award for the annual multibillion dollar investment we make, the taxpayers make, in drug research, is to give away those patents, to give away that monopoly, to give a blank check to these pharmaceutical companies, scot-free.

Mr. President, what is going on here? Investigations that have already begun in this matter suggest that my concerns are well founded.

A March 1992 report of the HHS Office of the Inspector General found that the Federal Government is unable to keep track of the scientific discoveries that Americans pay for with their tax dollars—unable to keep track. Over 60 percent of the technologies that were developed by the Federal Government with American tax dollars have fallen into a scientific black hole. No one knows where they are, where they went, what is happening to them, or what is going to happen to them. The American public may never know whether these discoveries fell into the hands of drug companies who exist for a profit who are now charging skyrocketing prices. But more important in this OIG report is the revelation that the Federal Government did not have adequate procedures to assure that it was receiving its appropriate share of royalty income from patents that it had given away to drug manufacturers.

Mr. President, needless to say, our taxpayers deserve much better accountability than this from this administration. We should require the drug companies that manufacture these drugs to be held accountable to the NIH, to the Food and Drug Administration, to the congressional committees that have jurisdiction over drug patents and drug licenses. At the very least, Mr. President, any licensing or any patent agreement between our country, our Government, and a pharmaceutical manufacturer should require that drug companies submit data which justifies the pricing structure for the prescription drug at issue. Included in this should be a thorough accounting of the sources and the amounts of funds used to research and develop that particular drug.

Mr. President, drug manufacturers should be held accountable for the prices that they charge for all drugs, but particularly for those drugs that they obtain from the Federal Government's own research efforts. Requiring that drug companies be held accountable to the Federal Government for the prices of drugs does not seem to be such a radical requirement. Licenses and patents come from the Federal Government, Mr. President, not from God. As easily as the administration appears to be giving them away to the drug manufacturers, we can as easily take them back if they are abused by drug manufacturers.

Mr. President, in my opinion today the manufacturers are abusing this privilege, they are abusing their patents.

The drug companies tell us over and over again that their exorbitant prices are needed to recover their research and development. In the case of the drugs I have talked about this morning, Mr. President, and perhaps many, many others, it is very difficult, if not impossible, for me to see how they can make this argument with a straight face.

We deserve better. Mr. President, we deserve to know if the administration

and this Congress is essentially giving drug manufacturers a license to gouge. I am asking both the General Accounting Office and the inspector general's office to continue and expand their investigations into this very, very disturbing issue. For too long we have given a blank check to the drug companies to ride roughshod over the American public by charging us exorbitant prices for the drugs that we paid for, that we researched with Federal tax dollars. It is time that we either suspend or revoke or modify these licenses and these patents which have been used by the drug manufacturers to gouge the American public.

Mr. President, I understand that we will be going to the legislation before the Senate at 11 a.m. Is that a correct understanding?

The PRESIDING OFFICER. The Chair informs the Senator from Arkansas that the time has been extended by unanimous consent to 11:05.

(The remarks of Mr. PRYOR and Mr. STEVENS pertaining to the introduction of S. 2893 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ADDITIONAL COSPONSOR TO THE DEFENSE TRANSITION BILL

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senator from Nevada [Mr. REID] be added as an original cosponsor to the defense transition bill.

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

JESSE HELMS AND BORIS YELTSIN

Mr. GRASSLEY. Mr. President, the forthright statements of President Yeltsin on POW/MIA's last week represents the first time that the United States has been promised full cooperation by the former Soviet Union on this sensitive topic.

Indeed, his promise to open the archives of the KGB and other institutions is a degree of openness that we have yet to get from the Government of the United States. If the KGB archives are to be opened, why not the archives and files of the DIA? What is there to be afraid of now?

Of course, the difference is that, with the collapse of the Gorbachev regime, there are no longer any vested interests which would be harmed by any revelations that might come forth. President Bush has promised President Yeltsin full cooperation, but the bureaucrats at DOD do not seem to be getting the message.

Mr. President, it is a shame that our colleague, the distinguished Senator from North Carolina [Mr. HELMS], is still recuperating from his surgery and was not able to attend the Yeltsin address. By all reports, he is doing very well, and it will not be long before he is back among us. We wish him well, and a speedy recovery. But it was Mr. HELMS' leadership, in the face of tremendous resistance from the standpatters in DOD, that got this issue moving again—first by distributing last year the minority staff report entitled "An Examination of U.S. Policy Toward POW/MIA's," which his staff produced with no special funding, and second by directly asking Mr. Yeltsin's help.

Senator HELMS had the insight that Mr. Yeltsin's thinking on Soviet deception was so different from that of Mr. Gorbachev. After Mr. Yeltsin's visit to the Senate last year, and his denunciation of past Soviet deceptions and violations of solemn treaties and conventions, Senator HELMS realized that a page had been turned in history without most people realizing the magnitude of the moral difference in the Yeltsin government.

Last December, as the era of the Soviet Union was drawing to a close, Mr. HELMS circulated a letter to Mr. Yeltsin amongst his colleagues seeking cooperation on the POW/MIA question. As many no doubt recall, 92 Senators signed the letter. Then he sent one of his staff members to Moscow to deliver the letter personally and to explain to Yeltsin and his staff the importance of the issue to the Senate. As I understand it, the staff of Senator HELMS and the staff of President Yeltsin have collaborated in a number of meetings on this topic since then.

Mr. President, these events were recounted last Sunday in the Richmond, VA, Times-Dispatch in an article entitled "Yeltsin's Disclosure Verifies U.S. Cover-Up on POW's." The article was prepared by James P. Lucier, who was minority staff director of the Foreign Relations Committee until January, when he retired after 25 years of service on the Senate staff.

Mr. President, I ask unanimous consent that the article on Senator HELMS' role in this matter be printed in the RECORD at the conclusion of my remarks.

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

[From the Richmond Times-Dispatch, June 21, 1992]

YELTSIN'S DISCLOSURE VERIFIES U.S. COVER-UP ON POW'S

(By James P. Lucier)

WASHINGTON.—President Boris Yeltsin stunned the nation last week with his dramatic announcement that U.S. POW's from Korea and Vietnam had been secretly taken to the Soviet Union and put in labor camps—and some might even still be alive.

And President Bush stunned the bureaucracy when he immediately dispatched Ambassador Malcolm Toon along with Yeltsin's chief military adviser to check out the KGB files and the facts. Yeltsin's candor put Mikhail Gorbachev's *glasnost* to shame, and set the tone for the new relationship with the Russian Republic.

Bush's enthusiastic embrace of that candor will begin to restore the tattered credibility of the American government.

Ironically, it was the U.S. Senate that got Yeltsin to understand the importance of the POW/MIA issue to the American people in a way that the U.S. bureaucracy was too blind to see. For years, the bureaucracy and a permanent floating group of POW/MIA "experts" who always seemed to turn up in crucial slots had insisted that POW/MIA issues should not be opened up "for the good of the country."

Even with Yeltsin's hopeful statements, the bureaucracy still didn't get it: Administration officials told the press that Yeltsin must have misunderstood the question, or that the interpreters mistranslated what Yeltsin said, or that he was uninformed.

But Yeltsin, just by opening up the KGB files, was doing more than the American government has done. He was dropping a bombshell that would win over the ordinary American.

A little more than two years ago, the top member of the Senate Foreign Relations Committee on the Republican side, Senator Jesse Helms, ordered his committee staff to look into the long-festering issue of the POW/MIAs. The staff interviewed scores of MIA families and friends, went through thousands of declassified documents in the National Archives, and even got a chance to go through hundreds of MIA cases in the Defense Department's classified files.

Not even staff investigators were prepared for what they found. Thinking that the POW/MIA issue was only a problem of the Vietnam War, they found instead a pattern that extended back to the Korean War, World War II, and even World War I.

In every case, they found evidence that American POWs had come into the hands of the Soviet Union; that the U.S. government knew from many reports that they were there; and that for the good of the country—i.e., for some political objective—the U.S. government decided to leave them there.

The official history of the American Expeditionary Force sent to Siberia in 1918–19 states that "hundreds" of American soldiers were missing. The official government position was that there were 20; yet Herbert Hoover reported that he was surprised in 1921 when in return for food, the Bolsheviks repatriated 100 men. Reports of names, dates, and prison locations of Americans continued to come in for years, but the U.S. recognized the Soviet government in 1933 without making any effort to recover the missing.

Formerly classified cables from May, 1945, record the anguished pleas of Ambassador Averell Harriman and General John Deane, the U.S. commander in Moscow, to take retaliatory measures against the Soviets because they were treating U.S. prisoners harshly and refusing to repatriate them. Three secret estimates between May 19 and May 31 of that year showed the Soviets controlling 25,000, 20,000, and 15,597 unaccounted-for U.S. POWs. But on June 1, General Dwight Eisenhower signed a cable stating that "only small numbers remained in Russian hands." This became the public policy as U.S. Chief of Staff George Marshall issued an order at the front to 'censor all stories. Delete criticism [of] Russian treatment." Furthermore, another official order went out that "no, repeat no, retaliatory action will be taken" against the Soviet refusal to repatriate.

After the Korean War prisoner exchange, UN reconnaissance teams reported that 8,000 men were missing, and General James Van

Fleet said that "a large percentage" were still alive. UN reconnaissance stated that many prisoners had been transferred to Manchuria and the Soviet Union. Eyewitness reports spoke in convincing detail of hundreds of U.S. GIs being transferred from Chinese trains to Russian trains at the border in 1951 and 1952. Yet the U.S. was satisfied with a Soviet statement that such claims were "devoid of any foundation whatsoever."

After the Paris Vietnam peace accords of 1973, U.S. officials expected at least 100 Americans who had crashed in Laos to be returned by the Pathet Lao; but only nine were returned from Laos, and all had been in the custody of North Vietnam. Moreover, other intelligence reports described Soviet interrogation of U.S. POWs in North Vietnam, with the assumption that men with high-level technical backgrounds were taken to the Soviet Union. Henry Kissinger, in his memoirs, speaks of at least 80 U.S. prisoners identified through radio intelligence as alive, but never accounted for.

Senator Helms distributed the staff report a year ago, and it had a profound impact on the thinking of many veterans' groups and on many Senators. One result was the creation of the Senate Select Committee on POW/MIA Affairs with the resources to examine some individual cases. And as the Soviet Union began to come apart, with the democratic election of Yeltsin and the fall of Gorbachev, hope grew that the Soviet Union itself might help in these matters.

Senator Helms circulated a letter to Yeltsin, eventually signed by 92 Senators, requesting his help in clarifying the Soviet role in the POW/MIA question. Last December, a member of the Foreign Relations committee Republican staff hand-carried the letter to Moscow, where Yeltsin immediately understood the significance. The committee staffer, a Soviet expert, was sent to General Dmitri Volkogonov, a distinguished historian who had just completed a sensational biography of Lenin, using the KGB secret archives. Some of the Lenin documents have just gone on exhibit at the Library of Congress.

From these meetings grew a close collaboration, and Volkogonov's search of the KGB archives for POW/MIA material. What he found was the basis for the letter Yeltsin sent to the Senate last week, and for Yeltsin's startling statements in Washington. If even one living American POW/MIA emerges from captivity, Yeltsin—and President Bush—will earn the undying gratitude of the American people.

NAFTA AND THE ENVIRONMENT

Mr. BAUCUS. Mr. President, I rise today to discuss the impact of the North American Free-Trade Agreement upon the environment.

Today in Santa Fe, NM, a potentially historic meeting is taking place. It is a meeting between United States and Mexican Government officials to discuss the North American Free-Trade Agreement and the North American environment.

I hope this meeting is historic for the substantive agreements it produces. But it is certain to be historic for the precedent that it sets. It is the first time that environmental concerns have been more than a footnote in a trade negotiation.

THE BUSH ADMINISTRATION RESPONSE

Several weeks ago, I stood on the Senate floor to criticize the Bush administration for its handling of environmental issues in the NAFTA negotiations.

I argued that the Bush administration had made many promises on trade and the environment, but had done little to fulfill those promises.

Shortly after making that statement, I wrote U.S. Trade Representative Carla Hills and Environmental Protection Agency Administrator William Reilly with a list of concerns regarding their handling of environmental issues in the NAFTA.

To her great credit, Ambassador Hills responded quickly to the concerns I raised. We have met to discuss these matters and she and her staff wrote a comprehensive response which I ask unanimous consent to place in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BAUCUS. In many areas, the administration's response reassures both myself and many others interested in the environment. Though further clarifications are necessary in some areas, the administration has gone a long way toward assuring that the NAFTA dispute settlement procedures will not be used to attack State or Federal environmental regulations. And, though more funds may be necessary, the administration has also worked constructively to address environmental problems in the border area.

LINKING TRADE AND THE ENVIRONMENT

Unfortunately, the administrator's response is not forthcoming on another key issue: ensuring that a pollution haven is not created in Mexico.

Though it is a developing country, Mexico has a fairly comprehensive set of environmental laws on the books. In many areas, Mexican laws are very similar to United States laws.

However, environmental regulations have not always been vigorously and consistently enforced in Mexico. The Salinas administration has made a public commitment to improving enforcement of environmental regulations. But in recent weeks a number of questions have been raised about this commitment.

In light of this lax enforcement, many fear that a free trade agreement could create an incentive for some manufacturing businesses to move to Mexico to avoid United States environmental regulations. This would have the effect of increasing total pollution in North America and greatly increase pollution in Mexico.

In addition, the disparity in enforcement could create severe economic dislocations in the United States because of manufacturing flight to Mexico. Lax enforcement could also provide Mexican businesses with a cost advantage over their American counterparts.

In its review, the administration pointed to progress in Mexico and largely dismissed this problem. But a recent review by the Office of Technology Assessment concluded that lax environmental enforcement could, in fact, be a serious problem. The experience of the furniture manufacturing industry which largely moved from California to Mexico to avoid environmental regulations provides a frightening precedent.

LEVELING THE PLAYING FIELD

I support the NAFTA process and I oppose protectionism. I don't want the environment to be used as a pretext for protectionism.

On the other hand, I also have no sympathy for those who would sacrifice the environment on the altar of free trade.

Free trade need not take place at the cost of the environment. Environmental protection and economic growth can occur hand-in-hand.

But in order to ensure that economic growth take place in an environmentally sensitive fashion, the issue of lax enforcement of environmental regulations must be addressed forthrightly.

Over time, the scope of trade negotiations has steadily expanded to cover tariffs, then quotas, and then product standards. Now, the administration works in trade negotiations to ensure that laws to protect intellectual property and to break up trusts are enforced overseas. It is time to add environmental protection laws to that list.

More uniform environmental protection is in both the competitive interest of the United States and the long term health and safety interest of all Mexicans and all of Americans.

It is my hope, that this week in Santa Fe the United States and Mexico can begin to address this critical issue. In order to have a truly level playing field we must ensure that minimum environmental protection is provided throughout North America.

This issue can be addressed in a number of ways. But if it is ignored the NAFTA is unlikely to win congressional approval.

EXHIBIT 1

RESPONSE BY THE U.S. TRADE REPRESENTATIVE TO "ENVIRONMENTAL CONSIDERATIONS IN THE NAFTA NEGOTIATIONS"

CONSIDERATION I. ENVIRONMENTAL LAWS AND REGULATIONS SHOULD NOT BE TREATED AS TRADE BARRIERS UNDER THE NAFTA

Topic A. Existing U.S. federal and state laws and environmental regulations should be grandfathered and immune from challenge under the NAFTA.

Response: Grandfathering, in our view, is not a secure approach to defending against possible challenges. It implies that some of our existing laws are inconsistent with the agreement, it runs the risk that we would inadvertently omit some laws from grandfathering, and it does nothing to pro-

tect the steady stream of new laws and regulations or amendments to existing laws. The better approach is to ensure that the trade rules of the NAFTA are sensitive to environmental concerns and do not call into question the environmental laws of any of the parties or their political subdivisions that are not discriminatory or disguised barriers to trade. In the negotiations, pursuant to the Administration's commitments, we have ensured that U.S. environmental laws and regulations applied in a nondiscriminatory manner can be defended against any challenge.

Topic B. Measures taken to enforce or comply with international environmental agreements should not be subject to challenge under the NAFTA.

Response: The United States is actively negotiating in furtherance of the Administration commitment that the NAFTA will not interfere with our rights under the major trade-regulating international environmental agreements to which we are a party. Similarly, we suggest that the NAFTA should not impair our rights under the Basel Convention (once we ratify it) and existing Basel-compatible agreements on hazardous waste transfers. We are also considering applying the same protections to any other international environmental agreements that the Parties specify.

Topic C. To the extent that efforts are made to harmonize environmental regulations, harmonization should be toward the higher standard. The rights of all parties—including subnational governmental bodies—to promulgate legitimate environmental laws and regulations should not be restricted.

Response: We are committed not to weaken U.S. protection of health, safety, or the environment. Through the NAFTA process and our bilateral environmental relations, we will continue to seek harmonization of regulations and standards toward enhanced levels of environmental and health protection. This process is already under way with Mexico on several major aspects of environmental regulation, such as pesticide registration and application. The NAFTA will make it clear that there is to be no "downward harmonization."

Furthermore, the rights of all parties, including subnational governments, to establish their own environmental goals and set environmental and health protection standards will be explicitly recognized in the text. Standards-related measures and sanitary and phytosanitary measures are, of course, subject to certain basic disciplines: they must have a scientific justification, be transparent in their effect, and non-discriminatory in their application.

Topic D. If any party challenges an environmental measure the challenging party should have the burden of proving that the measure has no legitimate basis, that it constitutes an illegal trade restriction, or that there are alternative, less trade restrictive measures available to achieve the same effect.

Response: Under the NAFTA, as in GATT dispute settlement in general, the rule will be that the party challenging another country's measure has the burden of demonstrating that the measure is inconsistent with that country's trade obligations.

Topic E. Dispute settlement panelists in cases involving alleged environmental measures should have an environmental background. In such proceedings, interested nongovernmental organizations and sub-national governmental bodies should be given the opportunity to comment.

Response: The Administration is seeking provision in NAFTA for the use of technical and scientific experts where the dispute involves factual issues concerning environmental or other scientific matters.

We are also sensitive to the desire for greater opportunity for the public to comment in the dispute resolution process. In recent trade disputes, the Administration actively consulted with NGOs in the formulation and preparation of the U.S. position; our advocacy was enhanced by their contributions.

CONSIDERATION II. A COMMITMENT MUST BE MADE TO ENSURE THAT FUTURE GROWTH, TRADE, AND INVESTMENT TAKE PLACE IN AN ENVIRONMENTALLY SOUND AND SUSTAINABLE MANNER

Topic A. All new manufacturing facilities and operations must comply with high environmental standards.

Response: Subject to certain limited conditions such as nondiscrimination, the NAFTA will leave each country free to take whatever measures it deems necessary to ensure that economic activity is undertaken in a manner consistent with their environmental policies and concerns. Thus, for example, state and federal requirements for environmental assessments for new activities will remain fully applicable, as well the more inclusive assessment requirements under Mexican law.

Topic B. All parties to the NAFTA must commit to provide adequate funds to support environmental protection efforts. These funds may be provided by a special dedicated fund derived from import or investment fees or from a firm commitment of governmental spending.

Response: The NAFTA will not diminish or restrict the ability of governments to fund their environmental protection programs. The amount of funding, however, should properly remain a matter for each government to decide in light of its overall national policies and changes in policy over time. In the long term, it would be counterproductive for the NAFTA to bind countries to specific commitments based on current conditions and concerns.

Topic C. All parties should give priority to environmental protection and clean-up in border areas. Funds must be committed to the task.

Response: Both this Administration and the government of Mexico have made significant financial and programmatic commitments to a variety of environmental improvement projects in the border area. The two governments are cooperating on a wide range of environmental activities, most of them focused on the border area. For example, the Environmental Protection Agency and its Mexican counterpart, recently reorganized as a cabinet-level component of the major new department of social development, SEDESOL, are actively working together on all of the programs described in the *Integrated Environmental Plan for the Mexican-U.S. Border Area*. We will be happy to work with the Congress and other government agencies to identify and budget for continuation and expansion of these efforts, and we have every confidence that the government of Mexico will continue to give a high priority to infrastructure development and environmental enforcement efforts in the border area.

Topic D. Provisions must be taken to enforce the above commitments.

Response: Existing agreements between the U.S. and Mexico and between the U.S. and Canada already commit the respective governments to a broad range of cooperative efforts on border environmental issues. The NAFTA will draw the three countries into a closer partnership addressing the full range of environmental issues affecting North America.

CONSIDERATION III. PROVISIONS SHOULD BE MADE FOR ONGOING REVIEW OF THE ABOVE ENVIRONMENTAL COMMITMENTS AND FOR REVIEW OF THE ENVIRONMENTAL IMPACT OF THE AGREEMENT AND THE RESULTING INCREASED TRADE AND INVESTMENT

The NAFTA should create an advisory body to recommend further environmental protection measures. This advisory body should also review the efforts of all parties to fulfill the environmental commitments made in or relation to the NAFTA.

Response: Recognizing the benefits of environmental assessment, the USTR, in cooperation with other government agencies, undertook a comprehensive *Review of U.S.-Mexico Environmental Issues*. This review has contained specific recommendations that have guided our negotiators and can serve as a benchmark for future evaluations.

The United States has long-standing bilateral environmental relationships with both Canada and Mexico, including bilateral treaties, executive agreements, bilateral institutions, and a network of cooperative relationships with various government agencies.

In coordination with the NAFTA negotiations, the United States has intensified its cooperative efforts with the government of Mexico to enhance environmental protection activities, not only along the border but throughout Mexico.

This cooperation, including collaborative enforcement activities, training programs, and technical assistance, carries out and extends beyond the *Integrated Environmental Plan for the Mexican-U.S. Border Area* of February, 1992.

We welcome a dialogue about how best to implement the environmental provisions of the NAFTA and parallel programs. It is not clear to us that additional institutions are necessary or appropriate to strengthen the existing high level of international cooperation and reporting. We are concerned that a new institution may divert resources from the important substantive work of the national environmental agencies. We are open, nevertheless, to exploring this idea with Mexico and Canada as well as the Congress and interested parties and agencies in the U.S.

SCHOOL PRAYER

Mr. DURENBERGER. Mr. President, I rise to speak just briefly about Lee versus Weisman, the decision of the Supreme Court yesterday with regard to school prayer.

I have had occasion during my service in the Senate to vote on this issue a number of times. I represent a State in which this is an issue of some magnitude. I cannot help but speak out in favor, in particular, of the dissenting opinion of Justice Scalia. I want to raise questions on behalf of my constituents, not only those who are in school, but a lot of other people, about the logic of the majority's opinion.

I read that opinion to say that if you have a member of the clergy who is offering a prayer, you have created a problem; if you have a State official,

that is the principal of the school directing the performance of the religious exercise, you have a problem; if you have attendance and participation that appears to be what some might call obligatory, you have a problem.

What if the students in this case had decided that they wanted to have, as students and others have had for 200-some years of our history, a prayer of celebration in conjunction with an act of celebration?

If the students had initiated the prayer, without a cleric or principal, if they would have offered the same prayer that Rabbi Gutterman had offered in this case, I would suspect this would be welcomed as a celebration of the things that are great about America, that we have celebrated at public events and in this body in this Nation throughout its history.

I agree with Solicitor General Kenneth W. Starr who does not interpret the opinion as placing an absolute barrier to prayer at graduation ceremonies. He suggests that prayers initiated by students, without official supervision, might be permissible even under this opinion.

So I rise to respond to those who are going to celebrate this decision as a victory. As Steven Shapiro of the American Civil Liberties Union said, "It's terrific" and "It should end any lingering debate about prayer in school * * *," I am here to say that this decision will not end debate about prayer in the school. In my view, there ought to be the opportunity for prayer.

By the same token, I do not agree with some opponents of the decision like Gary Bauer of the Family Research Council. He is quoted in today's Washington Post as saying "At that rate, one has to wonder why liberal interest groups, bother fighting Republican nominees to the Court. Why not just support them and watch them 'grow'?"

The issue is not whether conservatives have turned liberal. I think some members of the Supreme Court simply do not understand the difference between an established religion and the expressions of spiritual faith. Faith is common not only to all religions, but to all people in this country. People all over the world understand and celebrate that faith.

I hope that the majority will take a close look at the references made by Justice Scalia to longstanding traditions of nonsectarian prayer to God at public celebrations. I agree with Justice Scalia that "It is a bold step for this Court to seek to banish * * * from thousands of * * * celebrations throughout this land, the expression of gratitude to God that a majority of the community wishes to make." I certainly hope that the ill-considered position of the majority in this case is not the last word on this subject.

THE ATTACKS ON THE REPUBLICS OF SLOVENIA AND CROATIA

Mr. DOLE. Mr. President, 1 year ago today, the Republics of Slovenia and Croatia declared their independence. Only hours later, the Yugoslav Army launched an attack on Solvenia.

This attack was the opening salvo in a barbaric war that has raged with increasing intensity for 1 year now—a war waged by Serbian President Slobodan Milosevic against all those who stand in the way of an ethnically pure greater Serbia.

Milosevic is an old-style, Communist dictator, and a virulent nationalist in the mold of a Saddam Hussein, or yes, even an Adolf Hitler. What he wants is not to advance the legitimate interests of the Serbian people—and indeed those people have interests just as legitimate as those of the other groups which made up the former Yugoslavia.

But Milosevic is not about advancing those interests, but advancing his own perverted agenda. That is why the democratic opposition of Serbia is planning another protest this weekend in Belgrade—a protest against Milosevic and his policies of war and repression.

Mr. President, as we look back over events of this past year, we see that even though Slovenia was the first to be attacked by the Serb-controlled Yugoslav Army, Slovenia was the luckiest of the Republics of the former Yugoslavia. Milosevic and his fellow thugs found it too difficult to sustain war in Slovenia, since Slovenia does not share a border with Serbia. Moreover, Slovenia does not have a Serbian minority in whose name Milosevic could claim to act.

Other Republics were far less fortunate. Croatia, next in line, came under more vicious attack. And, after 10 months of war, one-third of Croatia is occupied, 10,000 people, mostly civilians are dead. Dozens of Croatian cities are seriously damaged, including the jewel of the Adriatic, Dubrovnik. Some cities, like Vukovar, are only rubble.

And, for Milosevic, Croatia was just practice. Practice for Bosnia-Hercegovina. Milosevic and his band of criminals were just getting started in Croatia. They took their weapons and Hitler-like tactics to Bosnia.

In Bosnia, in just 11 weeks, over 40,000 people have been killed in the most brutal fashion. Serb forces under Belgrade's direction targeted the people of Bosnia—Muslims, Croats, and Serbs, yes Serbs—and their culture and livelihoods. Over a million Bosnians have been forced from their homes. Thousands are in concentration camps. And tens of thousands face imminent starvation in the capital of Sarajevo, and its suburbs.

Surrounded by Serb forces perched on the hillsides with mortars, howitzers and cannons, Sarajevo has become a valley of death.

Cease-fires come and go, and every day there is news of yet another savage strike against innocent and helpless civilians. Just yesterday, Serb militias gunned down a hospital bus in Sarajevo, killing a doctor and wounding two nurses.

It has been 12 months since Slovenia was attacked. Why didn't we respond to this aggression 12 months ago? Why did we wait so long?

The international community should have blown the whistle on Milosevic months and months ago.

Tragically, the world community response has been too little and late—I just hope we are not too late.

I hope we are not too late for the people of Bosnia. And I hope that we are not too late for the other people of the former Yugoslavia who have not yet fully felt the wrath of the Belgrade war machine. We must consider whether the genocide in Bosnia is just a prelude to mass annihilation of the 2 million Albanians who live in Kosova.

What is absolutely clear is that action must be taken now to end Milosevic's murderous rampage.

I am not suggesting unilateral military action.

Earlier this week, I called on NATO to begin immediately to implement a four point program:

First, to authorize the use of alliance forces, if necessary, to reestablish peace in Bosnia and other threatened areas of the former Yugoslavia, such as Kosova.

Second, organize a standby force with the military assets to accomplish several urgently needed initial tasks:

To close the airspace over Bosnia;

To protect convoys of desperately needed humanitarian supplies;

To plan for airstrikes, if feasible, against Serbian positions in Bosnia, and in Serbia.

Third, consult with the CSCE, the United Nations and other appropriate bodies, to achieve cooperation in using force, if necessary.

Fourth, issue an ultimatum to Milosevic to end his aggression and pull back his forces or face the consequences.

The bottom line is: Milosevic must be stopped, now. And, in my view, only NATO is capable of stopping him.

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 $3,937,817,203,711.42,

as of the close of business on Tuesday, June 23, 1992.

On a per capita basis, every man, woman, and child owes $15,330.66—thanks to the big spenders in Congress for the past half century. Paying the interests 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.

SENATORS PRESSLER AND DECONCINI URGING PRESIDENT YELTSIN TO FACILITATE RUSSIAN TROOP WITHDRAWAL

Mr. PRESSLER. Mr. President, because of our mutual concerns about democratic development in Eastern Europe, I wonder if the senior Senator from Arizona would join me in a colloquy?

Mr. DECONCINI. Certainly.

Mr. PRESSLER. In his speech to Congress, Russian President Boris Yeltsin offered a new era of Russian-United States friendship. Mr. Yeltsin was very forthcoming about the kind of open administration he hopes will develop in his country.

I have been concerned that President Yeltsin's personal desire for policy transparency appears to be unpopular with the former Soviet military. I wonder if the Senator from Arizona agrees with this perception.

Mr. DECONCINI. From many of the statements we read by Russian or Commonwealth military commanders, they seem to be hanging on to old military concepts.

Mr. PRESSLER. I appreciate the Senator's comments. In fact, one of the best examples of old thinking exists in the Baltic States where an estimated 120,000 to 130,000 Russian troops still are stationed. These troops are under the full control of the Russian Government. The Baltic governments would like to have them leave as soon as possible.

For example, the Lithuanian people reaffirmed this desire in a referendum on June 14 in which 91 percent of the voters asked for the troops to leave by year's end and to pay compensation. I wonder what the Senator from Arizona thinks these developments mean?

Mr. DECONCINI. I would say to the Senator from South Dakota that some elements of the Russian military seem to miss the Soviet Union. They continue to see the Baltic States as just another part of the old Soviet Union—in fact, the northwest group of forces. The Baltic States have been negotiating with the Russians on troop withdrawal but these negotiations have produced no concrete results.

Mr. PRESSLER. Once again, the Senator from Arizona is correct. I have received disturbing reports that the military continues to hold military maneuvers without the permission of the Baltic governments and bring in additional conscripts to replace those who have rotated out. That certainly disturbs me and I suspect the Senator from Arizona shares this concern.

Mr. DECONCINI. Yes; these troops have been introduced onto Baltic territory against the will of the Baltic governments. In some cases they have ignored entry laws at the border points. In other cases they violate Baltic airspace.

Mr. PRESSLER. Mr. President, I would say to my distinguished colleague from Arizona that the only solution that makes sense is for the troops to leave as quickly and in the most orderly way possible.

Mr. DECONCINI. Once again, Mr. President, the Senator from South Dakota is correct. Yet; many people claim that such a removal is logistically impossible and that there is not enough housing for the officers and their families in Russia itself.

Mr. PRESSLER. Mr. President, I would say to the Senator from Arizona that the Norwegian Government has offered to pay for housing for Russian soldiers departing the Baltic States. There also are several recent precedents for troop removal. For example, 115,000 Soviet troops left Afghanistan in a 9-month period. Additionally, the Russian Government has stated that it has negotiated a timetable with the Azerbaijani Government to remove the 50,000–60,000 soldiers from Azerbaijan. I would ask my colleague from Arizona what he thinks of these facts?

Mr. DECONCINI. I would say to the Senator from South Dakota that, of course, there is really no reason for the troops to remain. We hope that the Russian Government will begin immediately to reduce its overall military strength in the Baltic States through attrition and a conscientiously arranged timetable for withdrawal from the Baltic States. This dangerous situation, not only for the Baltics, but also for Europe, could be removed without great sacrifice, I believe. I would note also that U.S. intelligence officials, such as the head of the FBI Counterintelligence Service, have noted no decrease in KGB and GRU operations in the United States. These operations cost money. As long as they are continuing, the Russian Government should not be pleading poverty on this troop housing issue.

Mr. PRESSLER. The Senator is correct. Ideally what I would like to see is a timetable for troop withdrawal that does not legitimize the presence of foreign troops on Baltic territory or call for some troops to be permanently stationed in these countries. Instead, it is in the interests of a heightened United States-Russian friendship that the Russian military demonstrate good will by expeditiously making withdrawals of some of the more intrusive units, such as the 107th Motorized Rifle Unit based near Vilnius in Lithuania. I do not like to see Russian Army intervention in a foreign country currently housing its troops, as is currently the case with the Russian Army in Moldova. I know the Senator from Arizona agrees with me on this issue.

Mr. DECONCINI. The Senator from South Dakota is certainly correct. That's why the Senator from South Dakota and myself will introduce our amendment to the Freedom Support Act which will require the President to certify that the Russian Government is carrying out significant withdrawal of the troops in the Baltic.

Mr. PRESSLER. Mr. President, the Senator from Arizona and I believe this amendment will advance the cause of Russian democracy by requiring the Yeltsin government to demonstrate its commitment to CSCE and international law.

Mr. DECONCINI. If the Senator from South Dakota would yield further, the CSCE process in Europe has been greatly enhanced by the fall of communism and the rise of democracy in Russia. The removal of Russian troops from the Baltics would be another step in consolidating the CSCE process.

Mr. PRESSLER. I thank the Senator from Arizona for his insights. Certainly our amendment does not ask the impossible, nor would it reduce humanitarian aid or assistance provided under the Nuclear Threat Reduction Act. I thank my distinguished colleague for his assistance and support in these worthwhile efforts.

Mr. DECONCINI. Mr. President, the Senator from South Dakota and I both hope that our colleagues will support and cosponsor this amendment.

Mr. PRESSLER. I thank the Senator for his leadership and comments. Mr. President, I yield the floor.

THE RETIREMENT OF MAYOR NOEL TAYLOR

Mr. WARNER. Mr. President, it is with great respect and admiration that I rise today to recognize a dedicated public servant in my State, Mayor Noel Taylor of Roanoke, who after 22 years of distinguished service will be retiring on June 30 of this year.

Mayor Taylor has been a strong and effective leader throughout his career and his administration will serve as a model for good government in the years ahead. It has indeed been a pleasure to work with this outstanding Virginian and I hope I will continue to have the benefit of his advice.

Ever since I first placed my hand on the Bible here in this very Chamber to assume the oath of office as a U.S. Senator from Virginia, Noel Taylor has been mayor of the city of Roanoke. During that time, there have been numerous occasions in which we have

worked closely to address the issues facing our constituents. But never has there been a time when I relied more heavily upon the insight and wisdom of Mayor Taylor than on a recent tour of Virginia's cities which came in the wake of the Los Angeles riots.

At the request of President Bush and Vice President QUAYLE, I initiated a series of meetings in my State to listen to those at the State and local levels to determine what role the Federal Government should play in preventing similar uprisings from happening in the future. This trip was a bipartisan effort that included Governor Wilder, my colleague Senator ROBB, and other Members of the Virginia congressional delegation. We traveled to Richmond, Tidewater, northern Virginia, Roanoke, and Danville and held a series of discussions with the respective local officials.

Leadership is essential when dealing with subjects of this nature and Mayor Taylor brought a wealth of knowledge and a depth of understanding to our discussions that was unparalleled. He spoke openly and thoughtfully about this situation and provided sound recommendations, and for that I am sincerely grateful.

Upon completion of this statewide tour, I wrote to the President to inform him of our findings and outlined various issues that we felt must be addressed in the weeks and months ahead. The success of our mission was dependent upon the contributions of all these Virginia officials involved, but most notably, the capable and seasoned four-term mayor of Roanoke. I consider myself fortunate to have been able to consult with Mayor Taylor on these issues of such national importance before he takes his well-earned retirement from public office in less than two weeks.

Mayor Noel Taylor is a man of honesty and integrity and the leadership that he has provided to the citizens of the Roanoke Valley will be greatly missed. He has earned the respect of those from both ends of the political spectrum with his pragmatic approach to government. Mayor Taylor has worked aggressively to combat the problems facing his community and has fought to improve the quality of life for all its citizens. Throughout his tenure, he has truly been a man of the people, and I salute him.

Mr. President, without objection, I would ask that the text of Mayor Taylor's speech, "Roanoke's Community Concerns: How the State and Federal Government Can Help," which he delivered in Roanoke on May 15, 1992, be included in the RECORD at this time.

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

SPEECH BY MAYOR NOEL C. TAYLOR, MAY 15, 1992

ROANOKE'S COMMUNITY CONCERNS: HOW THE STATE AND FEDERAL GOVERNMENTS CAN HELP

Good morning. Thank you for allowing us the time to share with you some of what we see as the most pressing concerns facing the City of Roanoke, and the role we see the State and Federal Governments serving in addressing those needs. May I first commend you for coming directly to the local governments for input. For local government is the arm of government that citizens often see as their closest contact, and we hear and see their needs and oftentimes desire to share those at the State and Federal levels. Thank you for giving us that opportunity.

When we talk about the need for changes to occur, I believe there are two ways that can be done. Either by reacting to a crisis, such as the recent events in Los Angeles. Or by a more effective manner of making long term commitments to bringing about positive change.

If there is one measure I hope you will take away from our meeting today, it is the immense need to give hope to our citizens. With the difficult economic times, the increasing number of poor, and the rising cost of housing and health care, many people simply feel that there is no hope for a brighter tomorrow. And it's not just a matter of dedicating funds—although that can be important—but rather its coming up with the tools to help people become self sufficient. Our Government should not be in the position of helping people simply survive, but instead of helping them find a way to help themselves, whether its in terms of a job, a home, child care, medical assistance, or education and training. If we can restore that sense of hope, then the battle is half over.

Also, before going into the specific details, I would like to personally thank Governor Douglas Wilder for his efforts on behalf of local governments in Virginia. The past years have been economically difficult times for the State, and every area has seen cutbacks and reductions. But to the Governor's benefit, he has worked diligently to lessen the impact on local governments and we appreciate his sensitivity to our needs.

The issues we would like to briefly focus on today are health care, jobs, training and education, child care, housing, and law and order. We have compiled a notebook that we hope you will take back with you and read carefully. It highlights some of the successful programs available in the city to address these areas—programs supported by state and federal monies. The notebook can serve as useful background information as to programs that work and could be replicated. And yet, although we have many successes, we still have many needs.

HEALTH CARE

A critical need in the city of Roanoke is directly related to health care for the poor, particularly in regard to children. So often, when we receive federal and state funding, there are very stringent strings attached to how the funding can be used. For example, an aid to dependent children client is eligible to receive Medicaid for his or her children. But when that parent finds a job, and gets off of ADC, often the health care benefits go as well. And if that parent is not covered by a health care policy at work, and a child gets sick, that one episode can send the parent quickly back to depending on government support. We need to find a way to tailor programs for the individuals they serve. The local governments need more flexibility in administering those programs with a focus on helping individuals become self sufficient.

In the city of Roanoke, over the last 10 years, the rate of children in the Roanoke city schools who are at or below the poverty line has grown from 15 percent to over 50 percent. That presents a myriad of challenges for the schools, but it also points out that many of these children are not getting appropriate child health care.

One of the most successful programs I've ever seen to address this need is our comprehensive health investment program, called Chip. It is a coalition of area doctors and dentists, who work hand in hand with public health nurses and case managers to provide one on one medical attention and follow up care to low income children. In the three years since its inception, it has grown to now serve 1,035 children and another 622 remain on the waiting list. This program, supported in part by federal funds, clearly could use additional support to meet the growing demands.

Teen pregnancy is another critical problem in the city of Roanoke. Three of every 20 teenage girls in Roanoke become pregnant each year. That is one of the highest rates in the state. We've tackled the issue with education, a special program targeted at young men, and a coalition of agencies working together to develop a comprehensive approach to dealing with the issue.

And what about the needs of the mentally ill? These individuals have been released from care facilities and left with no system of support or assistance. And central cities like Roanoke become collection points for such individuals. Rather than their care being a state and federal issue, it now often seems to rest solely in the hands of local government.

Which is not to say that we don't work to provide assistance. Last year, local taxpayers provided more than $300,000 of tax money to help support our local mental health services. But its work continues to fail to meet area needs because of declining support from the state and federal governments.

JOBS

Clearly, local governments have a responsibility to be economic development leaders, and the city of Roanoke has addressed this role aggressively. Ninety three percent of the jobs created in this area of the state over the last three years were created in the city of Roanoke. Those jobs are important, and yet can at times be a mixed blessing. For when news of a new or expanding business in Roanoke is heralded by the media, it attracts more people to the city in search of those jobs. And if they don't find employment, those individuals and their families often remain in the city and turn to the local government for help.

We need a national policy that places emphasis on the importance of developing jobs across the country, and greater flexibility for local governments to utilize federal assistance in attracting business to their community.

And as part of that national policy, we need to create incentives for businesses to locate in inner cities by using enterprise zones. In the same sense, we need to reinstate the urban development action grants with the goal of developing minority businesses in areas eligible for community development block grant (CDBG) funding.

But if the goal is to attract companies into central cities in an effort to create jobs, cities will spend exorbitant amount of money and staff time to compete for the lim-

ited number of enterprise zones. A cost saving alternative is to allow tax exempt industrial revenue bonds to be issued only in cities previously identified as distressed cities under the old UDAG program. And then allow those bonds to be issued for the full range of commercial activities, not just manufacturing which central cities can often not accommodate.

TRAINING AND EDUCATION

Equally, if not more important than jobs, is the issue of training and education so that individuals are prepared to compete in the job market.

Ten years ago, this area received $11 million dollars per year in federal funds for training and job education for our area citizens. This year it is only $1 million.

If people are to regain hope and self esteem, they must be trained to compete for good jobs. We must help individuals climb out of the cycle of poverty, and education and training is a key factor in that goal. The federal and state governments need to be pro-active and provide additional support in this area in order to help people avoid lifelong dependency on government assistance.

Specifically, we need increased funding for the job training partnership act and need to direct additional dollars to a job corps program for high risk young people.

And in a similar area, we need to continue to work to address the needs within our school system.

When it comes to education, Roanoke does not have the inner-city problems of Detroit or Chicago, but statistics signal a clear warning:

During the past school year, 5,680 of the city's school children—44 percent—received free or reduced lunches or free textbooks because they were poor. More than half of the city's school children live in single-parent homes. As the statistics of poverty have grown, money to pay for teaching the disadvantaged hasn't kept pace. The city gets enough Federal aid to provide special assistance to about one-third of its 5,680 needy students. Because of declining enrollment, the city has lost $2.3 million in state education aid since 1986.

I could share many more troubling statistics, but a key point is that central cities have problems and challenges that are not shared by all other localities. We need funding to specifically address the disadvantaged youth in the community. Programs like our alternative education program where job training partnership funds are used to provide education experiences to middle and high school youth that will help prepare them to enter the labor market. In addition, we need to increase funding for the head start program, in order to given children the early education they need to be able to succeed in school.

At the same time, we want to thank the federal government and the state for its work to foster innovative programs, and programs such as the magnet school grants that have helped Roanoke improve integration and offer its students exciting programs that would not be possible without state and federal support.

CHILD CARE

Earlier in this conversation we talked about the impact on a working parent when a child becomes ill and they have no health insurance. In much the same way, we can not expect for single parents to be able to pay for child care on a minimum wage income. It's simply not possible. And so the solution for some is to stay home and rely on government support, and the truth is that in some cases that may be their only realistic option.

We need more state and federal support for child care. And not just for those near the poverty level, but for many who are at risk of becoming government dependents because they are living so close to the financial edge.

HOUSING

Central cities continue to face the ongoing challenge of not only maintaining current housing stock, but having the resources to provide large scale new housing projects. And in this area, federal and state support are clearly needed. The private market simply will not pick up the ball in these areas because it is not financially advantageous. And so, the condition worsens.

We need to expand the community development block grant program with an emphasis on improving the housing stock and extending eligibility to middle-income residents in order to achieve greater socioeconomic integration in these areas.

In a homeless study undertaken by the city of Roanoke in 1987, we identified hundreds of homeless, as well as nearly a 10th of our population who are at risk of becoming homeless.

The new federally funded home program, is a step in the right direction. And programs to help low to moderate first time homebuyers are useful. But many of these efforts are smaller scale bandaid approaches, as opposed to the major projects that could be done with federal support.

LAW AND ORDER

Clearly the recent events in Los Angeles have focused our attention on the need for law and order, as well as that ongoing focus of a need for hope among the people.

Roanoke has undertaken a new successful community oriented policing program which we call cope. Through this program, police officers work in targeted high crime areas. They forge strong relationships with the residents and work hand in hand to address crime and build an ongoing sense of trust. But clearly its an expensive proposition. This year we had to increase taxes to fund a second cope team. And still we have less than 20 officers involved in the cope program.

In conclusion, in a central city like Roanoke, we believe we face many challenges that suburban governments surely want to avoid. Homelessness, social services, a transportation system, medical facilities, and a responsive government all result in the city being a magnet for those in need. We want to serve those individuals, but clearly state and federal funding need to be redesigned to focus on the severity of the problems, not just the number of individuals counted in the census. We need more flexibility to implement state and federal programs, and need to reinstate a federal revenue sharing program that returns money directly to the localities that can be targeted at the local level to meet each community's specific needs.

In all of the issues we've discussed, we need a national agenda—a federal policy that sets goals and sets the direction for programs at the federal, state and local levels. Localities need to know the long term comprehensive goals and be able to plan for and focus on those areas. We can set our own agenda, but if it doesn't correspond with state and federal goals, and thus state and federal funding, it is nearly impossible to make forward progress.

Central cities have pressing needs, oftentimes far greater than their surrounding jurisdictions, and special attention needs to be focused on central cities like Roanoke. Attention in the form of state and federal assistance—no, not new mandates telling the cities what must be done, and yet offering no means of paying for those needs—but rather a cooperative effort and necessary financial support.

We do have many programs that are working, and are bringing about positive results. Project self sufficiency, our long term homeless shelter called the transitional living center, the magnet school programs in our city schools.

And don't let me forget to mention the federally funded community service block grant program that provides the core funding for community action agencies. In Roanoke, total action against poverty, uses those federal funds as the seed funding from which they seek additional support to fund a wide range of programs from early childhood education through housing and education.

These programs are making a difference, but they simply have not been able to keep up with the rising number of citizens who need assistance.

The focus, we believe, needs to be on hope. On offering more prevention programs and working to stabilize families before they are at the point of despair and devoid of hope.

Thank you for allowing us to share these concerns with you. We take very seriously our commitment to working cooperatively with you and applaud this first step in seeking the input of the local governments. We can't do it alone. But we can work with you to begin to build back that sense of hope.

JIM ELLISOR: A CAREER IN PUBLIC SERVICE

Mr. HOLLINGS. Mr. President, it is fashionable these days to denigrate public servants, so I rise very unfashionably—but proudly and with gratitude—to salute the dedication of Jim Ellisor, the executive director of South Carolina's State Election Commission.

It is said of Jim, who is closing out a 24-year stint as the commission's first and only executive director, that he is retiring but not shy. During his quarter century at the commission, he has been famously blunt and outspoken, yet has still managed that feat of remaining scrupulously nonpartisan in his official duties.

It was under Jim's leadership that South Carolina led the Nation in replacing the old system under which each county's registrar maintained oversized voter-registration books—books that were notorious for maintaining dead people and convicted felons on the active voting roles. In its place, Jim devised a modern system of computerized registration maintained centrally by the State election commission. South Carolina pioneered this system, and it has since been emulated by 15 other States.

Mr. President, Jim Ellisor has headed the commission under five Governors, and before that was an FBI agent and assistant State attorney general. He has always been a model of professionalism and dedication, and his sure hand at the commission will be missed

very much. Nonetheless, there is no question in my mind that Jim will find new outlets in the years ahead for public service as well as service to his beloved Lutheran Church. I wish him every success and happiness.

STRATEGIC ARMS REDUCTION TREATY (START)

Mr. WALLOP. Mr. President, as the Senate exercises its constitutional responsibility of providing advice and consent on ratification of the Strategic Arms Reduction Treaty [START] I wish to call the attention of Members and the American people to an exceptionally thoughtful assessment of the treaty and the emerging United States-Russian strategic framework.

Mr. Sven Kramer, one of the Nation's most knowledgeable experts on arms control, defense, and foreign policy, served in the U.S. Government for 25 years, 16 of those on the National Security Council, with 4 Presidents and 10 national security advisers. During the Reagan administration he served from 1981 to 1987 as the NSC staff's Director of Arms Control, with special responsibilities for compliance and verification policies.

Mr. Kramer's assessment is entitled, "A New Start for the Strategic Arms Reduction Treaty—From Treaty Loopholes to Senate Safeguards." The assessment reviews major flaws and loopholes in the 1991 START Treaty signed by Mikhail Gorbachev and President Bush in Moscow nearly a year ago and continuing problems evident in the 1992 joint understanding, signed this June 17 by Presidents Bush and Yeltsin. The latter is, in effect, a new protocol to the July 1991 Treaty and, when it is worked into the final treaty language, it must be considered part and parcel of the START Treaty for which the administration is seeking the Senate's ratification.

I particularly urge my Senate colleagues to review the loopholes and to take most seriously Mr. Kramer's proposed safeguards for a new START and a new strategic framework. Such a new start would be based on secure arms reductions, United States deployment of space-based strategic defenses, and Presidential and congressional certification of full democratic/civilian control of the former Soviet Union's military and intelligence programs, dismantling, and economic institutions.

Mr. President, I ask unanimous consent to include this piece in the RECORD, and encourage all who care about our Nation's security to read it.

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

A NEW START FOR THE STRATEGIC ARMS REDUCTION TREATY FROM TREATY LOOPHOLES TO SENATE SAFEGUARDS, JUNE 22, 1992

(By Sven F. Kraemer)

(Mr. Kraemer served in the National Security Council with four Presidents and ten National Security Advisors. During the Reagan Administration, he was NSC Director of Arms Control from 1981 to 1987.)

START'S DEADLY GAMBLES

In an America preoccupied by domestic issues and buoyed by the hoopla and hopes of Boris Yeltsin's mid-June summit visit to Washington, the beginning of United States Senate's ratification proceedings on a Strategic Arms Reduction Treaty (START) has drawn far less attention than it deserves.

The Senate is being asked to give its advice, consent or dissent to a START Treaty that was signed by Mikhail Gorbachev and George Bush nearly a year earlier, on July 31, 1991. But as that "stealth" treaty's 280-page text and key provisions are studied by Senators, it will be seen that Surely These Aren't Reduction Terms (START) that are sound or safe. The July 1991 START involves deadly strategic gambles that are obstacles to sound arms control and to America's security.

Few as yet understand START's damaging concessions to the Soviet hardliners—the Gorbachev appointees and colleagues who staged a coup attempt in mid-August 1991 just days after the START treaty was signed and whose dark shadow can still be felt on the START process.

Since July 1991, the world and START have radically changed. Gorbachev and the Soviet Union are gone. A flurry of new strategic arms proposals were presented in Washington and Moscow last September and this January, each affecting START. A new multilateral START "Signature Protocol" was signed in Lisbon on May 23, 1992 with the former USSR's four successor nuclear states (Russia, Belarus, Ukraine, Kazakhstan).

Most recently, a new START "Joint Understanding" was signed by Presidents Yeltsin and Bush on June 17, 1992 at their summit meeting in Washington. This Understanding is, in effect, a protocol to the July 1991 START Treaty. It seeks to close in on a number of loopholes evident in the obsolete Gorbachev-Bush START and it supersedes much of that test. But it is still weeks away from final treaty text form and it retains a number of the old July 1991 START Treaty's fundamental flaws.

NO SENATE RUBBER STAMP

In launching START ratification proceedings on June 23, 1992, Secretary of State Baker urges rapid ratification, without much debate or any modification of the July 1991 START text and without even waiting for the details and actual treaty text still to be worked out for START's "Joint Understanding" protocol.

In assessing Secretary Baker's surprising request, the Senate will no doubt choose to fulfill its constitutional responsibility through a thorough review of the 1991 Treaty text, the Signature Protocol and the Joint Understanding protocol and other related documents and critiques.

EIGHT SENATE SAFEGUARDS FOR A NEW START FRAMEWORK

Requirements of US security and global stability should lead the Senate carefully to examine START's loopholes and to consider a number of strategic safeguards in its START ratification proceedings over the next few months. Some safeguards—involving missile and warhead dismantlement, continuous on-site inspections and space-based strategic defenses—need to apply only to the USSR's successor states of the former Soviet Union, not necessarily to the United States.

Such safeguards need not necessarily apply on a reciprocal basis because, notwithstanding the reformers' personal striving for democracy and partnership, there is not yet institutional political parity between the successor states and the United States. They are not the United Kingdom, Germany or Australia and major gambles are involved for us. They are still some distance from being full democracies and still lack effective internal checks and balances, e.g., over their military and intelligence forces, to guarantee treaty compliance and global stability.

An examination of the key elements of the current START documents and framework suggests that the Senate should assure the following eight START safeguards.

1. Destroy and/or Provide Rapid Deep Storage of the Former U.S.S.R.'s START-reduced Missiles and Warheads

Loophole. A glaring loophole in the July 19901 START treaty is that destruction is required only of "launchers" but not of a single missile or warhead (possibly excepting some mobiles). A further loophole permits the designation of many "retired" mobile missiles—a step expected to exempt hundreds of such missiles from destruction—and thus potentially available for use (e.g. with covert launchers) by aggressive future leaders.

A missile and warhead destruction step is sought by at least two USSR successor states in letters connected to the May 23 "Signature Protocol" to the Treaty submitted by the Administration as part of its START ratification package. In a May 7, 1992 letter on START to President Bush, Ukraine's President Kravchuck invokes Ukraine's national interest so that the "elimination of nuclear weapons . . . be carried out under reliable international control which should guarantee the non-use of nuclear charge components for repeated production of weapons." A similar letter from Belarus's Shushkevich states that "the destruction of nuclear weapons should be carried out under rigorous and effective international control."

At the June 16–17 Yeltsin-Bush summit, the US offered stepped up technical and financial assistance, in addition to the $400 million already allocated from Pentagon funds, for dismantlement. But much of this may be for chemical and tactical nuclear weapons, not strategic weapons, and it appears likely that problems and costs of strategic warhead dismantlement will prove overwhelming.

Safeguard. The Senate should require that the USSR's successors, in undertaking their July 1991 START/1992 Joint Understanding protocol reductions, should rapidly dismantle, or permanently disable (or bury in deep underground sites), all launchers, missiles (including those being designated as "retired"), and warheads on such missiles, with this to be accomplished with US assistance and under continuous on-site US inspection.

2. Close Down All Heavy Missile Launchers Now

Loophole. The United States has no "heavy" missiles—considered highly destabilizing "first strike" systems. But the former Soviet Union had 308 10–14 warhead SS–18 heavy missiles, all deployed with upgraded "Mod-4" and "Mod-5" missiles. Of these, 204 are deployed in launch silos in Russia, 104 in Kazakhstan.

A Reagan "no modernization" ban for heavy missiles would have banned all of the current SS–18s with their upgraded warheads, thus making a proposed 50% cut in the SS–18s numbers a meaningful arms control step. But this US position was dropped by the Bush Administration and the July

1991 START permits Mod-4, Mod-5 and future SS-18 upgrades—twice as lethal as the prior versions, and leaving half that deadly force, with over 1,500 of the world's most lethal warheads even after the year 2000.

The new June 1992 Joint Understanding protocol bans all SS-18s by the year 2000 or 2003. (It mentions missiles, but indicates that all reductions are to be carried out under June 1991 START procedures, which do not require elimination of missiles). At the summit Yeltsin indicated that he would take some SS-18s "off alert," but this means neither dismantlement nor even retirement. SS-18 launchers will be eliminated only very slowly, and very substantial heavy missile capability, which could be used by potentially hostile forces, will be retained over most of the next 7-10 years.

Safeguard. The Senate should eliminate the SS-18 knock-out threat within the next year by requiring the removal of all SS-18 missiles, then using high explosives within all 308 SS-18 silos and filling the craters with concrete—with US defense dollars (e.g., $½ million per silo) within the next 12 months. The missiles and warheads (whether deployed or deactivated or not) should be dismantled/buried under continuous US verification as rapidly as possible.

3. Ban All Mobile Missiles Now

Loophole. The US has no mobile missiles and plans none, its Midgetman and railgarrison MX programs having been canceled. But Russia and Ukraine have deployed over 370—ten-warhead SS-24 rail-mobile missiles and single-warhead road-mobile SS-25 missiles. Because of this asymmetry and because hard-to-find mobiles of whatever range or armament are destabilizing and not effectively verifiable (e.g., Iraq's Scuds, or covert USSR SS-23 and SS-20 intermediate-range nuclear force, INF, missiles) President Reagan's START required a total ban on all strategic mobile missiles, a step comparable to his zero option for the 1987 INF Treaty.

The July 1991 START, in contrast, surrendered the Reagan position and opened a huge loophole by legally permitting 1,100 warheads on deployed mobile missiles and potentially many more on "non-deployed" and "retired" mobile missiles—provisions which are asymmetric and not effectively verifiable.

The June 1992 Joint Understanding retains the 1,100 warhead limit, and while it goes after the multiple-warhead SS-24 mobile missile, it does not come close to closing the loophole. The Understanding permits the SS-24 to be "downloaded" from ten warheads to one, but such downloading is not effectively verifiable. Together with a July 1991 START provision allowing a large number of deployed, non-deployed and "retired" mobile SS-25s, the "download" SS-24s are likely to remain deployed in large numbers.

Safeguard. The Senate should require a total ban, to be implemented within two years, on all mobile missile launchers and their missiles—whether multiple warhead or single warhead, whether deployed or non-deployed and to include those that are "retired." Launcher destruction should begin at once and the missiles and warheads should immediately be stored away from their launchers under US inspection. The US could offer to pay US defense dollars (e.g., $1/3 million each) to cut up all of the missiles and launchers within the two year time period, with warheads to be dismantled or appropriately buried under continuous on-site US inspection.

4. Count all the Missing Bombers

Loopholes. The July 1991 START has a number of bomber loopholes not improved by the June 1992 Joint Understanding. The July 1991 START permits the former USSR 180 "heavy" bombers but permits the US only 150. It has counting rules which cannot be effectively verified for limiting the Air-launched Cruise Missiles (ALCMs) to be carried on such bombers. It gives a free ride to 500 USSR "Backfire" bombers, which the US Government has long officially described as having inter-continental range and which President Reagan wanted to count under START. Soviet steps taking (now Russian- and Ukrainian-based) heavy bombers off alert status have not altered these loopholes.

Safeguards. The Senate should set equal intercontinental/strategic bomber limits to include all Backfires, and should reject all ALCM limits, including present ones, which the President and the US intelligence community cannot certify as effectively verifiable.

5. Don't Limit Sea-Launched Cruise Missiles (SLCMs) Don't Count on "Downloading" of Submarine-Launched Ballistic Missiles (SLBMs)

Loopholes. For SLCMS, US and USSR declarations provided to the Senate with the July 1991 START set a limit of 880 on deployment of nuclear-armed SLCMs exceeding 600 kilometers in range. This limit captures most US systems, but excludes most deployed by the USSR and its successors and it simply cannot be verified effectively. Additionally, such missiles are considered particularly stabilizing and cost-effective deterrent systems and they could prove to be increasingly valuable multi-mission alternatives to other flexible deterrent systems (e.g. the B-2). For such, still persuasive, national security reasons, President Reagan did not agree to SLCM limits in START.—For SLBMS, the June 1992 Joint Understanding "downloads" multiple-warhead SLBMs to a ceiling of 2,160 warheads during START and to 1,750 warheads by the year 2000 or 2003. The US previously strongly opposed such limits, which are not effectively verifiable and which affect our most secure deterrent forces.

Safeguards. SLCMS should be kept out of START since SLCM limits are not verifiable and the systems offer potentially highly cost-effective and stabilizing deterrent and defense capabilities for a range of future contingencies. SLBM strategic stability issues also require caution in implementing any limitations on US SLBMs. SLBM downloading provisions clearly should be kept out of START as they are not effectively verifiable and invite future disputes and cheating.

6. Assuring Full Arms Control Compliance

Loophole. If to be serious about arms control is to be serious about compliance, the proposed 1991 START Treaty and 1992 Joint Understanding are not. The abysmal record of Soviet violations of major arms control treaties has been well documented and President Bush as recently as in an April 9, 1992 report to the US Congress, has cited continuing problems of Russia's violations, including presentation of false data, of the Intermediate Nuclear Force (INF) treaty, the Conventional Forces in Europe (CFE) treaty, the Chemical and Biological Weapons conventions, the Limited Nuclear Test Ban Treaty, the ABM Treaty and other agreements. Provision of false data, covert activities and other violations have continued.

Safeguard. The Senate should insist on a safeguard set forth by President Reagan in a March 1987 report to the Congress, i.e.: "Compliance with past arms control commitments is an essential prerequisite for future arms control agreements. . . . Strict compliance with all provisions of arms control agreements is fundamental, and this Administration will not accept anything less." As a follow-up to Boris Yeltsin's important June 1992 summit statement that lies and deceptions have ended, the Senate should assure, as a condition of START ratification, that President Bush certify the immediate correction of false data for INF, CFE, and START treaties and the correction of all other violation of treaty obligations (excepting the obsolete ABM Treaty).

7. Eliminate START's MAD Poison Pill Against SDI, Put Aside the ABM Treaty, and Accelerate US Deployment of Space-Based Defenses

Loophole. Under Gorbachev and his foreign minister, Eduard Shevardnadze, the July 1991 START signed in Moscow carried forward the Soviet hardliners' poison pill threat against US deployment of advanced missile defense systems under the US Strategic Defense Initiative (SDI). The Soviet position was to tie Soviet compliance with START to US compliance (albeit unilateral) with the Anti-Ballistic Missile (ABM) Treaty of 1972 which bars such advanced defenses.

Yet the ABM Treaty is irretrievably broken and obsolete. It has been broken since 1983 by a Shevardnadze-admitted central Soviet violation (the Krasnoyarsk radar) and is undercut in five other areas of noncompliance as reported by President Bush to the Senate. It is obsolete in its assumptions against cost effective defenses and about the effectiveness of global non-proliferation efforts. And it has obsolete and questionable ethics in relying on the MAD doctrine of nuclear deterrence based on the threat of Mutual Assured Destruction, or mutual nuclear suicide.

The June 1992 summit appeared to make some progress in moving away from this deadly situation. The summit's "Joint US-Russian Statement on a Global Protection System" signed by Presidents Yeltsin and Bush establishes a high-level group to explore potential avenues in developing such a "concept."

But the American people, the world and Boris Yeltsin all need a far more assertive and stronger pro-SDI US position than this against the Soviet hardliners. Instead of setting aside the broken and obsolete treaty, the proposed high-level group—to be headed for the US by a State Department planning official rather than, for example, the knowledgeable head of the Pentagon's Strategic Defense Initiative Organization—will apparently be bound by a commitment to the ABM Treaty and will no doubt be limited in its focus.

The group's "concept" focus is expected to be on ground based systems, warning centers and space-based sensors, not space based interceptors such as SDI's promising "Brilliant Pebbles." Yet only space-based interceptors and US control can effectively assure engagement of missiles going to any direction from any direction (e.g. from submarines, or Third World locations) and are alone able to counter missiles near their launch point or in mid-course rather than raining debris over one's own people close to the missiles' expected point of impact.

Safeguard. In a world marked by unprecedented volatilities in the former Soviet Union, a broken ABM Treaty, continued treaty violations, increasing proliferation problems and the madness of MAD, the Senate should, as part of any START treaty framework, insist on setting aside the ABM Treaty (as the United States in 1986 set aside

the broken and obsolete Strategic Arms Limitation Agreements, SALT I and II, of 1972 and 1979) and accelerate a spaced-based US SDI system fully under US control.

There can be no doubt that it is in the supreme national interest of the American people and in the interest of global security and stability that the United States rapidly provides the global insurance safeguard only advanced defenses can provide. To guard against adverse developments, the implementation of US START cuts (particularly in the latter phases), should be tied by the Senate to the pace of US deployment of advanced, space-based interceptors under American control.

8. A New Strategic Bargain and Institutional Change in the Former Soviet Union

Loophole. The Senate is being asked by the Administration for a rapid vote on the July 1991 START without waiting for a critical examination of the June 1992 Joint Understanding and its final treaty text. The Senate is being asked for a quick yes vote without gauging the full implications for our security and armed services. And the Senate is to say "yes" without examining what safeguards are required and what leverage should be exerted against the hardliners who threaten the historic efforts of Yeltsin and his reform team to bring full democracy and substantial demilitarization and new international partnerships to the former Soviet Union.

Yet, the obstacles facing Yeltsin and his political, economic and military reforms are staggering and the outcome in doubt. Adverse developments could readily and fundamentally undercut the present START's assumptions, provisions and procedures. Plausible future developments could include broad treaty violations (even as the US radically cuts back its forces) and could involve the disposition and use of the former USSR's 27–30,000 nuclear weapons, of which some 12,000 are strategic, uniquely able to destroy the United States in a matter of minutes.

SAFEGUARD FOR START AND A NEW GRAND BARGAIN

To safeguard any new START and a safer and more stable new strategic framework and relationship, the Senate should seize the fading historic opportunity for the United States finally to work fully with Yeltsin and his fellow reformers in a truly far-reaching partnership against the Soviet hardliners and for secure arms reductions, strategic defense, full democracy, and economic progress.

In an integrated judgment on START and on the evolution of the future strategic framework and partnership, the Senate should make clear that it will not provide economic assistance funds to the USSR's successors or ratify any agreements including START, or agree to START's future implementation by the United States, unless and until the new leaders commit their governments to a new strategic and political framework—a new US-Successor grand bargain—as follows:

1. A New Start for 1991 START/1992 Joint Understanding, i.e., a truly far-reaching, stabilizing, and verifiable new treaty, with key elements changed and safeguarded as proposed above to include the verifiable, Presidentially certified end of Soviet treaty violations, data deception etc.

2. Set Aside the Broken ABM Treaty and Agree to US Deployment of Advanced Spaced-Based Defenses. Russian agreement should be sought, but whether or not agreement is forthcoming, the United States should quickly proceed to state that for reasons of supreme national security interests and global security and stability, it will set aside the ABM Treaty long ago irretrievably broken and undercut and will accelerate deployment, under its own control, of space-based defenses to include space-based interceptors.

3. Undertaking Fundamental Institutional Changes. Implementation of START, other arms agreements, and economic assistance will be linked to fundamental democratic institutional changes to be certified by the US President and the Congress to include: full civilian parliamentary control and exposure of intelligence and military programs, budgets and activities; dismantling of the bulk of the former Soviet Union's military and military industrial complex; and conversion to private civilian means of production and ownership under a legal system which fosters and protects a full democracy at home and international law abroad.

TRIBUTE TO WEST HAVEN CHIEF OF POLICE JOE HARVEY

Mr. LIEBERMAN. Mr. President, I rise today to honor West Haven Chief of Police Joe Harvey on the occasion of his 80th birthday on July 7. Chief Harvey's exemplary service to the city of West Haven has been greatly appreciated by the residents of that city for 53 years now, and so it is my great pleasure to pay tribute to him here in the Senate.

Chief Harvey began his career with the West Haven Police in 1941, and his diligent performance brought him to the ranks of sergeant, lieutenant, and captain in quick succession. In 1966 Mr. Harvey was promoted to assistant chief, and on May 21, 1969, he was appointed chief of the force, a role he performed with distinction until he retired in 1978.

Chief Harvey's endeavors on behalf of his community extend well beyond his fine professional service. A lifelong resident of the Allingtown section of West Haven, Chief Harvey was president of the West Haven Rotary Club, president of the West Haven Municipal Credit Union for 10 years, a member of the Allingtown Volunteer Fire Department for the pass 56 years, a two-term member of the West Haven City Council, and chairman of the West Haven Development Commission since 1978.

He is the recipient of numerous awards and honors. Just a few of these include the Devoted Service Award of the Knights of Columbus, the American Police Hall of Fame Honor Award, the New York Giants Appreciation Award, and the Washington Pietro Mica Club's Man of the Year Award in 1974.

He has devoted time as an active member of St. Paul's Parish, most notably as chairman of the fundraising committee for a new church. His other volunteer chairs have included the West Haven Cancer Drive in 1973, and the West Haven Easter Seal Drive for the past 5 years.

Chief Harvey has also been an avid sportsman, having played baseball and football for many area teams. He boxed all along the east coast for 3 years, defeating several State champs three weight classes and finally compiling a record of 123 wins and 4 losses.

Mr. President, Chief Harvey's energy and dedication to his community are a model for our young, and indeed, all people. With his enthusiasm and talents he has served West Haven with excellence in both his professional and private endeavors.

As his wife Kathryn, his four children, 14 grandchildren, and 11 great grandchildren gather on July 7 to help Chief Harvey celebrate 80 full and rewarding years, I would like to send him my best wishes on behalf of the Senate. Chief Harvey, we wish you happy birthday.

OREGON LOSES A FAVORITE SON; A TRIBUTE TO AL SCOTT

Mr. HATFIELD. Mr. President, on Sunday, June 14, 1992, one of Oregon's favorite sons was killed in a tragic automobile accident. Alton Anderson Scott, age 58, was born in a sod house near Anselma, NE, in 1934. He was raised and educated in Oregon, and was a well-know high school football coach who served in Enterprise, Burns, and Reedsport, OR.

Al also held coaching positions in Moscow, ID, and Sheridan, WY. After leaving teaching, Al became a highly successful businessman and an international expert in orthotics and prosthetics with headquarters in Denver and Washington, DC.

I was not privilege to know Al Scott, but friends of mine have told me about this truly remarkable person. Jim Wells, who was a colleague of Al's at Reedsport High School, shared some thoughts at Al's funeral service in Silverton, and I would like to share some of those thoughts with the Senate.

Jim said:

Al Scott was a builder. He relished the challenge of taking a football program that was down, and building a winning tradition. He had the unique ability to energize and motivate others toward that common goal. He made winners out of losers. His formula for success was simple: Work harder than the other team. Be more determined. Go the extra mile. Do the job right.

Football was not all that Al Scott coached. He coached successful living, as well. Football practice often began with guests that Al asked to speak to the team about success in other fields.

Professional people in business, logging, even commercial fishermen were asked to speak to the team about what it takes to be a success in their filed. These guests reinforced the message that Al liked to hammer home: "Champions in all walks of life have to have a dream and then work hard to see it come to reality." This message was not lost on the young men that he coached. Many have gone on to successful careers in every walk of life, and they have talked freely about the influence this man has had upon their lives.

Al had two sons, Kyle and Shane, that have been the joy of his life. His wife, Kay, was his best friend and closest partner in building a wonderful family, successful football teams, and successful businesses. Al had many other "adopted sons" who were encouraged by his interest and who he helped financially in college.

In 1965, Al began a new career in the field of Orthotics and Prosthetics. Scott Orthopedics thrived under his energetic and positive leadership. It wasn't long, however, before Al once again answered the call of teaching and of mentoring kid in need of help.

In January 1984, returned to Scott Orthopedics in Denver. He was soon asked to established the orthotic and prosthetic facility in the newly built National Rehabilitation Hospital in Washington, D.C. With the assistance of Kay, Kyle, and Shane, NASCOTT has flourished and brought new limbs and new hope to many who had given up on life.

The United States Department of State called upon Al to travel to Mexico and the Soviet Union, and to give his expertise and caring attitude to those in need. Invitations to Poland, Hungary, Saudi Arabia, and India, were waiting to be answered.

Al's legacy will live on through his family and the countless lives he touched. A memorial scholarship at Reedsport High School has been established to help others accomplish their dreams.

Mr. President, my sympathies are extended to Al's wonderful family, and to all those who were fortunate enough to come into contact with a man who truly made a positive difference throughout his life.

HON. JOSEPH VERNER REED'S COMMENCEMENT ADDRESS, BUCKNELL UNIVERSITY IN LEWISBURG, PA

Mr. SPECTER. Mr. President, recently the Under Secretary General of the United Nations, Joseph Verner Reed, a distinguished citizen of Pennsylvania, addressed the 1992 graduating class of Bucknell University in Lewisburg, PA.

Ambassador Reed's address is entitled "The United Nations—Working Toward a Better World." His eloquent address is particularly moving because it describes the momentous world events that have taken place during the last 4 years.

Mr. President, I ask unanimous consent that the full text of Ambassador Reed's commencement address be placed in the CONGRESSIONAL RECORD.

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

INTRODUCTION OF AMBASSADOR JOSEPH VERNER REED, COMMENCEMENT, BUCKNELL UNIVERSITY, MAY 31, 1992

The 4 years that coincide with your college career have been among the most extraordinary in the twentieth century. During the period we have seen:

The break-up of the Soviet Union;

The reunification of Germany;

The emergence of numerous states in Eastern Europe;

The Persian Gulf war;

Steps toward overcoming apartheid in South Africa; and

Renewed attempts to negotiate peace in the Middle East.

We are fortunate in having as our commencement speaker a man whose responsibilities have given him a broad perspective on international events, with a particular focus on the developing countries. A graduate of Yale University, Joseph Verner Reed served for 20 years at the World Bank and Chase Manhattan Bank. In 1981, he was appointed Ambassador to Morocco, where he was instrumental in putting into place a number of agreements on economic and military cooperation between Morocco and the United States.

From 1985 to 1987, Ambassador Reed was U.S. Representative to the United Nations. As the official responsible for African issues, he helped negotiate the agreement between African nations and the rest of the international community that emanated from the General Assembly's special session on the critical economic situation in Africa.

Ambassador Reed has been awarded numerous decorations and honors by governments and leaders around the world. The U.S. Department of State conferred upon him a superior honor award for his "tireless and consistently outstanding efforts to advance the cause of United States relations with Africa."

More recently, Ambassador Reed again served at the United Nations, this time as Under-Secretary-General for Political and General Assembly Affairs, the highest ranking American in the secretariat. He has been Chief of Protocol at the White House from 1989 until this year, when he assumed the post of Under-Secretary-General of the United Nations and Special Representative of the Secretary-General for Public Affairs.

It is my pleasure to present to you Ambassador Joseph Verner Reed who will speak on "The United Nations—Working Towards a Better World."

COMMENCEMENT ADDRESS BY AMBASSADOR JOSEPH VERNER REED UNDER-SECRETARY-GENERAL OF THE UNITED NATIONS AT BUCKNELL UNIVERSITY, LEWISBURG, PA, MAY 31, 1992

THE UNITED NATIONS—WORKING TOWARDS A BETTER WORLD

Chairman of the Board of Trustees Idleman, president of Bucknell University Sojka, members of the faculty, class of 1992, parents, families and friends.

We face today a world of almost infinite promise which is also a world of potentially terminal danger. Just as new vistas and horizons are opening before you, demanding mature decisions and wise choices, new opportunities and challenges are also opening for countries and peoples, demanding far-sighted judgements and broad vision. The future of humanity and of our planet could be jeopardized, unless governments and peoples, working together through the commonality of an international organisation, such as the United Nations, make the right choices.

The United Nations cannot—and was not intended to—solve all the problems of the international community, but it is the best place to strive for progress and improvement. The United Nations has worked and is working toward a better world.

After 47 years of existence, we have for the first time in history, a virtually universal world organisation. In 1945 in San Francisco there were 51 states. Today, one hundred and seventy-eight countries, big and small, rich and poor, meet in the great hall of the General Assembly, the Parliament of humanity, to discuss and debate peacefully, if sometimes from widely varying points of view, ways in which to improve the human condition. Many of these countries are former colonies whose independence was achieved through the decolonisation activities of the United Nations. Others are some of the youngest countries in existence, such as the former Republics of the Soviet Union.

The United Nations reflects in a unique way the aspirations, hopes, and frustrations of all these countries. One of its great merits is that all nations—including the weak, the oppressed and the victims of injustice—can get a hearing and have a platform, even in the face of the hard realities of regional and global power politics.

And though these unfortunate realities have led to many conflicts since 1945, their escalation into a global conflict has been avoided. Not only have we escaped a third world war, we have perhaps learned more than we realise about techniques and expedients for avoiding one.

We have achieved considerable economic growth and social progress, in which the developing countries have shared, although not yet in sufficient measure. We are making collective efforts to respond to the new generation of global problems, such as the environment, drugs, terrorism and aids, problems which cannot be effectively dealt with by an single country.

Because of the United Nations, there is now a greater international responsiveness to humanitarian disasters wherever they occur. Because of the United Nations, protection of human rights, despite all the violations that still persist, has become a worldwide concern. Because of the United Nations, more international law affecting virtually all areas of human activity has been codified in the last 47 years than in all the previous years of recorded history.

And, above all, because of the United Nations there is a greater sense of hope and confidence throughout the world, that serious efforts will be made for the maintenance of peace, justice, and the rule of law, despite occasional failures.

Because of the radical change in the international political situation, the United Nations, no longer limited to a peripheral role in the maintenance of international peace and security, has today come much closer to the role intended for it in the charter. Never before have its services been requested with such frequency, not only in its traditional role of peace-making and peace-keeping, but also in a new role, that of giving assistance to democratic institutions in developing countries.

In Cambodia, in Yugoslavia, in Somalia, in Afghanistan, in the Middle East, in El Salvador, in the Western Sahara, or wherever else there is a global trouble-spot, there is a demand for the services of the United Nations—so much so that the demand is soon likely to exceed its capacity in terms of personnel as well as its strained financial resources. The world is shocked by images of brutality—Bosnia, Sudan, Nigeria, Thailand, Ireland—the world looks to the United Nation's for help.

Since 1988 alone, we have set up 13 peacekeeping operations, almost as many as were organised in the previous 43 years. And as conflicts between ethnic groups continue to increase, it is clear that we may have to do even more.

The United Nations of peace-making and peace-keeping is by now fairly well known in the United States, as it is in the rest of the world. But there is a second, often less visi-

ble, United Nations, working quietly but persistently to promote, in the words of its charter, "social progress and better standards of life in larger freedom."

This is the United Nations of economic development, of educational programs, of disaster relief and of refugee rehabilitation. This is the United Nations working for health for all, the United Nations working so that no child need die from a curable or preventable disease, the United Nations that promotes the protection of the environment, the United Nations that sets standards for international aviation and shipping, the United Nations that trains forestry experts and social workers, the United Nations that builds roads in developing countries and negotiates the dismantling of trade barriers.

Quietly but persistently the World Health Organization, a specialised agency of the United Nations, is leading the international effort to deal with the AIDS epidemic, just as it led a successful worldwide campaign for the eradication of a now all-but-forgotten disease—smallpox. Among its other important activities are programmes to eradicate polio and to provide primary health care for all by the year 2000.

Quietly but persistently, the United Nations Children's Fund, UNICEF, focuses on child survival and development through immunizing, feeding, housing and improving the health of children. To millions of children across the planet, whose first contact with the outside world is a UNICEF immunisation officer or nurse, the word "UNICEF" has come to symbolize hope for a better and healthier future.

Quietly but persistently, the United Nations Development Programme, provides a vast global network of developmental assistance, to enable countries and peoples to grow and become economically self-reliant. On any given day, over ten thousand experts are deployed by the programme in more than 152 developing countries and territories. In 1990, UNDP undertook, in co-operation with individual developing countries, some 6,100 projects valued at around $7 billion.

Quietly but persistently, the United Nations Population Fund works to assist developing countries with their population problems, tailoring its programmes to the specific needs of each country. Without its pioneering efforts, the dangers of an ever-growing world population would be even greater.

Quietly but persistently, the United Nations International Drug Control Programme provides leadership and coordination in the war against illicit drug use and trafficking.

Quietly but persistently, the Office of the United Nations High Commissioner for Refugees works to protect, help, and rehabilitate millions of refugees all over the world. As more and more people are fleeing their homes and countries to escape both manmade and natural calamities, the demand for its services has been stretched almost to the breaking point.

The United Nations family also has many other branches. Improving the working conditions of workers throughout the world is the main concern of the International Labour Organization. Improving agricultural output and ensuring food security is the job of the Food and Agriculture Organization.

The International Atomic Energy Agency, which regulates the peaceful uses of nuclear energy and monitors compliance with the Nuclear Nonproliferation Treaty, has recently played an important role in on-site inspections of nuclear activities in Iraq and North Korea. It also assists countries in all aspects of nuclear power planning and development for peaceful purposes, from the exploration and mining of uranium resources and the production of nuclear reactor materials, to the safe operation of nuclear power plants and the disposal of nuclear wastes. This was the agency that also did such sterling work in organizing the international effort to assess and alleviate the radiological and health consequences of the nuclear accident at Chernobyl.

Those of us who came to Lewisberg by air have benefitted from the standards and guidelines for safe air travel set up by the International Civil Aviation Organization, while safety at sea and protection of the marine environment are ensured by the International Maritime Organization.

And above all, the United Nations is working to protect our precious environment. In just a few days from now, some one hundred of the world's leaders, including the President of the United States, will meet at the "Earth Summit" in Rio de Janeiro, Brazil, to give a new dimension to measures that will help preserve our planet's fragile environment.

In fact were it not for the strong but almost invisible legal framework set up by the United Nations, it would be difficult to have friendly and stable relations among states. There are about 420 multilateral treaties negotiated under the auspices of the United Nations. Some are hardly household names, such as the Convention on a Code of Conduct for Liner Conferences or the Vienna Convention on Succession of States in Respect of State Property, Archives and Debts. Others such as the International Convention Against the Taking of Hostages or the United Nations Convention on the Law of the Sea are well-known and have worldwide scope and impact.

The complexity of the long and painstaking negotiations that precede many of them does not often capture the headlines. But without them, the orderly conduct of relations between states would be seriously hampered.

We are now living in a far more complex world than the one that existed in 1945 when the United Nations was founded. But its creation, amid the ruins of the most terrible war in human history, was an extraordinary act of vision and faith. We would be betraying that vision and that faith if we do not do all in our power to ensure the continuation of its noble work.

The United Nations needs and deserves the strong political and financial support of all its member-states, particularly its host country—the United States of America. At stake is more than just the possibility of moving progressively away from unilateralism to true collective security, permitting nations to devote more of their scarce resources to meeting urgent domestic needs. At stake is more than improving the living conditions of millions of people in poor countries.

At stake is no less than the peaceful, stable, just and prosperous world, that I am sure you and your children and their children would like to live in. Such a world need not remain a utopia. It can be achieved if all of us cooperate with and invest in the only organization that is capable of ensuring it—the United Nations.

I congratulate you on your graduation and wish you every success in your future lives and careers.

GRAHAM JONES: A SPECIAL DETERMINATION, A SPECIAL COURAGE

Mr. HOLLINGS. Mr. President, each spring, many young men and women graduate from college with high honors and glittering laurels. But, this spring, I cannot imagine any graduate who can match the achievement and distinction of Graham Jones of Hanahan, SC.

Graham Jones graduated from Trident Technical College in South Carolina with a 2.9 average. This sounds rather unremarkable, until you consider that Graham is confined to a wheelchair and still suffers from the catastrophic effects of a 1982 car accident. That accident took a terrible toll on his body. However, it left Graham's mind not just undamaged, but with a very special capacity to dream and aspire and achieve.

This remarkable spirit has carried Graham through Trident Tech, and next year will carry him to Francis Marion College to begin work toward a degree in business management. It also led to his 1987 appointment to the South Carolina Developmental Disabilities Council, a platform he has used to champion innovative programs for the handicapped.

Graham's ambition is to graduate from Francis Marion and to found and operate an independent living center for handicapped people—and there is no doubt in my mind that this remarkable young man will succeed brilliantly.

I know how very proud Nellie and George Jones are of their son. Likewise, I know that their love and tireless labors have contributed enormously to Graham's success.

Mr. President, the Graham Jones story is not about disability, it is about ability. In his quiet, courageous way, Graham has refused to dwell on the negative. He has refused to say "no" or "I can't." Instead, his life is a bold, affirmative "yes." It is wonderful to see a man in a wheelchair who stands so tall.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2733, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2733) to improve the regulation of Government-sponsored enterprises.

The Senate resumed consideration of the bill.

(1) Seymour (for Nickles) Amendment No. 2447, to propose an amendment to the Constitution of the United States to require that

the budget of the United States be in balance unless three-fifths of the whole of each House of Congress shall provide by law for a specific excess of outlays over receipts and to require that any bill to increase revenues must be approved by a majority of the whole number of each House.

(2) Byrd Amendment No. 2448 (to Amendment No. 2447), to require the President to submit by September 2, 1992, a 5-year plan to balance the budget not later than September 30, 1998.

(3) Byrd Amendment No. 2449 (to Amendment No. 2448), in the nature of a substitute.

Mr. LEAHY. Mr. President, at some point, I would like to speak for 4 or 5 minutes on this. I would not want to interrupt the Senator, who has been waiting patiently for his time.

I wonder if there would be a time, either this morning or in the next hour or so, when I might be able to do that without cutting from his time.

Mr. NICKLES. I appreciate that. This Senator has 2 hours. The Senator from West Virginia has been under the UC, and is recognized with no limit on time. I have no idea how long that will be.

We will try to accommodate all those people who wish to support the amendment under the 2-hour restriction, which would be very difficult.

If the Senator wishes to support our amendment, I will be happy to give him a couple of moments.

Mr. LEAHY. Would the Senator be willing to allow me to do this: To ask unanimous consent that I be able to proceed for 4 minutes, without that time coming from the Senator's time, thus moving his time an additional 4 minutes, and without interfering with his time?

Mr. NICKLES. I would not object to that request. The Senator from West Virginia may or may not. But I have no objection.

Mr. LEAHY. I understand. I thank the Senator for his courtesy.

AMENDMENT NO 2449 TO AMENDMENT NO. 2448

The PRESIDING OFFICER (Mr. SHELBY). Under the previous order, the Senator from Oklahoma [Mr. NICKLES] controls 2 hours.

Mr. NICKLES. Mr. President, inquiry: Is the Nickles amendment now pending, as amended by the Byrd amendment?

The PRESIDING OFFICER. The pending question is the Byrd amendment.

Mr. NICKLES. Mr. President, let me be very, very frank and very clear about what we are trying to do today. This is an amendment that I have been working on for a long time. I see my colleague, Senator GRAMM from Texas. I wish to compliment him for his leadership on this issue.

The balanced budget amendment is something many of us have been working on for years, not months. We are not just trying to get this up for consideration before election day, as I have heard some people say. We have been working; we have been pushing and we have been striving, to get votes on a constitutional amendment to balance the budget.

That is what my amendment is all about, my amendment is cosponsored by Senator GRAMM and Senator SEYMOUR, and many other people.

We voted on the balanced budget amendment in the past; we worked on it for years. Actually, we passed it in 1982 by a vote of 69 to 31. It was in August of 1982. We tried again in 1986, March 25. We failed by one vote.

So if anyone ever asks you if every Senator's vote is important, certainly it is. We failed by one vote in 1986. Many of us have been trying every year since then to get a vote on a constitutional amendment to balance the budget.

We had another vote just recently on April 9. We passed, by a vote of 63 to 32, a resolution that I sponsored, cosponsored by many other people, that said the Senate shall adopt a constitutional amendment to balance the budget, and that we should adopt it no later than June 25.

The House concurred with that resolution. Actually, they had a vote in the House, a strong vote in the House, that said they wished to concur with that resolution.

Unfortunately, when the House voted on June 11, 1992, their vote for constitutional amendment failed by 10 votes. The vote was 280 to 153 and it takes 290, or two-thirds. They lacked 10 votes in the House of passing the balanced budget amendment.

Mr. President, as I mentioned before, we tried time and time again since I have been in here to adopt a balanced budget amendment. But frankly, we have not been successful in getting, in this case, the majority leader to allow us to bring it to a straight up-or-down vote.

Senator SIMON and others reported a resolution calling for a constitutional amendment to balance the budget nearly a year ago. We voted on April 9, 63 to 32, in favor of a sense-of-the-Senate resolution that said the Congress shall adopt a constitutional amendment to make us balance the budget.

That was a good vote, but it was not 67.

Mr. President, I will put in the RECORD both the votes in 1982 and 1986 and also the vote we had on April 9, where we had 63 votes in favor of Congress adopting a balanced budget resolution.

I will tell my colleagues that now the procedure in the Senate is that there are going to be substitute amendments. I believe they have already been offered by my friend and colleague, Senator BYRD. Those amendments are to kill this bill, plain and simple; they are to kill a constitutional amendment to balance the budget. I respect the Senator's right to do that. He opposes this amendment. Everybody needs to know that if they vote for his amendments, they are voting to kill the balanced budget amendment. We may have several votes if he is not successful the first time.

I want to tell my colleagues that this amendment, this article, says that "the total outlays for any fiscal year shall not exceed total receipts for that fiscal year," period. We cannot spend any more than we take in. It does not say how much we are going to take in. It says we cannot spend any more than we are taking in. It does allow for a waiver if 60 percent of both bodies wish to deficit spend, and there is also an exception in time of war.

Some people said it doesn't make a difference what we do because the House defeated it; we are wasting our time. They are wrong. The House passed House Resolution 450 that says:

If a comparable joint resolution has been passed by the Senate, it shall be in order at any time after House consideration of House Joint Resolution 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 amendment, such amendment shall strike all after the resolving clause and substitute the text of House Joint Resolution 290.

The text of House Joint Resolution 290 is what we will vote on. This text is identical to the Stenholm-Simon package. That is the amendment we are here for today, the issue we have been working on, and the initiative Senator GRAMM and many of us have been fighting for. We want the opportunity to have an up or down vote on this resolution.

I wish that the majority would allow us just to vote up-or-down on it. I wish we did not have to go through all of the parliamentary procedure roadblocks. But I recognize that is their right, and certainly they are entitled to that right. If they wish to gut it or substitute for it, that is their right. We expected that because we know they are against it. But the fact is our country has some serious problems. We have a Federal debt that is approaching and will cross $4 trillion, $4 trillion is the equivalent of $16,000 for every man, woman, and child in the United States. Trillions have 12 zeros. Most people cannot comprehend such large figures, but they can comprehend per capita costs. This year, we will be exceeding $16,000 per capita. That per capita debt is growing by about $1,400 per year. It is an astronomical growth in debt, and we cannot continue to pass such a debt load on to future generations.

Some people say that the solution is to raise taxes. I point out on this chart that revenues have been going up. The problem is that outlays have been going up much faster.

Mr. President, I will put in the RECORD a significant amount of data

showing facts, nothing but facts about the growth of outlays. I will show my colleagues that this fiscal year, the year we are in right now, through the month of May, revenues have actually grown by 1.2 percent, a rather anemic or slow rate of growth; but spending grew by 7.5 percent. The resulting deficit has grown by 32 percent. I will show my colleagues, in this data that I am submitting, the actual revenues and expenditures for all items so my colleagues can look and join me in saying, "Wait a minute. When Congress voted on a balanced budget amendment in 1982, we spent $746 billion. In 1992, we are going to spend $1.45 trillion. That's a 95 percent increase in 10 years."

I will note, too, for my colleagues that revenues have grown from $618 billion in 1982 to estimated revenues this year of $1.83 trillion. So revenues have grown 75 percent over the last 10 years, a healthy rate of growth.

The problem is that spending has grown much, much faster. That is the problem and we need to address that problem. I can tell my colleagues that spending has been exploding. Entitlements have been exploding which I will show by this chart. Some people say, "Well, the problem is the enormous defense outlays of Reagan-Bush." Defense has risen, certainly, through the 1980's, but you can also see that it is peaking now and actually is declining. Those numbers are not inflation-adjusted. Those numbers are in real or nominal terms. Interest outlays have grown, and domestic discretionary spending has been growing, although at a slower rate. But mandatory outlays have been exploding and continue to explode. That's really the crucial problem, if you want to look at the growth in the Federal debt. It's not from defense. It really isn't that much from discretionary spending. It's contributed to somewhat by interest costs. But the root cause is mandatory outlays which Congress refused to address in any of the budget packages in 1990 or before.

So I mention to my colleagues that we need this amendment. The American people need this amendment. The American people want this amendment. And Congress should not refuse to give them this amendment. To pass a constitutional amendment takes a two-thirds vote of both Houses. If we pass this amendment today or tomorrow or maybe next week, or if we pass it on the Fourth of July, I cannot think of a better gift for American independence than to pass a constitutional amendment to balance the budget. If we do, the House will consider it again. My guess is that there will be adequate pressure to reconsider and maybe recast their vote.

I ask unanimous consent to have printed in the RECORD a statement from me saying that the Senate rules permit the amending of a Senate bill with a text of a proposed constitutional amendment, as presented by a ruling made in 1950.

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

Mr. NICKLES. Mr. President, my amendment proposes to strike the text of S. 2733—an original Senate bill reported without amendment from the Banking Committee—and insert in its place a proposed balanced budget constitutional amendment.

The particular constitutional balanced budget proposal contained in my amendment is the final Stenholm-Simon-Thurmond compromise which the House narrowly defeated on Thursday, June 11. (The vote in the House on final passage was 280 to 153, nine votes shy of the necessary two-thirds.)

Article Five of the Constitution requires that a proposed constitutional amendment be proposed by a two-thirds vote of both the Senate and the House. The Senate has previously taken the position that the Constitution does not require the Congress to use a joint resolution as the legislative vehicle, and the Constitution does not forbid Congress to use a bill. The Constitution requires only that the amendment be proposed by a vote of two-thirds of the Senate and the House.

On this point, I wish to call the attention of the Senate to a statement by the President of the Senate, Alben W. Barkley (the Vice President of the United States), when he was presiding over the Senate on January 25, 1950. The Presiding Officer's statement on that occasion still represents the controlling rule in the Senate. Vice President Barkley said:

"On the question of whether an amendment to the Constitution must be submitted in the form of a joint resolution or in the form of a bill, the only requirement of the Constitution is that the question shall be submitted by a two-thirds vote. It does not require that it be done by joint resolution. It may be done in the form of a bill. Therefore, the Chair holds that, since the amendment offered is a substitute for a joint resolution, in the form of a bill, the point of order is not sustained." 96 Cong. Rec. 872 (Jan. 25, 1950).

The statement of the Presiding Officer which I have just quoted is as relevant today as it was in 1950.

The Vice President of the United States who made that ruling from the Chair had served with great distinction in the Senate for more than 20 years before becoming Harry Truman's Vice President (and he had been the Majority Leader for ten of those 20 years). When Vice President Barkley made his statement from the Chair, he was intimately familiar with the practices and precedents of the Senate.

(Alben Barkley served as the Vice President of the United States until January 1953. In 1954, he was again elected to the Senate. That is the same year that our distinguished colleague, Strom Thurmond, was first elected to the Senate. In April 1956 Senator Barkley suffered a fatal heart attack.)

Today, I urge every Senator who supports a balanced budget amendment to the Constitution to support my amendment to this Senate bill.

Twice within the last few weeks the Senate has voted to take up a balanced budget constitutional amendment:

On April 9, the Senate adopted a Nickles-Byrd Amendment to the Budget Resolution that called on the Senate to "adopt" a balanced budget constitutional amendment "on or before June 5, 1992." That amendment was adopted by roll call vote of 84 to 11.

On May 21, the Senate adopted the Conference Report on the Budget Resolution, a section of which called on the Senate to "act" on a balanced budget amendment by July 2, 1992.

Of course, since the Senate adopted these positions the House has narrowly failed to approved a proposed constitutional amendment. But the failure of the House should not diminish the Senate's resolve. We have twice voted to bring the matter to the floor and we should do so now. The language we have twice adopted said nothing about making our vote contingent on what the House would or wouldn't do.

Mr. President, I urge Senators to vote for my amendment so that the Senate will have the chance to act on a balanced budget constitutional amendment this year.

This is not an exercise in futility. If the Senate passes an amendment, I am hopeful that the House may be persuaded to vote again. We will never know unless the Senate acts.

Mr. NICKLES. Mr. President, I ask unanimous consent that the remainder of these charts and statements also be printed in the RECORD, in addition to the votes that were cast earlier this year, where 63 of our colleagues voted in favor of the resolution saying we should adopt a balanced budget amendment. I think people should know who voted for that and, hopefully, everybody will vote for it and, hopefully, we will pick up four more votes. I also ask unanimous consent to have printed in the RECORD the 1982 and 1986 votes as well.

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

HISTORICAL AND PROJECTED BUDGET DATA

[In billions of nominal dollars]

Budget actuals	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	Estimate 1992
Individual taxes	90	86	95	103	119	122	132	158	181	218	244	286	298	289	298	335	349	393	401	446	467	468	477
Corporate taxes	33	27	32	36	39	41	41	55	60	66	65	61	49	37	57	61	63	84	94	103	94	98	91
Social insurance taxes	44	47	53	63	75	85	91	107	121	139	158	183	202	209	239	265	284	303	334	359	380	396	416
Other receipts	25	27	28	28	30	32	34	37	38	41	51	70	69	66	72	73	73	74	79	82	91	92	98
Revenues	193	187	207	231	263	279	298	356	400	463	517	599	618	601	667	734	769	854	909	991	1,031	1,054	1,083

HISTORICAL AND PROJECTED BUDGET DATA—Continued

[In billions of nominal dollars]

Budget actuals	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	Estimate 1992
Defense	82	79	79	77	81	88	90	98	105	117	135	158	186	210	228	253	274	283	291	304	300	317	313
International	4	4	5	5	6	8	8	8	9	9	13	14	13	14	16	17	18	15	16	17	19	20	20
Domestic	39	44	49	53	56	67	78	92	106	114	129	137	127	130	135	146	148	147	158	169	183	196	215
Total, discretionary	125	127	133	135	143	163	176	197	219	240	277	308	326	354	380	416	439	445	465	490	502	532	548
Social Security	30	35	39	48	55	64	73	84	92	103	117	138	154	169	176	186	197	205	217	230	247	267	285
Medicaid	3	3	5	5	6	7	9	10	11	12	14	17	17	19	20	23	25	27	31	35	41	53	68
Medicare	7	8	8	9	11	14	17	21	24	28	34	41	49	56	61	70	74	80	86	94	107	114	128
Unemployment	3	6	7	5	6	13	19	14	11	10	17	18	22	30	17	16	16	16	14	14	17	25	39
Other	27	31	38	46	50	67	73	78	90	95	110	126	130	139	132	155	148	142	148	154	154	177	190
Total, mandatory	69	83	97	112	127	164	190	207	228	248	292	341	373	412	406	450	460	470	494	527	567	636	710
Offsetting receipts	(12)	(14)	(14)	(18)	(21)	(18)	(20)	(22)	(23)	(26)	(29)	(38)	(36)	(45)	(44)	(47)	(46)	(53)	(57)	(64)	(58)	(108)	(69)
Deposit insurance	(1)	(0)	(1)	(1)	1	1	(1)	(3)	(1)	(2)	(0)	(1)	(2)	(1)	1	2	2	3	10	22	58	66	65
Net interest	14	15	16	17	21	23	27	30	36	43	53	69	85	90	111	130	136	139	152	169	184	196	201
Outlays	196	210	231	246	269	332	372	409	459	504	591	678	746	808	852	946	990	1,004	1,064	1,144	1,252	1,323	1,455
Deficit	(3)	(23)	(23)	(15)	(6)	(53)	(74)	(54)	(59)	(40)	(74)	(79)	(128)	(208)	(185)	(212)	(221)	(150)	(155)	(154)	(221)	(269)	(368)

Source: Congressional Budget Office.

HISTORICAL AND PROJECTED BUDGET DATA

[Annual change in percent]

	1970–71	1971–72	1972–73	1973–74	1974–75	1975–76	1976–77	1977–78	1978–79	1979–80	1980–81	1981–82	1982–83	1983–84	1984–85	1985–86	1986–87	1987–88	1988–89	1989–90	1990–91	1991–92
Individual taxes	−5	10	9	15	3	8	20	15	20	12	17	4	−3	3	12	4	12	2	11	5	0	2
Corporate taxes	−18	20	12	7	5	2	33	9	10	−2	−5	−19	−25	54	8	3	33	12	10	−9	5	−7
Social insurance taxes	7	11	20	19	13	7	17	14	15	14	16	10	4	15	11	7	7	10	8	6	4	5
Other receipts	6	4	2	8	4	9	7	3	9	24	38	0	−5	9	2	0	2	7	4	10	2	7
Revenues	−3	11	11	14	6	7	19	12	16	12	16	3	−3	11	10	5	11	6	9	4	2	3
Defense	−4	0	−3	5	9	3	8	7	12	15	17	18	13	9	11	8	3	3	5	−1	6	−1
International	−5	21	4	29	32	−9	7	6	7	41	6	−5	5	20	7	2	−14	3	6	15	2	3
Domestic	14	11	8	5	20	17	17	15	8	13	6	−7	2	4	8	1	0	8	7	8	7	10
Total	2	5	1	6	14	8	12	11	10	15	11	6	8	7	10	5	1	5	5	2	6	3
Social Security	19	12	22	14	16	14	15	10	11	14	18	12	9	5	6	5	4	6	6	7	8	7
Medicaid	26	35	0	26	17	26	15	8	16	13	20	4	9	6	13	10	10	11	13	19	28	30
Medicare	10	12	7	19	32	20	23	17	16	21	21	19	13	10	14	6	8	7	10	14	6	12
Unemployment	87	16	−27	14	129	45	−23	−24	−10	72	8	22	33	−43	−7	2	−4	−12	2	23	47	55
Other	17	22	21	10	34	9	7	16	6	15	15	3	7	−5	18	−5	−4	4	4	0	15	7
Total	20	17	16	13	29	15	9	11	9	17	17	9	10	−1	11	2	2	5	7	7	12	12
Net interest	3	5	12	24	8	15	12	19	20	23	31	24	6	24	17	5	2	9	11	9	7	2
Outlays	7	10	7	10	23	12	10	12	10	17	15	10	8	5	11	5	1	6	8	9	6	10
Deficit	721	2	−36	−59	772	39	−27	10	−32	84	7	62	62	−11	15	4	−32	4	−1	44	22	37

Source: Congressional Budget Office.

FEDERAL SPENDING CATEGORIES

[In billions of nominal dollars]

Year	Outlays	Growth	Percent growth	Percent of GDP
Mandatory (except Social Security):				
1980	$174.4			6.4
1981	202.7	$28.3	16.2	6.7
1982	218.8	16.1	7.9	6.9
1983	243.1	24.3	11.1	7.1
1984	230.2	(12.9)	−5.3	6.1
1985	263.6	33.4	14.5	6.5
1986	263.2	(.4)	−.2	6.2
1987	265.1	1.9	.7	5.8
1988	277.4	12.3	4.6	5.7
1989	296.8	19.4	7.0	5.7
1990	320.0	23.2	7.8	5.8
1991	369.2	49.2	15.4	6.5
1992	425.4	56.2	15.2	7.2
International:				
1980	12.8			.5
1981	13.6	.8	6.2	.4
1982	12.9	(.7)	−5.1	.4
1983	13.6	.7	5.4	.4
1984	16.3	2.7	19.9	.4
1985	17.4	1.1	6.7	.4
1986	17.7	.3	1.7	.4
1987	15.2	(2.5)	−14.1	.3
1988	15.7	.5	3.3	.3
1989	16.6	.9	5.7	.3
1990	19.1	2.5	15.1	.3
1991	19.5	.4	2.1	.3
1992	20.0	.5	2.6	.3
Social Security:				
1980	117.1			4.3
1981	137.9	20.8	17.8	4.6
1982	153.9	16.0	11.6	4.9
1983	168.5	14.6	9.5	4.9
1984	176.1	7.6	4.5	4.7
1985	186.4	10.3	5.8	4.6
1986	196.5	10.1	5.4	4.6
1987	205.1	8.6	4.4	4.5
1988	216.8	11.7	5.7	4.4
1989	230.4	13.6	6.3	4.4

FEDERAL SPENDING CATEGORIES—Continued

[In billions of nominal dollars]

Year	Outlays	Growth	Percent growth	Percent of GDP
1990	246.5	16.1	7.0	4.5
1991	266.7	20.2	8.2	4.7
1992	284.5	17.8	6.7	4.8
Domestic:				
1980	129.1			4.8
1981	136.5	7.4	5.7	4.5
1982	127.4	(9.1)	−6.7	4.0
1983	130.0	2.6	2.0	3.8
1984	135.3	5.3	4.1	3.6
1985	145.7	10.4	7.7	3.6
1986	147.5	1.8	1.2	3.5
1987	147.2	(.3)	−.2	3.2
1988	158.4	11.2	7.6	3.2
1989	169.0	10.6	6.7	3.2
1990	182.5	13.5	8.0	3.3
1991	195.7	13.2	7.2	3.4
1992	215.0	19.3	9.9	3.6
Defense:				
1980	134.6			5.0
1981	158.0	23.4	17.4	5.2
1982	185.9	27.9	17.7	5.9
1983	209.9	24.0	12.9	6.2
1984	228.0	18.1	8.6	6.0
1985	253.1	25.1	11.0	6.3
1986	273.8	20.7	8.2	6.4
1987	282.5	8.7	3.2	6.2
1988	290.9	8.4	3.0	5.9
1989	304.0	13.1	4.5	5.8
1990	300.1	(3.9)	−1.3	5.4
1991	317.0	16.9	5.6	5.6
1992	313.0	(4.0)	−1.3	5.3
Net interest:				
1980	52.5			1.9
1981	68.8	16.3	31.0	2.3
1982	85.0	16.2	23.5	2.7
1983	89.8	4.8	5.6	2.6
1984	111.1	21.3	23.7	2.9
1985	129.5	18.4	16.6	3.2
1986	136.0	6.5	5.0	3.2
1987	138.7	2.7	2.0	3.1

FEDERAL SPENDING CATEGORIES—Continued

[In billions of nominal dollars]

Year	Outlays	Growth	Percent growth	Percent of GDP
1988	151.8	13.1	9.4	3.1
1989	169.2	17.4	11.5	3.2
1990	183.8	14.6	8.6	3.3
1991	196.3	12.5	6.8	3.4
1992	201.0	4.7	2.4	3.4
Earned income tax credit:				
1980	1.3			0
1981	1.3	0	0	0
1982	1.2	(.1)	−7.7	0
1983	1.2	0	0	0
1984	1.2	0	0	0
1985	1.1	(.1)	−8.3	0
1986	1.4	.3	27.3	0
1987	1.4	.0	0	0
1988	2.7	1.3	92.9	.1
1989	4.0	1.3	48.1	.1
1990	4.4	.4	10.0	.1
1991	4.9	.5	11.4	.1
1992	7.2	2.3	46.9	.1
Unemployment compensation:				
1980	16.9			.6
1981	18.3	1.4	8.3	.6
1982	22.3	4.0	21.9	.7
1983	29.7	7.4	33.2	.9
1984	17.0	(12.7)	−42.8	.5
1985	15.8	(1.2)	−7.1	.4
1986	16.1	.3	1.9	.4
1987	15.5	(.6)	−3.7	.3
1988	13.6	(1.9)	−12.3	.3
1989	13.9	.3	2.2	.3
1990	17.5	3.6	25.9	.3
1991	25.1	7.6	43.4	.4
1992	38.9	13.8	55.0	.7
Medicare:				
1980	34.0			1.3
1981	41.3	7.3	21.5	1.4
1982	49.2	7.9	19.1	1.6
1983	55.5	6.3	12.8	1.6
1984	61.0	5.5	9.9	1.6

FEDERAL SPENDING CATEGORIES—Continued

[In billions of nominal dollars]

Year	Outlays	Growth	Percent growth	Percent of GDP
1985	69.7	8.7	14.3	1.7
1986	74.2	4.5	6.5	1.7
1987	79.9	5.7	7.7	1.8
1988	85.7	5.8	7.3	1.7
1989	94.3	8.6	10.0	1.8
1990	107.4	13.1	13.9	1.9
1991	114.2	6.8	6.3	2.0
1992	128.3	14.1	12.3	2.2
Medicaid:				
1980	14.0			.5
1981	16.8	2.8	20.0	.6
1982	17.4	.6	3.6	.6
1983	19.0	1.6	9.2	.6
1984	20.1	1.1	5.8	.5
1985	22.7	2.6	12.9	.6
1986	25.0	2.3	10.1	.6
1987	27.4	2.4	9.6	.6
1988	30.5	3.1	11.3	.6
1989	34.6	4.1	13.4	.7
1990	41.1	6.5	18.8	.7
1991	52.5	11.4	27.7	.9
1992	68.4	15.9	30.3	1.2
Food stamps:				
1980	9.1			.3
1981	11.3	2.2	24.2	.4
1982	11.0	(.3)	−2.7	.3
1983	11.8	.8	7.3	.3
1984	11.6	(.2)	−1.7	.3
1985	11.7	.1	.9	.3
1986	11.6	(.1)	−.9	.3
1987	11.6	0	.0	.3
1988	12.3	.7	6.0	.3
1989	12.8	.5	4.1	.2
1990	15.0	2.2	17.2	.3
1991	18.7	3.7	24.7	.3
1992	22.2	3.5	18.7	.4
Family support (AFDC):				
1980	7.3			.3
1981	8.2	.9	12.3	.3
1982	8.0	(.2)	−2.4	.3
1983	8.4	.4	5.0	.2
1984	8.9	.5	6.0	.2
1985	9.2	.3	3.4	.2
1986	9.9	.7	7.6	.2
1987	10.5	.6	6.1	.2
1988	10.8	.3	2.9	.2
1989	11.2	.4	3.7	.2
1990	12.2	1.0	8.9	.2
1991	13.5	1.3	10.7	.2
1992	15.1	1.6	11.9	.3
Veterans benefits and services:				
1980	14.0			.5
1981	15.4	1.4	10.0	.5
1982	15.8	.4	2.6	.5
1983	15.9	.1	.6	.5
1984	16.0	.1	.6	.4
1985	15.9	(.1)	−.6	.4
1986	15.7	(.2)	−1.3	.4
1987	15.7	0	0	.3
1988	17.6	1.9	12.1	.4
1989	17.7	.1	.6	.3
1990	15.9	(1.8)	−10.2	.3
1991	17.3	1.4	8.8	.3
1992	19.5	2.2	12.7	.3
Other mandatory:				
1980	75.0			2.8
1981	86.1	11.1	14.8	2.8
1982	82.2	(3.9)	−4.5	2.6
1983	82.7	.5	.6	2.4
1984	87.1	4.4	5.3	2.3
1985	99.8	12.7	14.6	2.5
1986	83.5	(16.3)	−16.3	2.0
1987	80.7	(2.8)	−3.4	1.8
1988	92.0	11.3	14.0	1.9
1989	97.7	5.7	6.2	1.9
1990	100.0	2.3	2.4	1.8
1991	112.9	12.9	12.9	2.0
1992	114.4	1.5	1.3	1.9
Farm price supports:				
1980	2.8			.1
1981	4.0	1.2	42.9	.1
1982	11.7	7.7	192.5	.4
1983	18.9	7.2	61.5	.6
1984	7.3	(11.6)	−61.4	.2
1985	17.7	10.4	142.5	.4
1986	25.8	8.1	45.8	.6
1987	22.4	(3.4)	−13.2	.5
1988	12.2	(10.2)	−45.5	.2
1989	10.6	(1.6)	−13.1	.2
1990	6.5	(4.1)	−38.7	.1
1991	10.1	3.6	55.4	.2
1992	11.4	1.3	12.9	.2
Federal retirement & disability:				
1980	26.6			1.0
1981	31.2	4.6	17.3	1.0
1982	34.3	3.1	9.9	1.1
1983	36.5	2.2	6.4	1.1
1984	38.0	1.5	4.1	1.0
1985	38.5	.5	1.3	1.0
1986	41.3	2.8	7.3	1.0
1987	43.7	2.4	5.8	1.0
1988	46.8	3.1	7.1	1.0
1989	49.1	2.3	4.9	.9
1990	51.9	2.8	5.7	.9
1991	56.0	4.1	7.9	1.0
1992	58.7	2.7	4.8	1.0

Source: CBO.

MONTHLY TREASURY STATEMENT ANALYSIS

Fiscal year	Receipts	Cumulative	Outlays	Cumulative	Deficit/(surplus)	Cumulative
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	109,350		116,238		6,887	
1991 total		1,054,265		1,323,757		269,492
1992						
October	78,068	78,068	114,660	114,660	36,592	36,592
November	73,194	151,262	117,878	232,538	44,684	81,276
December	103,662	254,924	106,199	338,737	2,537	83,813
January	104,091	359,015	119,742	458,479	15,650	99,463
February	62,056	421,071	111,230	569,709	49,174	148,637
March	72,917	493,988	123,629	693,338	50,712	199,349
April	138,430	632,418	123,821	817,159	(14,609)	184,740
May	62,244	694,663	109,179	926,338	46,935	231,675
June						
July						
August						
September						
1991 total						
1992[1] (percent)						
October	1.4	1.4	5.8	5.8	16.7	16.7
November	3.8	2.6	−.3	2.6	−6.4	2.8
December	1.7	2.2	−2.8	.9	−65.7	−3.1
January	3.4	2.5	20.9	5.4	1,048.5	17.3
February	−8.3	.8	18.5	7.7	87.8	33.9
March	12.5	2.4	16.7	9.2	23.2	31.0
April	−1.4	1.5	12.2	9.7	−51.3	51.2
May	−2.1	1.2	−6.6	7.5	−12.1	32.0
June						
July						
August						
September						
Total						

[1] Fiscal year 1992 compared to fiscal year 1991.

SUMMARY OF LARGEST OUTLAY CHANGES

[In million of dollars]

Agency/Account	Fiscal year 1991 October to May	Fiscal year 1992 October to May	Change	Change (percent)
Department of Agriculture:				
Food Stamps	12,902	15,403	$2,501	19.4
Department of Defense—Military:				
Military Personnel	58,292	52,693	(5,599)	−9.6
Operations and Maintenance	67,527	59,824	(7,703)	−11.4
Procurement	54,664	49,539	(5,125)	−9.4
Department of Education:				
Education for the disadvantaged	3,579	4,513	934	26.1
Health and Human Services:				
Medicaid	32,409	43,085	10,676	32.9
Medicare	75,153	84,470	9,317	12.4
SSI program	11,356	12,459	1,103	9.7
AFDC	8,941	10,319	1,378	15.4
Social Security: Insurance and disability payments	173,525	186,125	12,600	7.3
Department of Labor: State unemployment benefits	17,115	24,906	7,791	45.5
Department of the Treasury:				
Earned income tax credit	4,652	7,451	2,799	60.2
Interest on the public debt	183,286	188,014	4,728	2.6
Independent Agencies:				
Bank insurance fund	104	5,629	5,525	5312.5
Resolution Trust Corporation	19,919	(417)	(20,336)	−102.1

Note:—Interest on the public debt for May 1992 is $23.791 billion, which is 22 percent of the current month's total outlays.

April 9, 1992

[Rollcall Vote No. 72 Leg.]

YEAS—63

Biden, Bond, Boren, Breaux, Brown, Bryan, Burdick, Burns, Chafee, Coats, Cochran, Cohen, Conrad, Craig, D'Amato, Danforth, Daschle, DeConcini, Dole, Domenici, Durenberger, Exon, Ford, Fowler, Garn, Gorton, Graham, Grassley, Harkin, Hatch, Hatfield, Heflin, Helms, Hollings, Kassebaum, Kasten, Kohl, Lott, Lugar, Mack, McCain, McConnell, Murkowski, Nickles, Nunn, Packwood, Pell, Pressler, Reid, Robb, Roth, Rudman, Sanford, Seymour, Shelby, Simon, Simpson, Smith, Specter, Stevens, Symms, Thurmond, Warner.

NAYS—32

Adams, Akaka, Baucus, Bentsen, Bingaman, Bradley, Bumpers, Byrd, Cranston, Dodd, Glenn, Gore, Inouye, Johnston, Kennedy, Kerrey, Kerry, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Pryor, Riegle, Rockefeller, Sarbanes, Sasser, Wellstone, Wofford.

NOT VOTING—5

Dixon, Gramm, Jeffords, Wallop, Wirth.

RECORDED VOTE IN THE SENATE (VOTE 2288: 69–31) (DEM: 21–24; REP: 47–7)

S.J. Res. 58 by Thurmond (R–SC)—Constitution of the United States, Amendment—Federal Budget Procedures.

August 4, 1982—in the Senate.

Passed (agreed to) (Vote No. 2288: 69–31) as amended.

(Senate passed a joint resolution, proposed constitutional amendment altering Federal fiscal decisionmaking procedures.)

69 MEMBERS WHO VOTED "YES"

Abdnor (R–SD).
Andrews, Mark (R–ND).
Armstrong (R–CO).
Baker (R–TN).
Bentsen (D–TX).
Boren (D–OK).
Boschwitz (R–MN).
Burdick (D–ND).
Byrd, Harry (I–VA).
Byrd, Robert (D–WV).
Cannon (D–NV).
Chiles (D–FL).
Cochran (R–MS).
D'Amato (R–NY).
Danforth (R–MO).
DeConcini (D–AZ).
Denton (R–AL).
Dixon, Alan (D–IL).
Dole (R–KS).
Domenici (R–NM).
Durenberger (R–MN).
East (R–NC).
Exon (D–NE).
Garn (R–UT).
Goldwater, Barry (R–AZ).
Grassley (R–IA).
Hatch (R–UT).
Hatfield (R–OR).
Hawkins, Paula (R–FL).
Hayakawa (R–CA).
Heflin (D–AL).
Helms (R–NC).
Hollings (D–SC).
Huddleston (D–KY).
Humphrey (R–NH).
Jepsen (R–IA).
Johnston, Bennett (D–LA).
Kasten (R–WI).
Laxalt (R–NV).
Long, Russell (D–LA).
Lugar (R–IN).
Mattingly (R–GA).
McClure (R–ID).
Melcher (D–MT).

Murkowski (R-AK).
Nickles (R-OK).
Nunn (D-GA).
Packwood (R-OR).
Percy (R-IL).
Pressler (R-SD).
Proxmire (D-WI).
Pryor (D-AR).
Quayle (R-IN).
Roth, William (R-DE).
Rudman (R-NH).
Sasser (D-TN).
Schmitt (R-NM).
Simpson (R-WY).
Specter (R-PA).
Stafford (R-VT).
Stennis (D-MS).
Stevens (R-AK).
Symms (R-ID).
Thurmond (R-SC).
Tower (R-TX).
Wallop (R-WY).
Warner (R-VA).
Zorinsky (D-NE).
Brady (R-NJ).

31 MEMBERS WHO VOTED "NO"

Baucus (D-MT).
Biden (D-DE).
Bradley (D-NJ).
Bumpers (D-AR).
Chafee (R-RI).
Cohen (R-ME).
Cranston (D-CA).
Dodd (D-CT).
Eagleton (D-MO).
Ford, Wendell (D-KY).
Glenn (D-OH).
Gorton (R-WA).
Hart (D-CO).
Heinz (R-PA).
Inouye (D-HI).
Jackson (D-WA).
Kassebaum (R-KS).
Kennedy (D-MA).
Leahy (D-VT).
Levin (D-MI).
Mathias (R-MD).
Matsunaga (D-HI).
Metzenbaum (D-OH).
Mitchell, George (D-ME).
Moynihan (D-NY).
Pell (D-RI).
Randolph (D-WV).
Riegle (D-MI).
Sarbanes (D-MD).
Tsongas (D-MA).
Weicker (R-CT)

RECORDED VOTE IN THE SENATE (VOTE 2045: 66-34) (DEM: 23-24; REP: 43-10)

S.J.R. 225 by Thurmond (R-SC)—Constitution of the United States, Amendment—Balanced Budget

March 25, 1986—in the Senate.

Failed of necessary two-thirds majority (Vote No. 2045:66-34).

(Senate rejected S.J. Res. 225, to propose an amendment to the Constitution of the United States relating to a Federal balanced budget.)

66 MEMBERS WHO VOTED "YES"

Abdnor (R-SD).
Andrews, Mark (R-ND).
Armstrong (R-CO).
Bentsen (D-TX).
Bingaman (D-NM).
Boren (D-OK).
Boschwitz (R-MN).
Chiles (D-FL).
Cochran (R-MS).
D'Amato (R-NY).
Danforth (R-MO).
DeConcini (D-AZ).
Denton (R-AL).
Dixon, Alan (D-IL).
Dole (R-KS).
Domenici (R-NM).
Durenberger (R-MN).
East (R-NC).
Exon (D-NE).
Ford, Wendell (D-KY).
Garn (R-UT).
Goldwater, Barry (R-AZ).
Gore (D-TN).
Gramm (R-TX).
Grassley (R-IA).
Harkin (D-IA).
Hatch (R-UT).
Hawkins, Paula (R-FL).
Hecht (R-NV).
Heflin (D-AL).
Helms (R-NC).
Hollings (D-SC).
Humphrey (R-NH).
Johnston, Bennett (D-LA).
Kasten (R-WI).
Laxalt (R-NV).
Long, Russell (D-LA).
Lugar (R-IN).
Mattingly (R-GA).
McClure (R-ID).
McConnell (R-KY).
Melcher (D-MT).
Murkowski (R-AK).
Nickles, Don (R-OK).
Nunn (D-GA).
Packwood (R-OR).
Pell (D-RI).
Pressler (R-SD).
Proxmire (D-WI).
Pryor (D-AR).
Quayle (R-IN).
Roth, William (R-DE).
Rudman (R-NH).
Sasser (D-TN).
Simon (D-IL).
Simpson (R-WY).
Specter (R-PA).
Stennis (D-MS).
Stevens (R-AK).
Symms (R-ID).
Thurmond (R-SC).
Trible (R-VA).
Wallop (R-WY).
Warner (R-VA).
Wilson, Pete (R-CA).
Zorinsky (D-NE).

34 MEMBERS WHO VOTED "NO"

Baucus (D-MT).
Biden (D-DE).
Bradley (D-NJ).
Bumpers (D-AR).
Burdick (D-ND).
Byrd, Robert (D-WV).
Chafee (R-RI).
Cohen (R-ME).
Cranston (D-CA).
Dodd (D-CT).
Eagleton (D-MO).
Evans, Daniel (R-WA).
Glenn (D-OH).
Gorton (R-WA).
Hart (D-CO).
Hatfield (R-OR).
Heinz (R-PA).
Inouye (D-HI).
Kassebaum (R-KS).
Kennedy (D-MA).
Kerry (D-MA).
Lautenberg (D-NJ).
Leahy (D-VT).
Levin, Carl (D-MI).
Mathias (R-MD).
Matsunage (D-HI).
Metzenbaum (D-OH).
Mitchell, George (D-ME).
Moynihan (D-NY).
Riegle (D-MI).
Rockefeller (D-WV).
Sarbanes (D-MD).
Stafford (R-VT).
Weicker (R-CT).

Mr. NICKLES. Mr. President, my colleague and cohort in this effort, Senator GRAMM, has been a real stalwart in pushing and fighting and working for a constitutional amendment to balance the budget, and I yield 10 minutes to Senator GRAMM.

Mr. GRAMM. Mr. President, I thank our dear colleague from Oklahoma for yielding.

This is not the beginning of the debate on the balanced budget amendment. In fact, Thomas Jefferson, who was Minister to France during the writing of the Constitution, when he was first shown the document, had a proposal for one change, and later he recorded that proposal in a letter to John Taylor. I would like to read Jefferson's proposal in beginning this debate.

Jefferson wrote:

> 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.

Mr. President, today we debate not just a balanced budget amendment, but we debate the Jefferson amendment. Mr. President, I would like to make note that we also debate something that has ancient roots, a debate about the future of America and about a potential seed for its destruction.

As my colleagues will remember, after Jefferson and Adams had both served as President, been bitter political enemies and retired from public life, they engaged in a correspondence that has become famous in our history called the Jefferson-Adams debate. Adams argued that American democracy might ultimately fail because the public would come to realize that Government could be used to redistribute wealth. Adams argued when that discovery was made, it would encourage indolence, it would penalize productivity, and the American system might collapse as a result. Jefferson responded by noting that the American people, clever as they were and would be, ultimately would make that discovery, but that in America there would be such broad-based opportunity that people would realize what Government could take away from somebody else today to give them, it could take away from them tomorrow to give someone else. And Jefferson argued that the American people would reject redistributing wealth.

Mr. President, we are today living out the Jefferson-Adams debate. I believe that Jefferson was right, but I believe that the current structure of debate about spending money in Congress tilts the debate toward Adams.

Let me relate some of my experiences that lead me to this conclusion. When I came to the Congress in January 1979, the first substantive issue to be voted on, and the Presiding Officer will remember it because we came to Congress on the same day, was raising the debt ceiling. And I remember the then-majority leader of the House getting up and saying our situation is a situation similar to the situation of a husband whose wife has gone out and run up these bills—no one would speak that way today, but that was 1979—and the bill collector is at the door. What gentleman, he wondered, would not pay his bills?

Having been there only a week or two, without thinking much about it, I stood and said my first words on the floor of the House of Representatives: It is true that any gentleman would pay his wife's bills, but then the family would sit down around the kitchen table, work out a budget, get the credit cards, take a butcher knife and cut up the credit cards and then come to some resolution of the problem. Having given this speech I voted against the debt ceiling, and the debt ceiling failed. Little did I realize at the time that it thrust me into the midst of a debate that I would be involved in my whole congressional career.

In the spring of 1979, being a new freshman Member of Congress with much to learn, I decided for a 3-month period to follow debate in the House over spending money, not final passage of bills that cost billions of dollars where everybody voted for it, but individual amendments. And I concluded over that period that the average add-on spending cost about $70 million. As best I could figure, the average beneficiary got about $2,000. There were 100 million taxpayers, so the average taxpayer paid 70 cents.

You do not need a Ph.D. in economics to understand that a few people will do a lot more to get $2,000 apiece than a lot of people will do to prevent spending 70 cents. Seventy cents even then would not have paid for a long-distance telephone call.

In my first spring in Congress, I concluded that any organized special-interest group which hired a good lobbyist and printed a good-looking letterhead could literally engage in piracy and steal from every working American. I want to repeat that: Any well-organized, small, special-interest group can engage in piracy and steal from every working person in this country by asking Government to provide them with some benefit.

Then, in 1980, when the economy got in trouble, interest rates spiraled, the deficit went up, and I got a final lesson that convinced me of the problem. Looking ahead to the 1980 election, President Carter got a new economic religion and sent a budget to Congress calling for $6 billion of savings. Half of those savings were phony, $3 billion was real and $1 billion had to do with paying the cost-of-living increase to Federal retirees not twice a year, but once a year.

The bottom line was this: When we voted on Carter's proposal, it passed. I voted for it. Then, when a Republican from Maryland offered an amendment to make us vote on this cost-of-living increase, a $1 billion savings as a free-standing vote, only about 70 Members of the House voted for it, and I was one of them.

At the time I was running for reelection and I happened to be doing a poll, I put on the poll two questions. The first one asked, do you even know that there was a vote on a twice-a-year cost-of-living increase for Federal retirees? And two, do you know how Gramm voted, and how does that affect you in terms of whether you are going to vote for him?

Now the sample was small but the impression was indelible on my memory. In my congressional district, not one person who was not a Federal employee or Federal retiree knew it had taken place knew I voted with Jimmy Carter to save $1 billion, and they were all going to vote against me as a result of it. In fact, I discovered that trying to be fiscally responsible is like doing good knowing that when you get to Heaven, St. Peter will open up the book and it will be blank.

In short, we are losing the spending battle because the Lord did not make many zealots. On a day-to-day basis, voting on spending bill after spending bill, while all the special-interest groups look over the Congressman's left shoulder and send letters back home telling whether the Congressman cares about the old, the poor, the sick, the tired, the bicycle rider, the list goes on and on, nobody is looking over the right shoulder saying whether he cares about the future of America, about the people who do the work, pay the taxes and pull the wagon. That is why Adams' vision of America, his fear about its future, is so very real and pressing today.

Let em talk a little about Gramm-Rudman. Why did Gramm-Rudman fail? Well, for 4½ years Gramm-Rudman worked. Under binding constraints the deficit fell. We limited the growth of Government spending under this new law to 0.7 percent in real terms. The economy grew by 3 percent. For 4½ years the government actually got smaller.

Then in 1990, with the recession and the S&L bailout, the deficit ballooned. Congress looked at the challenge implicit in the spending constraints of the Gramm-Rudman law, and said, "What we made, we can unmake." Complying with the law was like pulling a trailer up the hill; when the chain gets too tight, either you let it break or you back off and start again. This is what the budget summit did in 1990. We rewrote the target, building in flexibility to deal with the recession and in the S&L bailout.

What we need is a constitutional amendment that will bind Congress through a contract between the American people and their Government, and that is what we are here to debate today.

What about those who ask why we need a constitutional amendment? Is not the problem courage? Is not the problem lack of leadership? Cannot Congress balance the budget without being told to?

Mr. President, I ask for 5 additional minutes.

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

Mr. GRAMM. Well, Mr. President, first of all let us look at where we are in answering these questions. The national debt has gone up like a rocket since we voted on the balanced budget amendment back in 1982, when the Senate voted "yes" and the House voted "no." The cumulative debt was less than $1 trillion in 1982. And then, in 1986, at just under $2 trillion of debt, the Senate voted "no." Now in 1992, we are sitting here looking $4 trillion of debt in the face. So the problem is very real and it is clear the job is not getting done.

But why should we put this into the Constitution? The genius of the Constitution is setting out of bounds things that the people have determined that they do not want Congress to do. Let me read you the first words from the Bill of Rights in the Constitution of the United States: "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, and to petition the Government for redress of grievances."

The genius of the American Constitution is that the American people decided they knew better than Congress about those things. They did not say, "If the majority of the Members of the Congress in their wisdom or lack thereof want to do something." They said, "Congress shall make no law." They set those areas out of bounds.

Well, Mr. President, in this moment of crisis, when the future of our Nation is at stake, we need to put deficit spending out of bounds. We need a contract between the Government and the people that binds Congress with a chain that we cannot break.

Now, I know there are many people here who oppose the balanced budget amendment to the Constitution, and they will speak with great eloquence and persuasiveness. But when you listen to what they are saying, it boils down to this: "The status quo is great. We love Congress just as it is. We prefer to keep the powers we have to spend

money we don't have on programs the public would never willingly pay for. We like it just like it is. The status quo is wonderful. Don't change it."

Well, Mr. President, if you like the status quo in the American Congress, if you like $4 trillion in debt, if you want to keep things just as they are, vote against the balanced budget amendment to the Constitution. But if you want things changed, vote for it. The status quo is a losing proposition for America.

Finally, let me say to those who are unhappy about the way the amendment was brought up for a vote, it was the only choice we had to have a vote on it in this Congress. Somebody had to do it. Somebody had to stand up and say, we are going to have this vote.

Now I know we are going to have seven pending amendments, all of them trying to kill this balanced budget amendment. But ultimately, we are going to have a vote, and ultimately we are going to have to decide.

This issue is not dead. Twelve Members of the House who cosponsored the very amendment that we are offering here, who put out letters at the taxpayers' expense saying they were for it and who took great pride in it back home, when the Democratic leadership grabbed their arms and started twisting, they voted against the amendment that they had cosponsored. It failed by only 9 votes. If everybody who cosponsored it had voted for it, it would have passed. If we adopt this amendment, an extraordinary House rule assures that it will be put to a second historic vote in the House. And with the public scrutiny that will occur on that vote, there is no doubt that the House of Representatives will adopt the balanced budget amendment to the Constitution.

So we may not make history here today, or this week, or July 4, or whenever we vote. We may decide not to do it. But if we fail, it will not be for lack of opportunity. If we adopt this amendment in the U.S. Senate, it will become enshrined in the Constitution and will change America forever.

So I ask my colleagues, set aside partisanship, look at what is good for America, look at our ability to affect this country for its entire future, and in doing so to affect the well-being of all freedom-loving people in the world, and please vote for this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President I wish to compliment my friend and colleague, Senator GRAMM from Texas, for his eloquent statement, and also for his strong leadership on this issue. I also wish to compliment the cosponsors of this amendment.

And I ask unanimous consent to add Senator COATS as a cosponsor as well.

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

Mr. NICKLES. I wish to compliment my colleague, Senator SEYMOUR, because he has been steadfast in saying we have to have a vote on it. He has worked very diligently to make this happen.

How much time does the Senator request?

Mr. SEYMOUR. Fifteen minutes.

Mr. NICKLES. Mr. President, I yield 15 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. Mr. President, my congratulations and commendation goes to Senator NICKLES for his courageous leadership in ensuring that we have this opportunity to debate and hopefully vote on this most important measure. I also acknowledge the leadership of Senator GRAMM of Texas who, when many would rather sweep this issue under the rug and ignore it, stood tall and demanded, along with Senator NICKLES, myself, and others, that this issue be brought up in the Senate.

Why is it, Mr. President, that we do not want to debate this issue here in the Senate? Why is it we do not want to vote on a balanced budget constitutional amendment here in the Senate? Why is it we wish it would just go away?

We have heard all kinds of reasons this last week; these last 8 days we have been trying our best just to bring this issue up for debate.

The truth of the matter is, Mr. President, there is a common thread in the reasons given. If you look underneath the thin facade of those that say, "Well, it is a dead issue for this year," or "It is really not going to do anything," underneath what is really going on here is that the U.S. Senate has wanted to act like an ostrich and put its head in the sand and ignore this most important issue.

Some have suggested that the debate on this issue is at the expense of other important issues that we have to address. Mr. President, I suggest this is the most important issue at this moment. There is none other as important.

My wife Judy and I have six children. The oldest is now 30 years old and married. Both he and his bride are struggling to start their careers, make house payments in San Diego. I look back over the life of our oldest son and I realize that in his 30 years, Mr. President, Congress has balanced the budget once, only once, in 30 years.

That is why I say we are acting here in the U.S. Senate and in the House of Representatives, as an ostrich with its head in the sand. Ignore it. It will go away. It will somehow take care of itself. Well, the fact is that this problem will not go away when only once in 30 years, in the year 1969, Congress saw fit to balance the budget.

Now there are all kinds of reasons and criticisms about a balanced budget amendment. The argument has been made, or will be made, that the balanced budget constitutional amendment is not a silver bullet and Federal deficits will not magically disappear. And the argument will be made, to achieve a balanced budget by 1997, Congress and the President are going to have to take drastic actions, slashing Government spending and increasing taxes.

Well, I will tell you here is one Senator that is not going to vote to increase taxes to balance this budget, because it can be done without increasing taxes. What it will take is hard work and difficult choices to cut out unnecessary Federal programs.

The argument will be made that the amendment cheapens the Constitution somehow, that holy document that no one should touch. And I would remind my colleagues who believe in that argument of the words of Thomas Jefferson—and I paraphrase—when he said there was one thing we left out. One very important item was left out. And that is we have provided the ability of the Congress to take our country into debt. Little did he know what kind of debt.

And of course some will say the balanced budget amendment is a fraud and that it merely provides incentives for smoke and mirrors in our budgeting process. Well, it has not been long since the Gramm-Rudman-Hollings Act was enacted, and since then we have seen plenty of smoke and mirrors to prevent its' effectiveness. So the balanced budget amendment is not intended as a gimmick, and when opponents attempt to prevent it from working, I will work with my colleagues to expose the smoke and mirrors and protect the Constitution.

Finally some will say that the balanced budget constitutional amendment addresses a symptom and not a cause of the real problem.

Well, let me share with you, Mr. President, my view. There is no magic in a balanced budget amendment and no guarantees. But it certainly sets a benchmark, provides an incentive, amends the Constitution, and therefore makes it lawfully possible to force, to force Mr. President, this Congress to come to grips with its out-of-control spending.

As I think about the families of this country—I look at those folks in the galley—every one of them have to balance their budgets. We should have to balance our budget. If they do not balance their budget, they would go bankrupt. Why should Congress be allowed to run up debt. We should have to pay our bills.

I recall my years on the city council, and as a local mayor, we had to balance our budget. It was in our city charter.

I recall the years of serving in the State legislature, we had to balance

our budget. It was in the State Constitution, as it is the law of 48 other States.

All the years I was in business, 17 years all together, I learned very quickly that if I did not balance my budget, not only would I not make a profit, I would go broke.

So what is the magic about balancing a Federal budget? What is it that makes us think somehow we can exempt the Federal Government from its borrowing?

I suppose the fact is, we really have not felt the crisis that is coming yet. We have not been hurt hard enough.

Well, I see the signs today, Mr. President, where we have been hurt because of this 30-year deficit spending binge. We are in a recession. It continues to drag. And part of the reason is the interest we are paying on the deficit today. Last year it totaled $269 billion. That loss of capital prevents economic growth and jobs from being created.

So I suggest, if we do not pass this amendment and balance the budget, we are going to see some of the results as chronicled in this report from the U.S. General Accounting Office, just published this month. They looked at the future and they titled this report "Budget Policy: Prompt Action Necessary To Avert Long-Term Damage to the Economy."

I suggested a moment ago that I believe part of the reason for the recession is our mounting debt and interest payments. Well the GAO extrapolates on this point and projects into the future. Let me share just a couple of points from that report.

If current spending and revenue patterns continues, the deficit could reach 20.6 percent of our gross national product by the year 2020. That is not a staggering statistic because it does not really mean much until you translate into how does it impact me, my life, my job, my home, my hopes for the future for my family. Well let me explain its significance.

If we balance the budget by the year 2001, then our real per capita income, every one of us, our real income will grow by 36 percent by the year 2020, compared to taking no action at all.

If we had a small surplus of just 2 percent in our budget in the year 2005, real per capita income, every one of our incomes, would grow by 40 percent by the year 2020, compared to taking no action.

Next, let us look at the cost of carrying this debt. The report says during the 1960's the Federal deficit absorbed just 2 percent of our net national savings. Not bad.

During the 1970's, the Federal deficit absorbed 19 percent of our savings—19 percent out of every dollar we saved was going to pay the interest on our debt during the 1970's.

By the 1980's, nearly one-half, or 48 percent of our savings was needed to finance the budget deficit. And in 1990, the deficit absorbed an amazing 58 percent of our net national savings from the rest of the economy.

We all know it takes capital to create jobs. It takes money to start a business. It takes money to be able to buy a home. It takes money to be able to make the American dream come true and when you are competing with the interest cost to the Federal Government to such a great extent, where is it going to come from? In fact, this GAO report says that net interest costs rise to over $1 trillion—just interest, not the debt—by the year 2020.

When you start to think of the dynamics of our debt, it is staggering. Given our current population, if we continue on this spending binge and refuse to confront our addiction, unwilling to balance our budget, then by the year 2020 the interest alone on our debt will cost us $4,000 for every man, woman, and child for every year thereafter. A family with two children, $16,000 in interest costs on the Federal debt alone. It is unimaginable, but that is the collision course we are on.

So I suggest that unless we have the will to stand up and support this constitutional amendment to balance the budget, our economic woes are just beginning. We have yet to see the worst.

This economic recession and slow growth will continue for our kids and our grandkids. Why? Because the Federal Government is taking so much out of the investment pot there is not enough left for our free enterprise and capitalistic system to grow and expand.

What did we hear proposed? We had a short debate last night, a little glimpse of what the future might hold for us when we debated here on the floor "want to be President" Bill Clinton's plan. His first 4-year plan, which raises taxes $150 billion in that 4-year period and at the end of that 4-year period leaves us with a deficit as high as $141 billion.

So now is the time we must stand and be honest. Now is the time for Congress to admit we are addicted, we are addicted to spending.

Mr. President, whether it is drug addiction or alcoholism, the first step on the road to a cure is to admit you have the problem. By passing this constitutional amendment, we will take the first step—admitting we cannot control our spending and need discipline: a higher discipline coming from the Constitution of the United States.

Then we will be able to make the tough decisions. And I believe we will. Because the alternative is letting this debt continue to interest costs of $1 trillion a year. In fact next year, we do not have to look to the year 2020, the interest costs will be the single greatest expenditure in our budget. It will consume more of our budget than the entire Department of Defense; more than what we provide for education; and more than what we provide for health care. Interest payments will be the largest single expenditure next year.

So now is the time to act. If we in the U.S. Senate are unwilling to stand up and be counted, to show this restraint—if we will not do it, Mr. President, who will and when?

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

Mr. STEVENS. Will the Senator yield for one moment?

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. I wish to compliment my colleague, Senator SEYMOUR, on his excellent statement and also for his leadership on this most important issue.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 2894 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. NICKLES. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Seventy-five minutes, thirty-four seconds.

Mr. NICKLES. Mr. President, I will tell my colleagues, we have 11 colleagues who have requested to speak in the 75 minutes. So I encourage them to be somewhat brief. I see my colleague from Idaho, who has been one of the real leaders in the balanced budget effort, both in the House and the Senate. The Senator requests how much time?

Mr. CRAIG. I will do 10, but try to hold it short.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleague from Oklahoma for allotting me this time, but I also appreciate the tenaciousness of his leadership and the leadership of my colleague from Texas in bringing this issue to the floor.

I would have preferred, along with a good many other Senators, that this issue could have arrived at the floor for debate in a different way; that it would have been the single issue before this Senate to be debated, and that it would have come under its own time and under its own forces. But that was not what our leadership would allow, and following the debate and the defeat of this amendment in the House, that ability to gain time on the floor was largely ignored.

So it is for those reasons that we are now on the floor today, and I guess I can say, Mr. President, I am terribly disappointed. I am, first of all, disappointed that the press gallery is empty at this moment. I am dis-

appointed that the floor of the Senate is largely empty. And I am, thirdly, disappointed that the leadership of this body and that many Senators are viewing this as a necessary political effort but it really will not count; that this issue is without substance and that the American people really do not care. Those are the tragedies of today and those are the tragedies of this debate. This issue does count. This issue is of substantial substance. It has been a long time in coming with a great deal of effort put with it.

In recognizing my colleague from Illinois, Senator SIMON; my colleague from South Carolina, STROM THURMOND; the colleagues I have just recognized, I, they, and a good many others, including Members of the House, CHARLIE STENHOLM and others, for over a decade have recognized that it would take a fix; that we would have to change the environment in which this Congress budgeted and, more important, we would have to change the environment in which the American people came to the Congress and asked for the largess of the Public Treasury if we were able ever to balance the Federal budget.

So it is with that effort, for well over a decade, that we come today with a substantial document, a constitutional amendment to balance the Federal budget, that has had the review of constitutional scholars, the course of hearing after hearing, adjustment and changes, a document that just a few weeks ago Senators, Republican and Democrat alike, House Members, Republican and Democrat alike, met for hours to iron out the final details of an amendment that we believe is not only functional and workable but that, when submitted to the American public, can be passed, can become a part of the Constitution of this country, and then will begin to guide the Congress of the United States in the allocation of the public resources of this Nation for the purpose of public expenditure toward a balanced budget in about 5 or 6 years.

It is with that in mind that I ask unanimous consent to print two documents in the RECORD, two very detailed documents, Mr. President.

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

SECTION-BY-SECTION ANALYSIS OF THE BIPARTISAN, BICAMERAL CONSENSUS BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

(Prepared by the offices of Senator Larry E. Craig and Representative Charles W. Stenholm, June 1992)

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 makes the option of deficit spending both 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 1998–2008" (and, presumably, 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".

". . . shall not . . ." 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 deficit within a fiscal year.

". . . three-fifths of the whole number of each House of Congress . . ." indicates the minimum proportion (60 percent) 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 decision requiring concurrence, appropriations, other direct spending bills, or revenue 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 three-fifths 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—and diffuse—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/S.J. Res. 298, 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. (Note: In S.J. Res. 298, as introduced, this phrase was reworded as, ". . . and estimate of total receipts . . . shall be determined by enactment of a law. . . .")

". . . 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.

Changes from S.J. Res. 18, as reported:

Section 1 of the substitute is substantively the same as Section 1 of S.J. Res. 18 as reported by the Committee on the Judiciary.

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 within 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 a powerful incentive 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 percent 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 percent plus one in either body to 40 percent plus 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, 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 re-

quire 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/S.J. Res. 298, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Changes from S.J. Res. 18, as reported:

Language relating to a limitation on debt, such as Section 2 of the substitute, was not included in S.J. Res. 18 as introduced or reported. Language requiring a three-fifths vote to increase the limit on the public debt was added on the Senate floor both to S.J. Res. 225 in the 99th Congress (a predecessor to the current S.J. Res. 18, in 1986) and to S.J. Res. 58 in the 97th Congress (in 1982).

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 certainly 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, and inadvertently confusing or limiting at worst.

Changes from H.J. Res. 290/S.J. Res. 298, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Changes from S.J. Res. 18, as reported:

This section of the substitute is identical to language in S.J. Res. 18 as reported.

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 to the amendment's requirement 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 Revenue 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 in the Senate, which numbers 100 Members. The "whole number of each House" is defined under Section 1, above.

This language is not intended to preclude the Vice President, in his or her constitutional capacity as President of the Senate, from casting a tie-breaking vote that would produce a 51-50 result. This is consistent with Article I, Section 3, Clause 4, which states: "The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided." Nothing in Section 4 of the substitute takes away the Vice President's right to vote under such circumstances. The language requires (in today's Senate of 100) 51 votes to pass a revenue-increasing bill, not the votes of 51 Senators. Obviously, in a 51-50 vote, 51 still constitutes a majority of the whole number of 100. Also obviously, while the Vice President could turn a 49-49 tie into a 50-49 result, this would not constitute a majority of the whole number.

Changes from H.J. Res. 290/S.J. Res. 298, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Changes from S.J. Res. 18, as reported:

Section 4 of the substitute is substantively the same as Section 3 of S.J. Res. 18 as reported.

Section 5. The Congress may waive the provisions of this article for any fiscal year in which 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/S.J. Res. 298, as introduced:

The first sentence of the substitute Section 5 makes no changes to this section as it appeared in the joint resolution as introduced. The second sentence has been added, based on an amendment approved by the Senate Committee on the Judiciary to companion legislation, S.J. Res. 18.

Changes from S.J. Res. 18, as reported:

The first sentence of the substitute Section 5 is substantively the same as Section 4 in S.J. Res. 18 as introduced.

The second sentence was approved by the Senate Committee on the Judiciary and included as an amendment to S.J. Res. 18 as reported. The difference between, and gradua-

tion 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 impermissibly 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."

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-designated, 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.

The inclusion of a positive obligation to legislate does not make the Article more difficult to enforce, nor is it without precedence in the Constitution. Article I, Section 2, Clause 3 provides: "Representatives and direct Taxes shall be apportioned among the several States . . . according to their respective Numbers, which shall be determined by . . . [an] actual Enumeration . . . made within three Years . . . and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. . . ." The critic who today asks, "What if Congress just doesn't enact implementing and enforcing legislation?" would be the counterpart of the critic who might have asked in 1787, "What if Congress just doesn't authorize or appropriate for a Census, if, in their own self-interest, they don't want the current apportionment to be changed?" In this case, it manifestly would be in Congress' own best interest to enact legislation ensuring a complete and clearly-defined budget process consistent with the Balanced Budget Amendment.

". . . 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 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/S.J. Res. 298, 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.

Changes from S.J. Res. 18, as reported:

Section 6 is a new section.

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 things 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 System. 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 liq-

uidated (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 unexpended 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."

"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/S.J. Res. 298, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Changes from S.J. Res. 18, as reported:

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/S.J. Res. 298, 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 year 1995 date) and a realistic, consensus estimate of the time needed to allow for a "glide path" down to a zero deficit. (Note: S.J. Res. 298, as introduced, included an effective date of fiscal year 1997 or the second fiscal year after ratification.)

Changes from S.J. Res. 18, as reported:

S.J. Res. 18 as introduced and reported simply provided that the Article would take effect with the second fiscal year beginning after its ratification.

ANSWERS TO COMMONLY ASKED QUESTIONS ON THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

(Prepared by the offices of Senator Larry E. Craig and Representative Charles W. Stenholm, June 1992)

(NOTE: The questions and answers below were revised and updated just prior to House consideration of H.J. Res. 290 on June 10–11, 1992. For ease and swiftness of editing, all references to H.J. Res. 290 from earlier editions of this Q&A were left intact. However, these materials have been updated to apply to the Bipartisan, Bicameral Consensus version of the amendment agreed to by the principal sponsors and supporters of H.J. Res. 290/S.J. Res. 298 and S.J. Res. 18 in a series of meetings completed on June 9.)

Won't a constitutional requirement of a "balanced budget" simply invite moving some items off-budget?

H.R. 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 by the 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* v. *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., ⅗ 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 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 responsibilty 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 provision 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 amendmnt" 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 truty-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 a ⅗ vote to raise the limit on federal "debt held by the public", rather than the "pubilc" 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 requring 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 eocnomy 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 lanaguage. 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 fillibusters, 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 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 prerogatives 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) Its 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.

Mr. CRAIG. Mr. President, these are two very detailed documents, that take this amendment on a section-by-section basis, to lay out for our colleagues who will read the RECORD and for any other citizen of this country who will read the RECORD that our effort is not only sincere, but it is the cumulative work of well over a decade of a variety of substantial interests who recognize the importance of dealing with a $4 trillion debt and a $350 billion-plus deficit and a recognition that this Congress has spent its citizenry up against the wall and there is no place else to go but a return to fiscal responsibility and the political will to gain that responsibility, but only through a constitutional amendment to a federally balanced budget.

If I have heard my colleagues here in the Senate and my former colleagues in the House say but once, I have heard them say it a good many times: Well, just give us the chance. We will cut spending and raise taxes and, by gollies, we will balance that budget; we do not need any constitutional amendment to force us to do that.

Well, by gollies, Mr. President, they have that chance every day of the week. By gollies, Mr. President, they have that chance every budgeting cycle. But every budgeting cycle and every day of the week they ignore it because, by gollies, they do not have the political will anymore to be fiscally responsible in the collective sense.

The special interest groups that ply their concern against the largess of the public Treasury today have collectively produced a process that now has this Nation totally in debt; that now has this Nation having to travel abroad to sell its Treasury notes to finance the day-to-day expenditures of our Government.

It is with that in mind, more importantly, it is with that crisis at our front door, that many of us finally said to our leadership: We must debate this issue and we have to vote on it. The American people, by the most recent poll of several weeks ago, the Time-Mirror poll, said 77 percent of them recognized the Federal debt and the Federal deficit was the singly most important problem in this country, and that a federally balanced budget was the singly most important issue to remedy it.

Let me, for my time remaining, go through this document that we have before us today.

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 rollcall vote.

It is what my colleague from Oklahoma said. You cannot spend more than you take in. But if you need to, if there is truly an emergency where you might need to, then it would take the three-fifths vote, a super majority of this Congress, to allow it. In other words, some will argue it is a straitjacket. Some will argue that once Congress were to pass this and the Nation were to enact it into law through ratification, the Congress would be straitjacketed into doing nothing.

That simply is not the case. The flexibility is there.

But with it would come the political will to be fiscally responsible.

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.

In other words, once again, we cannot pass go. The responsibility remains here. It is not the American people who will balance the Federal budget. It is the Congress of the United States. But by this document, it will be the American people who will tell us to do just that.

In a letter to John Taylor, Thomas Jefferson said, on November 26 of 1798:

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 the Constitution.

And, of course what he was talking about was this very amendment, the amendment which would disallow the Congress of the United States from excessive borrowing and excessive expenditure.

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.

Now, for the first time, in the Constitution of this country, the executive and the legislative branches of Government are brought equally into the process of proposing budgets; not of disclosing of them, not of bringing forth new revenue, but of proposing the necessary budgets based on the demands and the criteria of the governance of this country. And that, Mr. President, is a most responsible and important move.

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.

No bill to increase revenue shall become law unless by a recorded vote of the body. In other words, no pass goes, no quick gavels, no voice votes—recorded votes. Stand up and be counted for that which the American people sent us here to do: To govern.

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 * * *.

In other words, Mr. President, again, there is no straitjacket. There is a real sensitivity to the needs of this country and the responsibility of national security, but it does force us to govern.

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

There have been some who would argue that the application and administration of this amendment would be thrown into the courts; that we would not only involve the executive branch but now we would involve the judicial branch of Government in the budgeting process. That is simply not the case, and if that argument is approached, that argument is a false argument.

Section 6 recognizes that the responsibility of this business of budgeting

and governing does rest here with the Congress of the United States, as was so spoken to by our Founding Fathers. Section 6 is a critical element in the implementation of the processes and procedures by which we would arrive at a balanced budget.

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.

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.

Three-fourths of our States—38 States—in approval of this document would allow it to be an amendment to our Constitution. If we were to pass it and the House were to pass it, it is important that it be said on this floor that it would not become law because it is a constitutional amendment. We may only propose to our citizenry that which we believe as the Congress ought to be in the Constitution. It is the citizenry, Mr. President, that would say what the Constitution is all about.

We are giving the American people today the opportunity to tell their Government and to tell their Congress to balance the Federal budget. That is the opportunity we are giving. We are not denying any spender on this floor the opportunity to spend. We are simply telling him or telling them or telling the Congress that we are going to give that right to the American people to once again grasp hold of and to begin to control the Government of this country.

That is what they are asking. That is what they are demanding of us. And that is what this debate is all about. Let that be part of the most important record, that the vote here today should be recognized as a will to allow the citizens a direct participation in their Government once again.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to congratulate and compliment my colleague from Idaho for his leadership on this issue. As I mentioned before, both in the House and the Senate, he has been a true leader in fighting for a constitutional amendment to balance the budget.

Mr. President I ask unanimous consent that the Presiding Officer, Senator SHELBY, be added as a cosponsor.

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

Mr. NICKLES. Mr. President, I recognize the Senator from Indiana for 8 minutes.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I want to begin by commending my friend and colleague from Oklahoma, Senator NICKLES; Senator CRAIG; Senator GRAMM; and others who have joined together to bring this legislation to the Senate floor, and to begin what I truly hope will be a historic debate about one of the most primary—and perhaps the most primary—functions of Government.

I hope through it all we cannot only bring before the American people the truly critical nature of this debate and why this amendment is needed, but we also can encourage our colleagues to see this as a historic opportunity to address a very fundamental problem that exists within our system of Government.

I am proud to join with those who have succeeded now in an effort to force this body to debate this very important issue. I know other important issues will have to be set aside. They will have to be put down a little on the list and wait for this debate to conclude. But I cannot think of anything more crucial to our future, more crucial to addressing what I think is perhaps the most fundamental issue facing Government.

For decades, we in Congress have enjoyed the luxury of unlimited debt. Recently, Members have discovered the popularity of criticizing that debt.

But now, with one vote, we hold the credibility of the Senate and the credibility of Congress in our hands. In one moment, we can prove our seriousness before a nation that has very grave doubts about the competency, the efficiency, the seriousness of Congress. The House of Representatives just concluded their historic debate. Many of Americans' expectations were once again severely disappointed because arms were twisted until some wills were broken. Every special interest flooded the House of Representatives with a sea of pity. And in the end, with a handful of broken pledges and broken promises, the constitutional amendment was narrowly defeated. But today we have a chance in the Senate to renew this debate and challenge the House to rethink its error made just last week.

Can there be any argument about the urgency of our circumstances? Can there be any argument about the urgency of doing what we are now doing when every child born today in America inherits $16,000 apiece in national public debt? Can there be any argument about what we are doing when the average budget deficit has risen from 2 percent of GNP in the seventies to 4 percent of GNP in the 1980's to 6 percent of GNP today in 1992? Can there be any argument about the urgency of this debate when, to eliminate deficit spending today and start paying off the debt at the rate of $1 million a day, it would take 11,000 years to accomplish that task? Can there be any urgency when the GAO has provided us with a shocking, stunning report that says, if nothing is done to reverse current trends, deficits could explode over the longer term?

We have seen the charts indicating the almost exponential increase in public debt that has taken place over just a short period of time. The GAO has also said that failure to reverse current trends in fiscal policy and in the composition of Federal spending will doom future generations—not jeopardize future generations; 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 ask my colleagues, is this the legacy you want to leave from your service here in the U.S. Senate? Do you want your legacy of the privilege of serving in this body of the highest elective offices in the world, do you want your legacy to be that we doomed future generations to a stagnation, to a lack of competitiveness? We jeopardize the position of what many believe is the strongest and the greatest nation in the history of mankind. We throw all of that away because we did not have the courage to come forward and deal with one of our Nation's most fundamental problems.

I do not want this to be my legacy. I do not want this to be a legacy of a Congress that I served in. It is an unfair burden that we are placing on the future. It is a failure of political will. It is a betrayal of moral commitments.

Thomas Jefferson has been quoted as saying that he, many, many years ago, questioned whether one generation has the right to bend another by the deficit it imposes. It is a question of such consequence, he said, as to place it among the most fundamental principles of government. Jefferson went on to say we should be morally bound to pay for our own bills and not saddle posterity with our debts.

This failure to address this fundamental principle that Jefferson has outlined has led some of our more distinguished Members of Congress to quit in disgust and frustration. Respected Senators have lost faith in our ability to act.

The public, need we be reminded, shares that skepticism. In this debate we will either feed that anger and skepticism and cynicism that exists today in the public—who can doubt that—or we can begin to recover the trust of the American people.

This is serious business. Amendment of the Constitution is not something that ought to be taken lightly, because it alters the most basic of social contracts between government and its citizens. But the continued accumulation of debt threatens the endurance of that contract, an agreement not only between ourselves but with our children. The constitutional amendment is a strong measure. These are crucial times, and strong measures are called

for. No one believes this Congress anymore, and perhaps no one should. Its word, in the views of many, has been deemed to be worthless.

I ask the Senator if I could have 2 additional minutes.

Mr. NICKLES. I yield 2 minutes.

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

Mr. COATS. The spending habits of Congress are simply too entrenched. There is an ideology of many of its Members which has little to do with liberal, right, left, conservative. It has to do with power.

Deficit spending makes great political sense and terrible economic sense, because it allows the Congress to please people in the present by placing burdens on the future, and Congress knows it is not the future that votes in November, it is the present. Congress has built its power on the ability to buy special interests, support with cash funded from national debt. That power is not going to be easily surrendered, and we are going to see people claw, grip, and try to hang onto that power. Even when Congress faces a crisis of its own creation, even when the views of most Americans are clear and when so much is at stake, we are going to see efforts to hold onto that power.

But I think this amendment will transform the nature of our commitment. It is one thing to vote for a deficit. It is another thing to stand in this well and put your hand on the Bible and raise your right hand and swear to uphold the Constitution of the United States. If Members would do that and then violate a constitutional pledge, they would betray any trust left in the American people, and I believe they would find a storm of outrage that they simply could not outride.

This is an opportunity, a chance to leave a legacy other than monumental debt, a chance to restore trust in this institution, to prove that the Congress will stand for something other than the defense of its own power and privilege. It is a shame that this amendment is necessary, but it is necessary because Congress seems to have lost any sense of shame.

Mr. President, I thank the Senator for the time and I yield.

Mr. NICKLES. Mr. President, I wish to compliment our colleague from Indiana for his statement and also for his leadership on this issue. I would like to compliment our friend and colleague from Illinois, Senator SIMON, who has been responsive. This happens to be the so-called Simon-Stenholm amendment that he has worked tirelessly on. I compliment him for his courageous leadership.

The Senator wishes 10 minutes. I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I thank my colleague from Oklahoma.

Let me say at the outset, I recognize that some of my colleagues, who have spoken to me urging me not to support this, say there is a partisan twist to this. I recognize that there is something of a partisan twist to what is coming up here. Partisanship is not unknown on the floor of the U.S. Senate. But I think the real question is, Is this sound legislation?

That ought to be the question no matter the partisan motive that may be present at any point. Because it has taken on something of a partisan twist, there will be some voter falloff on this side of the aisle because people are wondering where we might have stood in a more direct assault on this. Our vote count, as close as you can get these things, was that we had 63 solid votes for a constitutional amendment, 8 question marks, and 29 no, or probably no, on this.

Let me just add my appreciation for my colleagues who helped in this effort, and particularly Senator THURMOND, who is on the floor right now, Senators HATCH and CRAIG on that side of the aisle, and Senators DECONCINI, LEAHY, and BRYAN on our side of the aisle who were very, very helpful.

Real candidly, I do not think anyone expects that we are going to pass it in this vote, but I think Senator NICKLES has performed a public service in that we are going to get a little more education on the issue.

Next year, we are going to have a real vote, and I hope this education process can help not only Members and candidates but editorial writers and others who have not examined this as carefully as they should.

Why do we need this? The New York Federal Reserve Board says, because of the decline in our savings rate in recent years, primarily because of the deficit, we have lost 5 percent in GNP growth. One percent in GNP growth means 650,000 jobs.

You are talking about a massive loss that has already affected Nebraska; it has already affected Missouri, South Carolina, Illinois, every State in this Nation.

Senator SEYMOUR earlier referred to this GAO report, I think the most significant GAO report in the history of that organization that should have been on front pages of every newspaper in this Nation and on national television. Bill Nykirk of the Chicago Tribune did the only story I have seen on it.

That report says if we continue on the present course, our economy is unsustainable. If we get ahold of it by the year 2001, the growth in per-capita income by the year 2020 is going to be 36 percent. That means that the grandson of Senator BYRD, my esteemed opponent in this issue, for whom I have great respect—that grandson's income is likely to be 36 percent greater, if we balance the budget by the year 2001—and I hope we can do it before then—and my granddaughter's future is likely to be 36 percent greater, if we get a hold of this thing.

What about those who say we should not trivialize the Constitution? Thomas Jefferson said that we need this. That is a pretty good authority.

Let us take the preeminent witness against the constitutional amendment, the constitutional scholar, Laurence Tribe, who testified against this, a professor at Harvard. In his testimony before the Senate Budget Committee, here is what he has to say:

> Let me make clear that, despite the misgivings I expressed on this score a decade ago, I no longer think that a balanced budget amendment is, at a conceptual level, an ill-suited kind of provision to include in the Constitution.
>
> * * * the Jeffersonian notion that today's populace should not be able, by profligate borrowing, to burden future generations with excessive debt does seem to be the kind of fundamental value that is worthy of enshrinement in the Constitution. In a sense, it represents a structural protection for the rights of our children and grandchildren. Given the centrality in our revolutionary origins of the precept that there should be no taxation without representation, it seems especially fitting in principle that we seek somehow to tie our hands so that we cannot spend our children's legacy.

I think what he said is right. For those who say, oh, we can do it without a constitutional amendment, it is very interesting, even under the pressure of a constitutional amendment pending in the House, they were going to offer a substitute which would take the steps necessary, but they could not get the votes to pass it.

In fiscal year 1980, we spent $74 billion gross interest expenditure. This next fiscal year, it will be $316 billion. This next fiscal year, for the first time in the Nation's history, interest will be the No. 1 expenditure by the Federal Government. We will, next year, spend 10 times as much on interest as we will on education. We will spend twice as much on interest as on all of our poverty programs. In the first 175 years of our Nation's history, 60 percent of the time we balanced the budget, and when we did not balance it, they were small deficits. In the last 25 years, 4 percent of the time we balanced the budget, and when we have deficits, they have been huge deficits.

If you take this 12 years—let me add that I do not mean to be partisan in this, Mr. President. The blame is shared by both political parties. Both have failed in this. Yes, the Republican administrations have, and yes, the Democratic Congress has.

Take these 12 years, and do you know what we will spend in interest in these 12 years, Mr. President? $1.4 trillion for interest. What do we get out of it? Nothing, except a harmed economy, plus massive redistribution of wealth. Who pays the $316 billion this next year? Who collects the money? People

who are more fortunate and, increasingly, those who are more fortunate beyond our borders.

According to that GAO report, not only are we slipping in discretionary nondefense items, but we are likely to have a slippage at the most optimistic scenario, at least one-third in that field, if we do not get ahold of it. One of the ironies is that some of the groups that favor social programs that I have been advocating, who should have been out there fighting for this program, who believe in education and social programs, in a shortsighted way—shortsightedness is not limited to Government or the corporate sector—opposed it. Figures for the last 10 years, in inflation-adjusted percentages, are going to look good compared to the next 10 years, if we do not stop this. In the last 10 years, discretionary nondefense went down 11 percent. Defense went up 30 percent. Entitlements, up 52 percent. Gross interest, up 105 percent.

In terms of deficit relative to GNP, we are now at about 6.2 percent. We are scheduled to go down to about 4 percent, and the GAO report says by 2020, it will be over 20 percent.

A distinguished Illinois Senator, Paul Douglas, was an economist, and former president of the American Economic Association. On December 28, 1949, he addressed the American Economic Association convention, and at that point he warned about deficit spending and the need to balance the budget. He said that we are going to face difficult times if we do not do it.

Where were we then? We faced a $5.5 billion deficit. the total debt of the Federal Government was $257 billion, and the interest we were paying on the bonds that we issued at that point, average, Mr. President, was 2.2 percent. Incredible.

Can we do this without a balanced budget? In theory, we can. The argument that is going to be made on this floor over and over again is that we can do this without a constitutional amendment. But the answer is we are not going to do it without a constitutional amendment. In 1986, when it failed by one vote, that was the argument. The debt then was $2 trillion, and now it has doubled to $4 trillion. Where are we held, it we do not do this? Mr. President, it is, I think, very clear that we are heavily dependent on Social Security retirement funds by buy our bonds.

If you look at a graph in front of you, if I had one here, it would show a gradual increasing number of people retiring on Social Security, and then in the year 2010 it goes up very dramatically. At that point, Mr. President, Congress and the President have three choices to make.

Mr. President, could I have 1 additional minute?

Mr. NICKLES. I yield the Senator 1 additional minute.

Mr. SIMON. Mr. President, we face at that point three choices.

First, we can dramatically cut back on Social Security retirement, and you and I know that is not politically doable.

Second, we can dramatically increase taxes, and you and I know that is not politically doable.

Or third, we can print more money. That is the politically easy way out.

That, I say to my friends, is where we are headed. That is the reason that what economists call real interest rates in this country are near or at an alltime high, because, as Lester Thurow points out in his book, financial markets increasingly think we are headed down that path.

I believe there is only one way to prevent us from heading down that path and that is a constitutional amendment, and I am going to stick with my friend from Oklahoma in his amendment, and I am going to vote with him to reject the other amendments.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to thank my colleague from Illinois for his statement and also for his leadership, and I appreciate his courage and conviction on this issue.

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

The PRESIDING OFFICER. The Senator has 40 minutes and 41 seconds remaining.

Mr. NICKLES. Mr. President, I ask unanimous consent for an additional hour.

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

Mr. NICKLES. Mr. President, the Senator from South Carolina is here and he requests 12 minutes on the amendment.

Mr. THURMOND. Yes.

Mr. NICKLES. Mr. President, I yield the Senator from South Carolina 12 minutes.

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

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that Sharon Slaughter of my Judiciary Committee staff be accorded the privilege of the floor during consideration of the amendments to the GSE bill concerning a balanced budget amendment to the Constitution.

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

Mr. THURMOND. Mr. President, I rise today in support of the amendment being offered by Senators NICKLES, SEYMOUR, and GRAMM.

The amendment being offered would allow the American people to amend the Constitution to require the Federal Government to achieve and maintain a balanced budget.

The language for this proposal is identical to the balanced budget amendment language which was agreed to by the principle supporters in the Senate and House. A similar proposal was overwhelmingly adopted by the Judiciary Committee on May 23, 1991. The report on this bill was submitted in early July of last year and the bill has been pending on the Senate Calendar since July 9, 1991. Also, recently the House failed by nine votes to adopt a balanced budget amendment.

Mr. President, I give this brief legislative history on our balanced budget amendment proposal to inform my colleagues why we believe it is now important to offer the balanced budget amendment to the pending business before the Senate.

Our opportunities are numbered for having a balanced budget amendment considered by the full Senate during this final session of the 102d Congress. If the Senate adopts this measure now the House would then be obligated under its rules to consider this measure once again. I firmly believe that adoption of this proposal by the full Senate will motivate enough House Members to provide the necessary two-thirds vote for its final passage.

This proposed amendment is similar to a joint resolution which the Judiciary Committee approved by an 11 to 3 vote in July 1990. Also, in 1982 while chairman of the Senate Judiciary Committee, I authored a constitutional amendment to mandate a balanced budget. This amendment was passed by the committee and brought to the full Senate which also adopted it that year. It then went to the House of Representatives where the Speaker and majority leader led the effort to defeat it. Evidently they were not ready to curtail excessive Government spending.

Again, in 1986, another constitutional amendment which I sponsored was approved by the Judiciary Committee but lacked only one vote from passing the full Senate.

The amendment being offered today calls for a constitutional amendment which requires that Federal outlays not exceed receipts during any fiscal year. Also, the Congress would be allowed by three-fifths vote to adopt a specific level of deficit spending and could only increase the public debt by a three-fifths vote. 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.

Mr. President, our Constitution has been amended only 27 times in our Nation's history. Amending the great document which governs the United States of America is a most serious matter and of such earnest concern that it has been reserved to protect the fundamental rights of our citizens or to protect our system of government.

For over half a century, the Federal Government has adhered to an abnormal fiscal policy which has fostered an irrational and irresponsible pattern of spending which I believe threatens the future of this Nation. The balanced budget amendment is needed to protect the fundamental rights of American citizens and to ensure the survival of our system of government. The Federal Government has become entrenched and wedded to a fiscal policy which jeopardizes our democratic form of government.

As of June 1, 1992, the Federal debt was $3.9 trillion. Per capita, the Federal debt is over $15,500. That is to say that it would take over $15,500 from every man, woman, and child in America to pay off the public debt. Another startling statistic comes from the estimate that it will take 40 percent of all personal income tax receipts to pay the interest on the debt for fiscal year 1991.

For fiscal year 1991, the payment of interest on the Federal debt accounts for 15 percent of the entire budget. Discounting entitlement programs, it is now the second largest item in the budget. Between 1975 and 1990, net interest on the debt has grown almost 700 percent.

The tax dollars that go to pay interest on the debt are purely to service a voracious congressional appetite for spending. Payment of interest on the debt does not build roads, it does not fund medical research, it does not provide educational opportunities, it does not provide job opportunities, and it does not speak well for the Federal Government. Payment of interest on the debt merely allows the Federal Government to continue to carry a debt which has been growing at an alarming rate and, as I stated earlier, is currently $3.9 trillion.

Mr. President, deficit spending by the Congress has brought us to economic stagnation. Congress has balanced the Federal budget only once in the last 31 years. During my 3½ decades in the Senate, I have been amazed and deeply concerned over the continued growth of Government spending.

Federal spending continues to eclipse receipts of the Government and this will only exacerbate the deficit problem. The recent deficit reduction package agreed to by the Congress is well intentioned but beyond its objective goal we must take a serious step to ensure fiscal responsibility. A balanced budget amendment as part of the Constitution will mandate the Congress to adopt and adhere to a responsible fiscal policy.

The budget deficit for fiscal year 1991 was $268 billion. This is an increase from the deficit of 1990 which was $220 billion and the deficit is projected to grow this year to $399 billion. I find these figures distressing 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 introduced a balanced budget amendment to force the Congress to follow a commonsense rule of fiscal responsibility.

Some of our colleagues who are opposed to a balanced budget amendment suggest that congressional restraint in spending is the proper course to reduce the deficit. I certainly 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.

For example it is estimated that for fiscal year 1991, the receipts of the Federal Government will rise 5.8 percent from the previous year while government spending for 1991 will rise over 12 percent from the previous year. Federal spending for 1991 will probably increase over $100 billion from 1990.

Mr. President, the American businessmen and businesswomen have become incredulous as they witness year in and year out the spending habits of the Congress. Anyone who runs a business clearly understands that they cannot survive by continuing to spend more money than they take in. It is time the Congress understands this simple yet compelling principle.

The balanced budget amendment which is being offered today has the support of many of our colleagues in the Congress, a Congress which holds widely varying political views. Its supporters share an unyielding commitment to restoring sanity to a spending process which is out of control and hurling our Nation headlong toward economic disaster.

For many years, I have believed, as have many Members of Congress, that the way to reverse this misguided direction of the Federal Government's fiscal policy is by amending the Constitution to mandate, except in extraordinary circumstances, balanced Federal budgets. The Congress should adopt this proposal and send it to the American people for ratification. The balanced budget amendment is a much needed addition to the Constitution and it would establish balanced budgets as a fiscal norm, rather than a fiscal abnormality.

Mr. President, the tax burdens which today's deficits will place on future generations of American workers is staggering. Who are the future generations of American workers? They are our children and our children's children. We are 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.

For far too long, without accountability, the Congress has been spending the hard-earned dollars of American taxpayers. It is time we show fiscal discipline and adopt a balanced budget amendment.

Mr. President, it is unfortunate that we must now offer our balanced budget amendment to the pending legislation but we are no less resolved in our determination to see it adopted.

It is incumbent upon this Congress to reverse the fiscal course of the Federal Government, and I believe that a constitutional amendment is the best way to do it. Congress must do its duty and adopt this rule of fiscal respectability and submit this proposal to the States for ratification. I urge my colleagues to support this amendment.

Mr. President, I see my good friend from Illinois, Senator PAUL SIMON, on the Senate floor. He has taken a great interest in this legislation and it has been a pleasure to work with on this important matter.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I wish to compliment our friend and colleague, Senator STROM THURMOND, because there is no question, no one in either body, the House or the Senate, has worked longer and harder for more years to pass a constitutional amendment to balance the budget.

The Senator from South Carolina was chairman of the Judiciary Committee both in 1982 and 1986 when it did pass. Again, I just wish to compliment my colleagues for his leadership on this issue for decades. I really hope and pray we will be successful in passing this amendment if for no other reason than his dedication and tireless effort on its behalf.

Mr. THURMOND. Mr. President, I thank the distinguished Senator for his kind words.

Mr. NICKLES. Mr. President, my colleague from Missouri, Senator DANFORTH, is seeking the floor. I yield him 12 minutes.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I support the balanced budget amendment with one condition and with one observation. The condition is that it is my understanding that this constitutional amendment does not put the judicial branch of Government into the business of deciding what taxes should be levied and what appropriations should be made. It is fundamental to the tradition of this country that the courts not get into the legislative functions of taxing and spending.

When Senator CRAIG, who has been one of the leaders in this constitutional amendment, was on the floor, he stated on the record that this amendment does not put the courts in the business of taxing and spending. I wish that the amendment were more express in taking that position. I wish that it would expressly say on its face that

nothing in the amendment empowers the courts to tax or spend. I would consider offering an amendment to say just that, if this amendment were in a parliamentary position in which it were amendable. It is not.

But it is my understanding, and it is the condition of my support for the amendment, that it be understood and interpreted not to empower the courts to tax or to make spending decisions.

My one observation is that this proposed amendment, if it were adopted and made part of the Constitution, would not be self-enforcing. To pass a balanced budget amendment does not accomplish a balanced budget. It is wonderful to make speeches about the importance of a balanced budget, but to pass a constitutional amendment saying that there must be a balanced budget does not create a balanced budget.

A balanced budget can only be created by an act of Congress, by acts of Congress, by congressional leadership, and by Presidential leadership. That is the only way we can get from a balanced budget amendment to the fact of a balanced budget. The amendment itself does not do that.

The amendment says in section 6, "The Congress shall enforce and implement this article by appropriate legislation." But the amendment does not tell us the details of the appropriate legislation by Congress.

So I think it is important for those of us who are elected officials and those who aspire to be elected officials to say how we would implement this constitutional amendment. I think we should do it before the State legislatures are asked to vote on ratification.

Yes, we can say in principle that we support a balanced budget. But how do we propose to accomplish a balanced budget? Every time we have an opportunity here in the Senate to give some hint as to what to do about the budget deficit, many of us—usually most of us—tend to run for cover.

For example, on April 10, Senator DOMENICI offered an amendment to the budget resolution. His amendment would have moved us to a balanced budget, not 5 years or 7 years from now, but 10 years from now, by a gradual program and a nonspecific program, I might say, for capping the growth of the entitlement programs. The majority leader offered an amendment to the Domenici amendment exempting disabled veterans and saying that he was going to follow up that vote, if necessary, with a series of other proposals to exempt various groups receiving entitlements. His proposal to exempt the disabled veterans carried by a vote of 66 to 28.

So we who are here in the U.S. Senate posturing about the importance of a balanced budget amendment, by a vote of 66 to 28 decided we do not want to do anything when it actually comes to a real vote on the issue of deficit reduction.

Then more recently, on June 17, 1992, we had before the Senate a sense-of-the-Senate resolution. The sense-of-the-Senate resolution basically said that there had been very little discussion among the Presidential candidates or congressional candidates about the problem of the budget deficit. We called on candidates, particularly candidates for President, to enter into a discussion about the budget deficit. Tell us, please, what you intend to do. Fess up; speak to the American people about the most important issue before our country. And we offered a vote on the floor. And the vote was 65 to 32 in favor of a simple sense-of-the-Senate resolution. Thirty-two Senators voted against it, many of whom are pushing very hard for a balanced budget amendment.

Why, Mr. President, did 32 Members of the U.S. Senate vote against a sense-of-the-Senate resolution? I will tell you the reason. Because the sense-of-the-Senate resolution said, "The existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes."

Those are the words that led 32 Members of the Senate to say: "Oh, my gosh, we cannot vote for that. Any suggestion, any consideration of increasing taxes is so unpopular, we could lose our political skins. Any suggestion of controlling entitlement spending is so controversial, we could lose the next election. Far be it from us, even in a sense-of-the-Senate resolution, to suggest even consideration of tax increases or controlling the growth of entitlements."

That is the present state of affairs. We want to pass a non-self-executing budget amendment, a balanced budget amendment, which I support. But we do not want to tell people what to do about balancing the budget. We do not want to display our hand.

I voted for Senator DOMENICI's proposition back on April 10. I think controlling entitlements is absolutely necessary. I voted for the sense-of-the-Senate resolution which talked about the necessity of considering both entitlements and tax increases. It seems to this Senator everything should be on the table. But, if we cannot even admit consideration of the hard issues, then it really is a sham to talk about a balanced budget amendment.

I would say, Mr. President, 3 weeks ago six Members of the Senate appeared on the program "Nightline" to ask the Presidential nominees to appear on 1-hour programs to discuss what they intend to do about the budget deficit.

One of the candidates, Governor Clinton, has responded that he would be willing to participate in such a program. President Bush has not yet responded. Ross Perot, who presents himself as that great straight-shooter who tells the truth to the American people, ducked the issue, as we politicians are so deft at doing.

He proved to be just as good at professional politics as anybody else in worming his way out of an answer to the invitation. But the invitation is still out there. ABC will provide three 1-hour programs, one for each Presidential candidate, to be questioned by Senators RUDMAN and CONRAD, both leaving the Senate, having said that they are fed up with not being able to deal with the budget deficit. ABC has said that it will provide such programs, three 1-hour time periods, and the invitations are out there.

I believe that the American people, before this election, should be told what the Presidential nominees intend to do about the budget. And I believe the American people should be told what Members of the Congress intend to do about the budget, before they are presented with a balanced budget amendment.

So, Mr. President, let us pass the balanced budget amendment. I hope we do. But let us also give the American people some straight talk about the real issues that are before this country.

This problem is not going to be solved by simply popular comments or broad generalities. This is a very, very difficult situation. And it is time for us to have the boldness to tell the American people the truth.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Oklahoma [Mr. NICKLES].

Mr. NICKLES. Mr. President, I wish to compliment my friend and colleague, Senator DANFORTH from Missouri, for his conviction on this issue. I have had the pleasure of listening to him speak and lead on this issue. He happens to be one has courage and is willing to take some of the tough votes. I compliment him for his excellent statement.

Mr. President, now on the floor is Senator KASTEN from Wisconsin, who has been a real leader in trying to pass this amendment, and also to strengthen this amendment. I compliment him for his efforts.

The Senator requested how much time?

Mr. KASTEN. Eight minutes.

Mr. NICKLES. I will be happy to yield to my friend and colleague 8 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, later today or early tomorrow, on behalf of myself and Senators BROWN, LOTT, COATS, SYMMS, BURNS, SMITH, HELMS, D'AMATO, SPECTER, MACK, GARN, MURKOWSKI, MCCAIN, PRESSLER, ROTH, SEYMOUR, NICKLES, GRASSLEY, DOLE, GRAMM, MCCONNELL, WALLOP, SIMPSON,

and COCHRAN, I plan to offer a taxpayer protection clause to the proposed balanced budget amendment to the U.S. Constitution.

This taxpayer protection amendment would require a three-fifths supermajority vote to raise taxes beyond the rate of economic growth. It is supported by 48 citizen, business, and taxpayer organizations throughout the country. They range from the National Federation of Independent Business, to the American Farm Bureau, National Grange, the Seniors Coalition, the U.S. Chamber of Commerce, Citizens for a Sound Economy, the National Tax Limitation Committee, Citizens Against Government Waste, the National Cheese Institute, members of the Coalition for Fiscal Restraint, the National Cattleman's Association, and many more—48 different organizations in total. But that is an example of the broad spectrum of America that supports this amendment.

The amendment is also supported by the administration, and identical language received 200 votes in the House of Representatives. I ask unanimous consent that letters from numerous organizations and from the administration be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1.)

Mr. KASTEN. Mr. President, Thomas Jefferson observed that "The public debt is the greatest of dangers to be feared by a republican government." I might say that is a small "r" not a big "R," Mr. President. Our early leaders recognized the dangers of excessive debt and reckless spending by the Federal Government.

For the first 150 years of our republic Congress generally presided over balanced budgets or surplus budgets. Occasional deficits were generated in order to finance wars and weather economic emergencies.

Deficit spending increased significantly after 1932. But the real problem began in the 1960's, as Government began to grow at an enormous rate. In 1962, Federal spending was 19 percent of the Nation's wealth, today it has exploded to 25 percent.

But for the last 30 years, the Federal Government has completely refused to live within its means. It is no accident that our current problems coincide with an alarming growth in Government.

We have massive Federal budget deficits today for one primary reason: Congress' appetite for spending outpaced even the extremely swift revenue growth of the 1980's. We have been outpacing that growth every single time. And this trend continues. This year alone Federal spending will grow an alarming 11 percent.

The Federal Government is spending money faster today that it ever has before, and taxpayers can no longer keep up with the demand.

The Federal budget is out of control. The deficit this year is forecast to be the size of the entire Federal budget in 1976. And the interest payment on the accumulated debt will soon be the second largest item in the entire budget.

Since 1962, Congress has approved tax increases 56 times. How many times during that same period of time have we balanced the budget? Once. One balanced budget; 56 tax increases. This is because tax increases have always been followed by a disproportionate growth in spending. In fact, history shows that in recent years for every $1 that Congress increased taxes, it increased spending by $1.59.

So that is why we are getting further and further behind as we increase taxes, and we think it is going to work to balance out the budget. We raise taxes $1; we increase spending $1.59.

This is why a balanced budget amendment must contain a limit on Congress' ability to tax the wealth of America's families. Without a tax limitation amendment, I fear that Congress will continually raise taxes in order to finance a balanced budget at higher and higher levels of Government spending. The budget, in other words, will be balanced on the backs of taxpayers.

We could have a balanced budget at high levels of GNP, but an unbalanced economy with reduced incentives, less private sector activity, and fewer job opportunities.

Mr. President, America's families and small businesses are already overtaxed. Either we get spending under control once and for all—or we condemn the American economy to high taxes and slow growth for as far as the eye can see.

Before World War II, the average American worked a month in order to pay the taxes that Government required. Today, Americans must work well over four months out of every year to pay the tax bill.

We all know how Washington works. This town is full of lobbyists and special interest groups that will work to ensure that spending restraint is the last option on the list when Congress has to balance the budget. It will be all too easy to keep the special interests happy and blame the Constitution for inevitable tax increases.

It is time Congress began to pay more attention to an interest group we have ignored for far too long: The American taxpayer. This group includes farmers in Wisconsin, miners in West Virginia, steel workers in Pennslyvania, auto workers in Michigan, small business men and small business women all across this country who have this broad coalition of people who are out there, and it is the taxpayers who deserve representation.

I want to make it tougher for Congress to raise taxes. I want to ensure that when we sit down to balance the budget, spending restraint is at the top of the list, and tax increases are at the bottom.

A taxpayer protection amendment would be particularly important if Governor Clinton were elected President. Clinton is already proposing massive new taxes. Higher income taxes, higher payroll taxes, higher taxes on social security benefits, higher corporate taxes which are ultimately paid by consumers. While the Democrats like to claim that these tax increases will only be on the rich. Most of the revenue will in fact come from the unincorporated small businesses of America. Nine out of ten small businesses pay taxes on the individual tax system. These are the very businesses that our economy has relied on to create new jobs.

Mr. Clinton's tax hikes are very similar to the tax hikes proposed in March by the Democrats. The Treasury Department calculated that 89 percent of the revenue from those so-called tax hikes on the rich would have in fact come from the unincorporated small businesses of America.

The people of Wisconsin are tired of Congress repeatedly raising their taxes, only to increase spending and produce even greater deficits. In 1990, the so-called budget summit deal imposed one of the largest tax increases in history. And what was the result? Tax revenues dramatically fell. They did not go up; tax revenues fell, and the deficit went up instead of down.

When the agreement was enacted 18 months ago the deficit for 1992 was supposed to be $229 billion; it will in fact be over $350 billion. Tax revenues for the full 5 years under the agreement will be $500 billion lower than forecast prior to the tax increase. In this case, for every $1 in tax increases, the Government has lost $3 in revenues due to the recession.

The American people know something that many in Washington have never discovered. Tax increases will not balance the budget. They will depress our economy, put small businesses out of business, and destroy millions of jobs.

My taxpayer protection amendment simply requires the same 3/5ths vote for tax increases as the amendment requires for Congress to run a deficit. Without this parity, Congress will find it all to easy to continue its spending binge and then at the end of the year when outlays exceed receipts simply raise taxes and blame it on the Constitution.

The difference between the two versions of a balanced budget amendment are very clear: the Kasten version would encourage spending restraint as the means of balancing the budget, the alternative version would make it all too easy to enact tax increases as the means of balancing the budget.

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 about.

Once Congress passes a balanced budget amendment, we must immediately enact a 5-year plan to control the growth of Federal spending. This plan will put us on the road to a balanced budget.

In order for this plan to be successful, it must be accompanied by a vigorous progrowth tax agenda. Economic growth and job creation should be our highest priority. Without a growing economy, a balanced budget will continue to elude us.

As I stated earlier, in the high-growth period between 1983 and 1989, the deficit fell dramatically as a share of GDP. The high-tax, recessionary policies of the past 3 years have pushed the deficit up to record levels.

It is time to break out of static thinking—and start looking at these problems in dynamic ways. If economic growth is just 1 percentage point higher than forecast, that amounts to $258 billion in deficit reduction over 5 years.

This is why a progrowth economic agenda is so critical. We must cut the capital gains tax, improve the tax treatment of capital equipment, restore individual retirement accounts, enact enterprise zone legislation, and cut taxes on families.

Inside the Beltway, they 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.

Mr. President, each of us knows that it is wrong for Congress to continue to borrow from future generations.

Congress is avoiding the tough decisions and passing an increasing portion of the burden of government on to our children. And those children have no say whatsoever in the process.

EXHIBIT 1

ORGANIZATIONS SUPPORTING A BALANCED BUDGET/TAX LIMITATION AMENDMENT (KASTEN VERSION, S.J. RES. 182)

U.S. Chamber of Commerce.
National Federation of Independent Business.
National Tax Limitation Committee.
Coalition for Fiscal Restraint.
Citizens for a Sound Economy.
American Farm Bureau Federation.
National Cattleman's Association.
Americans for Tax Reform.
U.S. Business and Industrial Council.
American Legislative Exchange Council.
Consumer Alert Advocate.
Seniors Coalition.
Americans for a Balanced Budget.
American Rental Association.
Amway Corporation.
Automotive Service Association.
Baroid Corporation.
Council for Citizens Against Government Waste.
Citizens Against a National Sales Tax/VAT.
CNP Action, Inc.
International Ice Cream Association.
Koch Industries.
Marriott Corporation.
Milk Industry Foundation.
National American Wholesale Grocers' Association.
National Association of Charterboat Operators.
National Association of Convenience Stores.
National Association of Manufacturers.
National Cheese Institute.
National Food Brokers Association National Grange.
National Independent Dairy-Foods Association.
New England Machinery, Inc.
Sybra Corporation.
Truck Renting and Leasing Association.
United States Federation of Small Businesses.
Valdi Inc.
Associated Builders and Contractors.
Competitive Enterprise Institute.
Irrigation Association.
National Taxpayer Union.
American Furniture Manufacturers Association.
Commercial Weather Service Association.
Committee for Private Offshore Rescue and Towing.
Consumer Alert Advocate.
Dairy and Food Industries Supply Association.
FMC Corporation.
Helicopter Association International.
National Grange.

STATE OF WISCONSIN,
Madison, WI, May 12, 1992.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, Senate Hart Building,
Washington, DC.

DEAR SENATOR KASTEN: I would like to take this opportunity to express my support for your Balanced Budget/Tax Limitation amendment (S.J. Resolution 182).

It is vital to the economic health of our nation that the federal government follows the lead of states like Wisconsin and begins balancing its budget. Your proposal offers the best solution on how to accomplish this.

Unlike a similar proposal offered by Senator Paul Simon (D-Illinois), your version calls for a balanced budget without giving Congress an excuse to raise taxes.

By requiring a three-fifths vote of both houses in Congress in order to allow deficit spending and raise taxes, your amendment requires Congress to exercise fiscal restraint when voting on federal budgets.

Our national debt is approaching $4 trillion. It is imperative that we stop this outrageous growth in federal spending and start taking responsibility for actions that could severely harm the future of this country. Your amendment is a step in the right direction.

I strongly endorse the Kasten version of the balance budget amendment.

Sincerely,

TOMMY G. THOMPSON,
Governor.

RESTAURANT ASSOCIATION,
Madison, WI, May 28, 1992.

Subject: Wisconsin Restaurant Association Support for Senate Joint Resolution 182.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate,
Washington DC.

DEAR SENATOR KASTEN: The 6,000 members of the Wisconsin Restaurant Association have long supported the concept of balancing the federal budget. However, we are alarmed by Senator Simon's efforts to pass a balanced budget amendment, S.J. RES. 18. It is obvious that if such an amendment were passed with the present make-up of Congress, the budget would undoubtedly be balanced through increased taxes. Small business and their employees are already burdened by overly oppressive state and federal taxes.

The Senator Kasten approach embodied in S.J. Resolution 182 answers the concerns of the members and employees of the Wisconsin Restaurant Association. It makes it more difficult to increase taxes as a means of balancing the budget and encourages spending restraint as the main vehicle. Senator Kasten we applaud you once again for bringing reason into the political process.

If a balanced budget amendment were ratified without encouraging spending restraint, the public (which supports balancing the federal budget) would feel betrayed as they saw their taxes escalate out of sight at all levels of government as a result.

Thank you very much for taking a lead on this issue.

Sincerely,

ED LUMP,
Executive Vice President.

WISCONSIN FARM BUREAU FEDERATION,
Madison, WI, June 11, 1992.

Hon. ROBERT KASTEN,
Hart Office Building,
Washington, DC.

DEAR SENATOR KASTEN: I would like to express my support for your Balanced Budget/Tax Limitation amendment (S.J. Res. 182). Your active involvement in trying to pass this vital legislation in the past has been appreciated.

Farm Bureau has recognized the need for a constitutional amendment to balance the federal budget for more than two decades. Because of Congress' inability to enact meaningful and effective deficit reduction legislation, it is clear the balanced budget amendment is sorely needed.

Agriculture is willing to work with Congress and the administration to reduce all federal spending. Farmers have already contributed greatly to deficit reduction over the last five years, reducing outlays by half. If other programs would undergo similar budget scrutiny, it would be possible to reduce and hopefully eliminate our federal deficit.

Cutting federal spending and eliminating our budget deficit is the quickest way to restore America's and agriculture's financial integrity.

Sincerely,

HOWARD (DAN) POULSON,
President.

WISCONSIN MANUFACTURERS & COMMERCE,
Madison, WI, June 11, 1992.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, Senate Hart Building,
Washington, DC.

DEAR SENATOR KASTEN: Wisconsin Manufacturers and Commerce strongly supports your Balanced Budget/Tax Limitation Amendment, S.J.Res. 182.

As Wisconsin's largest business association, we are acutely aware of the effects a heavy debt can have on a business's bottom line. Government must follow the lead of business and shed the heavy debt load that it has forced upon itself. The first step is to balance its budget.

By requiring a three-fifths vote of both houses in Congress in order to allow deficit

spending and raise taxes, your amendment requires Congress to exercise fiscal restraint when voting on federal budgets. The intended result is a balanced budget.

It is imperative that we stop the outragious growth in federal spending and start taking responsibility for actions that could severely harm the future of this country. Your amendment is a step in the right direction and therefore we heartily support your efforts.

Sincerely,

NICK GEORGE, Jr.,
Director of Legislative Relations.

METROPOLITAN MILWAUKEE
ASSOCIATION OF COMMERCE,
Milwaukee, WI, June 10, 1992.

Hon. ROBERT W. KASTEN, Jr.,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: I am writing to express the support of the Metropolitan Milwaukee Association of Commerce for your Balanced Budget/Tax Limitation Amendment, S.J.Res. 182.

In survey after survey, our members have told us that balancing the federal budget and reducing the deficit are top priorities. The economic growth of this country depends on our ability to live within our means. That means a balanced budget—without raising taxes!

Our national debt is approaching $4 trillion. This year's budget deficit will be $400 billion. We need a tough balanced budget amendment to curb the congressional appetite for further spending growth.

A number of balanced budget proposals have been submitted. However, it is vital that an amendment be passed which encourages spending restraint, not a tax increase, as the means of balancing the budget. Your amendment does this.

Thank you for your efforts to keep spending and taxation under control in this country. If there is anything we can do to assist your efforts to pass this resolution, please contact me.

Sincerely,

JOHN DUNCAN, CCE,
President.

FOXCITIES CHAMBER OF
COMMERCE & INDUSTRY,
Appleton, WI, May 27, 1992.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR KASTEN: Please find attached a copy of the position statement adopted by the Fox Cities Chamber of Commerce and Industry at their May 27th Board meeting.

Time and time again, Congress has demonstrated an inability to come to terms with either living within their (our) means on an annual basis or effectively reducing the national debt.

As unappealing as a Constitutional Amendment mandating fiscal responsibility may seem initially, it is quite evident that there is no real alternative.

The Chamber supports S.J. Res. 192, a Balanced Budget/Tax Limitation Amendment, and encourages you to continue your efforts in this regard.

Warmest regards,

WILLIAM J. WELCH,
President.

FOXCITIES CHAMBER OF
COMMERCE & INDUSTRY,
Appleton, WI.

BALANCED FEDERAL BUDGET AMENDMENT

THE PROBLEM

The Federal Government spends more than it "earns." That is not only possible, it may be necessary in times of extraordinary national need. However, it must not, indeed it can not, continue indefinitely.

The U.S. economy is being ravaged by interest payments on a national debt that consume 25 cents on the dollar. Without changes in fiscal and regulatory policies, there is little chance that this cataclysmic trend can be reversed. As a result of mistaken economic policies during the 18 months prior to the onset of the recession, the U.S. Chamber of Commerce projected that the average "cost" *per month* of continuing current economic policies between now and the end of 1992 would be:

Increased Unemployment Rate, 0.1 percent.
Number of Jobs Lost, 170,000.
Lost Output, $15 billion.
Rise in Budget Deficit, $5 billion.
Decline in Family Income, $204.
People Added to Poverty, 225,000.

The United States is in the throes of the worst three-year economic period encompassing a recession since the 1930's with consumer confidence at an 18-year low.

Despite the record tax increase and promised spending restraint of the 1990 "deficit reduction" agreement, the federal deficit will reach a record $400 billion in the current fiscal year. Entitlement and other mandatory spending continue to grow uncontrolled and now account for over half of the total budget.

THE POSITION

The answer is not increased taxation. The federal government has demonstrated its inability to control spending by spending $1.50 for every new tax dollar collected. The answer is clearly on the expenditure side of the ledger, therefore.

The Fox Cities Chamber of Commerce & Industry supports S.J. Res. 192, a Balanced Budget/Tax Limitation Amendment which would require a supermajority vote (three-fifths) of both Houses of Congress in order for outlays to exceed receipts. The same supermajority vote would be required for tax revenues to grow at a rate greater than the rate of growth in national income.

The Fox Cities Chamber's endorsement of S.J. Res. 192 is made with the understanding that the federal government will not attempt to circumvent the resolution's intent by either increasing government regulation as a substitute for increasing taxation or by moving selected items "off budget." This country's future and that of our children depends on Congress' swift enactment of this vital piece of legislation.

INDEPENDENT BUSINESS ASSOCIATION
OF WISCONSIN,
Madison, WI, May 19, 1992.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: The Independent Business Association of Wisconsin supports your efforts to cure what we consider to be the largest problem ever faced by our great nation—the annual Federal Government deficits which are growing at an alarming rate. Your proposed Balanced Budget/Tax Limitation Amendment is an outstanding measure to address the issue.

The current budget is over $1.4 trillion, and $400 billion, or 29%, will be financed with borrowing. This deficit, added to our previous borrowings, will mean the United States of America will have a national debt approaching $4 trillion. This is outrageous, however, it doesn't tell the whole story.

This year gross interest on the national debt will, for the first time, exceed the amount spent on Social Security benefits. Next year gross interest will be higher than the defense budget. Annual deficits will only get larger because of interest costs. Furthermore, in the next five years, entitlement programs are projected to grow by 8.1% annually for a five year cumulative increase of $800 billion. As a result, the share of the Federal budget consumed by direct payments to individuals—Social Security, Medicare, Federal and Veterans pensions, etc., will increase from 49% to over 60% in 1997. Consequently, larger entitlement expenses and greater interest costs will increase the annual deficit to $700 or $800 billion by the end of the decade. As you correctly point out, we can't let this happen or we're going to destroy this nation. We simply won't be able to continue borrowing money as the rest of the world will lose confidence in our ability to control financial affairs.

During my recent trip to Washington, I was pleased to learn many of your colleagues also believe we need a balanced budget amendment. Between the two balanced budget proposals being offered for consideration, yours has the most merit because it has real teeth. It would require a three-fifths super majority of Congress to deficit spend as would the other proposal. But yours also requires a three-fifths vote to increase taxes above the rate of economic growth. In short, your proposal addresses the real problem—spending.

We join your 21 Senate co-sponsors and your broad-based coalition of small business, farm and taxpayer organizations in support of S.J. Res. 182. We independent business people must run our businesses on a prudent fiscal basis, so we encourage your efforts to bring sense back to Federal Government spending.

Since the Balanced Budget/Tax Limitation Amendment will take time to enact, we applaud your other efforts to slow spending. Using savings from reductions in defense spending to reduce total government expenditures, adopting an across-the-board budget freeze on domestic and international discretionary spending, and granting the President line item veto authority all make eminent sense. We encourage you to continue pursuing these items.

Senator Kasten, thank you for your tireless efforts to resolve the greatest of problems. We independent business people know that controlling government spending will allow us to remain competitive, not only in this country but in others as well.

Sincerely,

WILLIAM N. GODFREY,
President.

WISCONSIN BUILDERS ASSOCIATION,
Madison, WI, May 20, 1992.

Hon. ROBERT KASTEN,
U.S. Senate, Hart Senate Office Building Washington, DC.

DEAR SENATOR KASTEN: On behalf of the 4600 member firms of the Wisconsin Builders Association, we are writing to express our strong support for Senate Joint Resolution 182, the Balanced Budget/Tax Limitation Amendment.

WBA members feel that this type of fundamental action is long overdue and critical to the long-term economic health of our na-

tion. Constitutional constraints may be the only realistic way to rein in the runaway federal spending that leads to annual massive budget deficits.

In particular, we support the provisions in S.J. Res. 182 that would require a three-fifths "supermajority" to deficit spend and raise taxes in excess of the level of economic growth. Our members agree that this element is needed to prevent future budget balancing on the backs of the taxpayers.

We applaud your introduction of Senate Joint Resolution 182 and we are hopeful that Congress will act quickly to adopt this important proposal.

Sincerely,

STEPHEN J. SCHOEN,
WBA President.
GERALD J. DIEMER,
WBA Executive Vice-President.

[Office of Management and Budget]

A BALANCED BUDGET CONSTITUTIONAL AMENDMENT

(Testimony presented to the House Committee on the Budget by Richard Darman, Director, Office of Management and Budget, May 6, 1992)

THE PRESIDENT'S COMMITMENT

President Bush has proposed a balanced budget constitutional amendment in all three of the Budgets he has submitted to the Congress—but without a favorable Congressional response to date.

Even before submitting a full budget—shortly after being inaugurated—the President proposed that the Congress adopt a balanced budget constitutional amendment. This was his first specific legislative proposal (in Building a Better America). In doing so, he noted the following:

"Balanced Budget Constitutional Amendment. The most fundamental change needed is a constitutional amendment to require a balanced budget, including safeguards against a resort to higher taxes as the means of complying with the constitutional mandate. For most of our history until very recent decades there was an unwritten, but effective, rule against deficit financing, except in time of war. That rule, unfortunately, appears to have been abandoned in practice, if not in oratory. The problem of excessive spending—and spending that exceeds revenue—is a well-known and chronic affliction of democracies. The remedy in the case of the United States is clear: a change in the constitution. A balanced budget amendment is both necessary and appropriate to protect the interests of a group of citizens not now able to represent themselves; the citizens of future generations. Such an amendment has already passed the Senate on one occasion, and public support for it is shown in a variety of ways, ranging from opinion polls to enactment by more than 30 state legislatures of calls for a constitutional convention for this purpose. The time has come to move a balanced budget constitutional amendment forward."—Building a Better America, February 9, 1989.

THE SOLUTION

In order to reduce the deficit and balance the budget, three basic elements are essential. They comprise a set—in that the elements reinforce each other:

(1) The Congress should enact the President's Comprehensive Agenda for Growth. This was proposed in January, and still awaits Congressional action.

(2) The Congress should enact a balanced budget constitutional amendment. Such an amendment should require a supermajority vote for any tax increase—in order to prevent counterproductive action from the standpoint of economic growth.

(3) The Congress should enact some variation of the President's proposed cap on the growth of mandatory programs.

COALITION FOR FISCAL RESTRAINT,
May 6, 1992.

OPEN LETTER TO MEMBERS OF THE UNITED STATES SENATE

The undersigned members of the Coalition for Fiscal Restraint (COFIRE) understand that later this month the Senate may take up the subject of an amendment to the Constitution which would require a balanced federal budget.

As a result, we are writing to indicate our support for the balanced budget/tax limitation amendment (S.J. Res. 182) which will be offered by Senator Kasten.

To contain spending growth, the Kasten resolution would require a three-fifths vote in both houses of Congress in order to permit federal outlays to exceed receipts but with an escape clause in the event of a declaration of war.

In addition, it would require the same super-majority vote in both houses in order to increase taxes at a rate greater than the rate of increase in national income.

Continued growth of a national debt approaching $4 trillion caused by massive deficit spending is not only a threat to the nation's present and future economic strength but a legacy for future generations of debt unworthy of a responsible society.

For these reasons, we join together in this endorsement of S.J. Res. 182 when it comes before the Senate.

American Farm Bureau Federation.
American Furniture Manufacturers Association.
American Legislative Exchange Council.
American Rental Association.
Americans for Tax Reform.
Amway Corporation.
Automotive Service Association.
Baroid Corporation.
Chamber of Commerce of the United States.
Citizens Against Government Waste.
Citizens Against a National Sales Tax/VAT.
Citizens for a Sound Economy.
CNP Action, Inc.
Commercial Weather Services Association.
Committee for Private Offshore Rescue and Towing.
Consumer Alert Advocate.
Dairy and Food Industries Supply Association.
FMC Corporation.
Helicopter Association International.
International Ice Cream Association.
Koch Industries.
Marriott Corporation.
Milk Industry Foundation.
National-American Wholesale Grocers' Association.
National Association of Charterboat Operators.
National Association of Convenience Stores.
National Association of Manufacturers.
National Cattlemen's Association.
National Cheese Institute.
National Food Brokers Association.
National Grange.
National Independent Dairy-Foods Association.
National Tax Limitation Committee.
New England Machinery, Inc.
The Seniors Coalition.
Sybra Corporation.
Truck Renting and Leasing Association.
United States Business and Industrial Council.
United States Federation of Small Businesses.
Valhi, Inc.

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, September 3, 1991.

Hon. ROBERT KASTEN, Jr.,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: On behalf of the 250,000 members of Citizens for a Sound Economy (CSE), I am writing to thank you for your sponsorship of S.J. Res. 182, the Balanced Budget/Tax Limitation Amendment legislation.

We applaud your efforts because S.J. Res. 182 requires a three-fifths super-majority vote to authorize a deficit. Even more importantly, it requires that Congress muster an equivalent super-majority to increase federal receipts at a rate faster than growth in national income. If this proposal becomes law, Congress will find it harder to use higher taxes to balance the budget.

The Balanced Budget/Tax Limitation Amendment recognizes the record-high tax burden in the United States. This year Tax Freedom Day, the date on which the average American stops working to pay taxes and starts working for himself, fell on May 8, the latest date in American history. The tax limitation component of this legislation limits Congress's ability to push Tax Freedom Day to an even later date next year.

CSE hopes Congress passes a balanced budget amendment with strong tax limitation provisions, and we look forward to working with you to make that dream a reality.

Sincerely,

PAUL BECKNER,
President.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, May 5, 1992.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I understand that your Administration will soon be testifying on the issue of attaching a balanced budget amendment to the Constitution. I wanted to let you know how the small business community views this issue.

In April, the National Federal of Independent Business (NFIB) conducted an informal poll of our membership on the balanced budget amendment issue. They strongly support a balanced budget amendment which includes tax limitation language. Small business owners are very concerned that without the Kasten/Barton tax limitation language, Congress will balance the budget on the backs of small businesses. It is important that your Administration take a position in strong support of the Kasten/Barton tax limitation language.

Over the last decade, NFIB members have repeatedly expressed their concern over the inability of the federal government to live within its means. Their concern over the budget deficit was made extremely clear during a poll we did in January of this year. When NFIB members were asked whether Congress should cut taxes or focus on reducing the deficit, 72% responded that Congress should focus on reducing the deficit.

The federal deficit is severely impairing our competitiveness and limiting our ability

to respond to economic downturns. In prior recessions, the federal government has been able to boost its spending to soften the blow of a recession. Unfortunately, it is hard to boost spending when we are already spending $400 billion more than we have.

Purely legislative attempts to curb federal spending have failed miserably. The federal deficit has continued to skyrocket. Interest payments on the national debt now exceed what we pay for national defense.

The federal deficit is not a result of too little taxation. The deficit is a result of federal spending that is out of control. Tax limitation language forces both Congress and the Administration to make the tough spending choices that have been repeatedly put off for the last decade.

I urge you to strongly support the Kasten/Barton version of the balanced budget amendment.

Sincerely,

S. JACKSON FARIS,
President and CEO.

AMERICANS FOR TAX REFORM,
Washington, May 13, 1992.

Hon. BOB KASTEN,
U.S. Senate, Washington, DC.

DEAR SENATOR KASTEN: The Senate will soon vote on the proposed balanced budget amendment to the United States Constitution.

The proposal offered by Senator Paul Simon (D-IL) contains no provision for spending limitation and has no strong, supermajority tax limitation element.

In the May 13 Washington Post, Congressman Charlie Stenholm (D-TX), the principal sponsor of the House companion to the Simon bill, is quoted proposing as the mechanism for bringing the budget into balance a $1 tax increase for every $2 dollars of spending reductions.

Without accounting for the anti-growth elements of this approach, Stenholm is proposing a $150 billion tax increase. This would be a violation of the Taxpayer Protection Pledge you made to the people of your state and to all American taxpayers.

In fact, the Simon-Stenholm approach to a balanced budget amendment is a virtual guarantor of regular tax increases on the American people—all of which would violate your pledge.

I strongly urge you to oppose the Simon-Stenholm approach and to support, instead the Kasten approach which includes strong tax limitation and which fits within the parameters of the Taxpayer Protection Pledge.

I strongly urge you to vote for and to cosponsor the Kasten amendment.

Sincerely,

GROVER NORQUIST.

U.S. CHAMBER OF COMMERCE,
Washington, DC, May 15, 1992.

Hon. ROBERT KASTEN, Jr.,
U.S. Senate, Washington, DC.

DEAR BOB: On May 13, it was reported widely in the press that some supporters of Senator Paul Simon's balanced budget proposal (S.J. Res. 18) are seriously considering an automatic enforcement provision that would require $1 in new tax increases for every $2 in spending cuts to reduce the deficit. Some members are promoting a variation of this idea that would provide for a 50-50 mix of spending cuts and tax increases.

Employing optimistic growth assumptions, the Congressional Budget Office estimates that the federal budget deficit will average $288 billion annually between 1992 and 2002. Assuming an average annual deficit of $300 billion and a five-year cumulative deficit of $1.5 trillion, the enforcement proposals suggested above would guarantee a 5-year tax increase between $500 billion ($1,500 billion .333) and $750 billion ($1,500 billion .5). A tax increase of this magnitude would dwarf the $160 billion tax increase of 1990, which was the largest ever, and would crush the economy.

The Chamber opposes any enforcement provision that would automatically produce a tax increase.

In light of these recent developments, I wanted to share the enclosed information with you. Enclosed are the results of the "Where I Stand Poll," by Nation's Business Magazine. This poll is not like many radio and television polls which are based on the responses of a few hundred participants. These "Where I Stand" results represent the opinions of 3,795 small business respondents to a nationwide poll. If you are interested in what small business thinks about balanced budget amendments and tax limitation proposals, this poll is revealing. By more than two to one, small business respondents do not favor a balanced budget amendment without strong tax limitation.

The results of the poll are unambiguous. The small business community respondents favor a balanced budget amendment only if it is coupled with a strong tax/spending limitation provision. Otherwise, they fear a balanced budget amendment means automatic tax increases. Talk of up to $750 billion of tax increases in connection with the balanced budget amendment heightens this fear among small business people and tends to confirm their belief that Congress will not make the difficult spending choices unless constrained to do so by the Constitution itself. On behalf of the 195,000 members of the U.S. Chamber of Commerce Federation, we strongly urge you to support a balanced budget amendment that includes tax or spending limitations rather than using the growing support for a balanced budget amendment as an excuse to raise taxes once again.

Sincerely,

RICHARD L. LESHER,
President.

MAY "WHERE I STAND" POLL BY NATION'S BUSINESS ON A BALANCED BUDGET

1. Should the U.S. Constitution be amended to require the president and Congress to balance the annual federal budget?

	Percent
Yes	96
No	2
Undecided	2

2. If you answered "yes" to No. 1, do you think the budget should be balanced primarily by spending restraint, tax increases, or both?

	Percent
Spending restraint	81
Tax increase	1
Both	18

3. Should a balanced-budget amendment include a strong limit (such as a requirement for a 60 percent majority vote of both houses of Congress) on Congress' ability to raise taxes?

	Percent
Yes	91
No	6
Undecided	3

4. Would you favor a balanced budget amendment that does not include a strong limit on Congress' ability to raise taxes?

	Percent
Yes	19
No	70
Undecided	11

Company size:

	Percent
1 to 10	34
11 to 25	23
26 to 99	24
100 to 249	9
250 to 499	3
500 plus	7

Based on 3,795 respondents.

NOTE: The results of the Where I Stand poll reflect only the opinons of the respondents and do not necessarily reflect the policy of the U.S. Chamber of Commerce.

CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, April 20, 1992.

DEAR SENATOR: On behalf of the Council for Citizens Against Government Waste (CCAGW), I am writing in reference to balanced budget amendment proposals which may soon be up for consideration in the Senate.

CCAGW strongly urges you to add your name to the cosponsor list and to vote for S.J. Res. 182, the Balanced Budget/Tax Limitation Amendment which will be offered by Senator Robert Kasten (R-WI). The Kasten amendment would balance the budget by limiting the growth of government spending, rather than increasing taxes.

The alternative, S.J. Res. 18, to be offered by Senator Paul Simon (D-IL), does not contain a tax limitation provision. CCAGW does not support the Simon amendment, which will open the door for tax increases to balance the budget.

Tax increases do not reduce deficits. The 1990 budget agreement has generated $1.83 in new spending for every dollar it raised in new taxes.

Adoption of a balanced budget amendment without a tax limitation provision will not tame the Washington spending machine. Congress must make every effort possible to eliminate government waste, fraud and inefficiency before they even consider taking one more dime from the American people.

Your cosponsorhip of the Kasten amendment will prove your commitment to balancing the federal budget without increasing the tax burden on the hard-working people of this country. CCAGW plans to release the list of cosponsors of S.J. Res. 182 to our 450,000 members.

Sincerely,

THOMAS A. SCHATZ,
Acting President.

The PRESIDING OFFICER. The chair recognizes the Senator from Idaho.

Mr. CRAIG. I thank my colleague from Wisconsin for his leadership. He has been a stalwart in the issue of the balanced budget and, of course, has authored the key amendment that would tighten down the dynamics of a vote on revenue increases, as he explained, which would be very important to the overall strength of what we would do toward a balanced budget.

Let me now recognize my colleague from Colorado, who has been a stalwart on this issue also, speaking out, but more important than his rhetoric are his actions in voting consistently for a limited budget and limited expenditures. I yield 10 minutes to my colleague from Colorado.

The PRESIDING OFFICER. The Senator from Colorado [Mr. BROWN] is recognized.

Mr. BROWN. I thank the Chair. I thank the distinguished Senator from Idaho [Mr. CRAIG] for his leadership on this issue for the past 12 years. His leadership is a major reason it has come to the Nation's attention.

Mr. President, this is the issue of the election in 1992. It is the single most important issue that faces our country and the facts demonstrate this. Gross interest on the national debt is the single biggest item in the budget—estimated at $293 billion this year. Some may say a net interest figure is more appropriate in our discussions, however the interest paid to the Social Security trust fund is going to be paid out again when Social Security benefits are paid. We ought to look at the gross interest figure. It is a transfer of money from those who work for a living and who pay taxes in ths country to the wealthy who loan the money. Anyone who suggests the outrageous record of this Congress and other Congresses in running up huge national deficits is somehow beneficial to the poor or the working class of this country has not taken the time to take a look at who pays the interest on that national debt.

Mr. President, I have said this is the most important issue. I invite everyone to look at the gross Federal debt figures because they are very clear.

As Democratic Congresses have taken over this country, in 1960, to 1970, the debt rose by more than a third. From 1970 to 1980, it increased 2½ times. From 1980 to 1990, it increased over threefold.

Mr. President, this chart is a straightforward calculation of the amount of money this country owes. No one can look at this chart and not be alarmed. The simple fact is Congress has lost its ability to deal with the issue and to set priorities. It is not a matter of runaway spending and runaway deficits. It is a matter of fraudulently indicating that we are going to deal with it.

This year, for example, the deficit may go as high as $390 billion—some have said even $400 billion—but it was estimated to be $280 billion. Moreover, if you look back at what was recommended and adopted by Congress, this year was supposed to be balanced.

We have a record not only of neglect and abuse in appropriating public money, we have a record of misleading the public as to what we are going to do. Congress' own budgets are trashed and spending limits are ignored.

Mr. President, some very sincere people have suggested that Congress ought to deal with the problem and that a constitutional amendment is not necessary.

I invite anyone in this Chamber to take a look at the facts and tell me an amendment to the Constitution is not necessary. The reality is this Congress is incapable of dealing with the problem. It is not that we cannot solve the problem. We can. Everyone here knows the truth. Members vote for spending in this Chamber not because they think it is necessarily a good idea but because if they will vote for that spending maybe the Appropriations Committee will give them money for their own projects. That is no secret. When Members are off the floor talking in the Cloakrooms, people know that. The message is very clear: You vote for waste on one bill and you will get some money for your State.

This debt is a monument to trading votes. This mountain of debt is a function of legislators trading votes to buy elections and to bring in money for their State. What they have done to this Nation, our children, and grandchildren is to destroy their future. It is not going to change until we change the rules of this Chamber.

Mr. President, this is the most irresponsible Congress in the history of this Nation. This is the most irresponsible Appropriations Committee in the history of our Republic. The appropriations process in this Congress is incapable of dealing with the problem and that is why this balanced budget amendment will pass. Some say it will not pass today. That is probably right. We may not have the votes today. But I will guarantee you this: This amendment will pass before the decade is out, and it will be passed because of the irresponsibility of this Congress in dealing with the problem.

There are those who will come to this Chamber and say that the solution is not a balanced budget amendment but for Congress to do its job—pretend that Congress intends to change.

I must say as an objective observer, and I believe I am in this, that Congress does not intend to change. The estimates are not more reliable. Our voting pattern on this floor is not different. The willingness to face up to issues is not here. The Domenici amendment on the fiscal year 1993 budget resolution, which was the only substantive proposal to reduce billions of dollars in the future spending pattern, only had 28 votes. Imagine, a budget that condemns this Nation to almost no capital formation or savings only has one major amendment that changes it, and that only has 28 votes. This Chamber is not capable of changing. We must change the rules. If we do not change the rules, we will forfeit the bright future that this country has.

Some have said Members of Congress ought to come forward and state where they have cut spending. Mr. President, I did that. In a speech on this floor on June 16 I spoke in detail. I listed specific program cuts I would make. My proposals would save $166 billion over 5 years. Others might disagree with the priorities I set. They are controversial, and they are tough. But it can be done and it must be done if we are to have a future.

I want to address one last issue of this debate. Some have said that Presidents Reagan and Bush ought to propose balanced budgets. I count myself among those who have said that. I believe they should. But the facts should not be overlooked. In many years they have done exactly that.

The 1987 Reagan budget had a surplus in 1991; the 1988 Reagan budget had a surplus in 1992; the 1990 Reagan budget that was adopted by President Bush had a surplus in 1994. The 1991 and 1992 Bush budgets each had a surplus in 1995 and 1996, respectively.

The missing link has not been Presidential proposals to reduce the deficit. President Bush has before this Congress over 4,000 discretionary programs and projects that ought to be eliminated. The missing link is not a President willing to offer a balanced budget. The missing link is the discipline and the courage of this body. The balanced budget amendment is essential if we are to turn this Nation around.

Mr. President, I yield the remainder of my time.

Mr. CRAIG. Mr. President, I thank my colleague from Colorado for those poignant remarks, and expressing in a most vivid way the reality of what we failed to do here in the Congress. I now yield to my colleague from Minnesota 5 minutes.

Mr. DURENBERGER. Mr. President, the amendment offered by the distinguished President pro tempore, Senator BYRD, contains an idea that all of my colleagues should, in my opinion, support in principle. The amendment requires the President to submit a 5-year plan for achieving a balanced budget by September 30, 1998.

My particular enthusiasm for the amendment stems in part from the fact that in October 1984 I drafted and introduced an amendment, along with my colleagues, Senators GORTON, COHEN, and the late Senator John Heinz, that would have required just that. Different dates, but it would have required the same thing. It would have required the President of the United States, then Ronald Reagan, to submit a 5-year budget that would achieve a balanced budget by the year 1989.

Our amendment further provided that if a President does not submit a budget that would lead to a zero deficit in 5 years, he would have to submit an alternative second budget that would show how the budget could be balanced by 1989.

Our 1984 amendment would also have required the House and the Senate Budget Committees to, in effect, do the same thing: submit concurrent budget resolutions that would achieve a balanced budget and a zero deficit by 1989. Concurrent resolutions were not offered, our amendment would have re-

quired the Budget Committees to submit an alternative second budget resolution that would show how the budget could be balanced by 1989.

My 1984 resolution held both the President of the United States and the Congress to a clear standard of accountability. If the President did not submit a balanced budget plan, he would be required to submit an alternative; the same standard was imposed on the Congress.

There is just one critical difference between the 1984 proposal I have spoken of and the amendment offered by my distinguished colleague, the President pro tempore. At the time my amendment was submitted, the 1984 election for President was less than 4 weeks away. My amendment was not intended to influence that election. My amendment would have required the President to submit a balanced budget when he sent up his next budget in February 1985, 2½ months after the results of the Presidential election had been determined and regardless of who was President.

The problem with the amendment before us by the Senator from West Virginia is very simple. Its timing robs it of its credibility. And without its credibility, it cannot have the effect that it deserves.

It requires President Bush to submit a 5-year plan by September 1, 1992. It would spell out exactly how this amendment would achieve a balanced budget by September 30, 1998, and September 1, 1992 being just 63 days before this year's Presidential election.

Why should the President of the United States be required to lay out his plan when Democratic Presidential candidates, and independent candidates, do not have to lay out theirs? We, in the Senate, cannot order Bill Clinton or Ross Perot to lay out their plans. Why should we order the President to do so at this time?

Mr. President, the debate over whether or not to amend the Constitution is not and should not be partisan for all the reasons I just heard my colleague from Colorado speak to. Senators and Members of Congress on both sides of the aisle have valid nonpartisan reasons to support or oppose this idea. In the House 116 Democrats joined 164 Republicans in voting for a constitutional amendment to balance the budget. In the Senate, the leading sponsor of one of the alternative balanced budget amendments is the distinguished Senator from Illinois, PAUL SIMON. This is not a partisan issue.

I could support the amendment of the distinguished Senator from West Virginia if he would merely change the September 1, 1992, deadline and require the President to submit a balanced budget as part of a fiscal year 1994 budget process that he has to send up, whoever the President is after the election.

I would ask the Senator from West Virginia to consider that, change the date, and he might get some more support. I doubt that he is going to do that. If he does not, I must oppose this amendment, and I must urge my colleagues on both sides of the aisle to do likewise.

Mr. President, I yield the floor.

Mr. CRAIG. Mr. President, may I ask how much time is remaining?

The PRESIDING OFFICER. The Senator from Oklahoma, with delegation to the Senator from Idaho, controls 52 minutes, 43 seconds.

Mr. CRAIG. At this time, I yield 10 minutes to my colleague from Montana.

I yield 10 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for up to 10 minutes.

Mr. MCCAIN. Let the record show I always have second choice behind my friend from Montana in the eyes of my friend from Idaho.

Mr. President, I want to begin my statement on the balanced budget amendment with a very important thought from Thomas Jefferson.

In 1798 he stated:

> If there is one omission I fear in the document called the Constitution, it is that we did not restrict the power of government to borrow money.

That is what we are deciding today. Should we restrict the Government's power to borrow money by constitutionally requiring a balanced budget? I have been an ardent supporter of a balanced budget amendment to the Constitution, and I am grateful for my friends, Senators GRAMM, NICKLES, and SEYMOUR for bringing this issue before the Senate for debate. I also would like to recognize the 10- to 15-year effort of my friend from Idaho, Senator CRAIG, who had made this his crusade.

Mr. President, after years of deficit spending by Congress, something must be done, if we expect our children to have a prosperous future. I feel that passage of this amendment will focus the Nation's attention on deficit reduction. The massive deficit of $340 billion this year and a debt approaching $4 trillion is, in my view, the single most important problem facing the American people. Four trillion dollars of debt is an impediment to a prosperous future for our children, a threat to the health and vitality of our economy, and it undermines the long-term soundness of the Social Security trust fund.

Balancing the budget would mean an end to additional Government borrowing that threatens the future of Social Security and all Government programs. As we all know, we cannot borrow our way to prosperity. Balancing the budget is a question of our responsibility, and this responsibility is not limited to mere fiscal responsibility, which is extremely important in its own right.

It is more a question of responsibility as parents, grandparents, adults, leaders, and role models for our children and ourselves. And, $4 trillion of irresponsibility is a terrible legacy to leave our children. And that legacy grows exponentially every day as we continue on our dissolute way. Something must be done. It is unconscionable to deny our children a prosperous future, and the present generation of Americans may be the first generation to realize a declining standard of living through no fault of their own. Every child born today inherits a terrible legacy—a $16,000 share in our debt, not to mention a dysfunctional educational system, and a crumbling infrastructure. It is not a legacy Americans should be proud to leave.

Mr. President, I feel we must constitutionally require a balanced budget. If we do not balance the budget, all programs are threatened. The amendment itself is silent on the means to achieve a balanced budget. First, let me take this opportunity to discuss methods that I support to balance the budget.

First, I believe in a line-item veto. It will not balance the budget, but a recent GAO study has estimated that a President armed with the line-item veto could have saved $70 billion between 1984 and 1989. Pork barrel spending is a corrosive force acting against our future as a nation. Last year, when thousands of young men and women who volunteered to serve their country were forced to leave the military because of changing priorities and declining budgets, we nonetheless were able to find $6.3 billion worth of unauthorized pork barrel spending in the defense appropriations bill.

Mr. President, pork is not limited to defense spending, and I will not go through the litany of unnecessary wasteful spending, but I will mention one—over $3 billion for the missionless *Seawolf* submarine—as being a classic example.

Is it any wonder that 77 percent of Americans disapprove of Congress? The line-item veto is not the answer to all of our fiscal problems, but it is clearly a step in the right direction.

Mr. President, unfortunately, there has not been a great deal of serious discussion about measures which would balance the budget. I feel much of the discussion which has occurred is, at best, described as hyperbolic.

Scare tactics have been employed. Some opponents of the amendment say that the budget cannot be balanced without great harm to the economy and recipients of Government services. The special interest lobbyists have once again descended upon Washington. There have been charges and countercharges. Unfortunately, it still is business as usual here in Washing-

ton. Notwithstanding the politically charged atmosphere, I think there are sensible proposals that will balance the budget without draconian budget cuts. The 4-percent solution introduced by Senator BURNS is one such proposal, and the proposal of Senator GRAMM, the Balance Budget Implementation Act, is another which would bring the deficit down to zero over a 5-year period.

Mr. President, in this year alone domestic discretionary spending will rise by 10.6 percent. Limiting the rate of growth of spending will go a long way toward balancing the budget. Only in Washington, DC, do we call reductions in the rate of growth of a particular budget "cuts in spending."

A recent GAO study titled "Prompt Action Necessary To Avert Long-Term Damage to the Economy," showed that net interest costs could rise to over $1 trillion by the year 2020. Mr. President, how in the world with interest payments like that can we fulfill our requirements to our society? I think a balanced budget is the best way that we can take care of our veterans, Medicare, Social Security, and other programs.

Mr. President, a major driving force behind the growth in entitlement spending has been the hyperinflation present in our Nation's health care delivery system. The answer to the explosion in entitlement costs does not have to pose a threat to the benefits of the most needy Americans. Rather, Congress must take seriously the need for reform of our Nation's health care delivery system in a way that brings cost growth under control and increases access to services.

In short, the process we are discussing today will force us to set priorities and tackle the difficult issues, such as health care reform. The only threat to critical programs, such as Medicare, is a Congress unwilling to tackle the tough issues and accomplish meaningful reform. Funding would not be provided for unauthorized programs, unless they are reauthorized by three-fifths of the Members of both Houses with a vote for funding without authorization. All discretionary programs and unearned entitlements would have to be reauthorized every 10 years, and this would require Congress to reevaluate different programs and eliminate programs that are no longer needed.

Mr. President, cuts will be made. However, those cuts will be made in the rate of growth of spending. If we control the rate of growth of spending, economic growth would provide the needed revenue increases to eliminate the deficit. The deficit can be eliminated by controlling the rate of growth of spending. This year alone, entitlement spending will increase 23.9 percent. Domestic discretionary spending will increase 10.6 percent. International spending will increase by 2 percent. And defense spending will actually decrease by 2.1 percent.

Mr. President, we can make substantial progress on deficit reduction without harming vital services. If we do not make progress on deficit reduction, those same services will remain in jeopardy. Nobody wants an IOU instead of their Social Security check. To ensure that that does not happen in the future, we must put our fiscal house in order today.

Mr. President, the preamble to the Constitution states that "We the People" have a responsibility to secure "the blessings of Liberty to ourselves and our Posterity." We have been in dereliction of our duty to ourselves and to our children. It is time we do something good for ourselves and our children.

Mr. President, clearly business as usual is no longer feasible, and if the opponents of this amendment—and I believe they are sincere in their opposition—do not believe that the present system is out of control and that it is broken, then I think they are mistaken. But if they agree the system is out of control and still do not support a balanced budget amendment, I suggest that they come up with some solutions that all of us can examine and support.

We cannot continue with the profligate spending practices which have given us a $4 trillion deficit, for which all of us in this body, I am sure, are willing to bear some responsibility.

Mr. President, I yield back the remainder of my time to my friend from Idaho.

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

To whom does the Senator from Idaho yield time?

Mr. CRAIG. Mr. President, let me thank the Senator from Arizona for his strong statement and his leadership for fiscal responsibility and a balanced budget.

I now yield to the Senator from Montana for 10 minutes.

The PRESIDING OFFICER. The Senator from Montana [Mr. BURNS] is recognized for up to 10 minutes.

Mr. BURNS. Mr. President, I thank the Chair, and I thank my friend from Idaho for his leadership on this issue. I also thank my good friend from Arizona. He does not stand second place to anybody in this body, because I do not know of a man more dedicated to this country and to this body. And he has demonstrated that with past actions just how much he really loves this country. And the State of Arizona should be very proud of him.

I, for a long time, looked at this issue. I am a product of local government, county government, city government. When I think back on my short tenure in county government, I think of the times that we had to really get down and work hard in balancing our budget—to estimate a tax base to provide all the services and do all the things that we had to do to bring services to our country. We are basically asking this Government to do the same thing here in this body.

This is not perfect solution but it is a first step and it is long overdue.

Let me say as well, we will only pass the resolution calling for a balanced budget. It is the people of each State that will speak and render their verdict as to whether this resolution will become a part of our Constitution.

There are many that would argue that amending the Constitution is not the answer. But I would answer those critics in saying, "What alternative do we have?"

In fact, I would ask the citizens of this country: "If you are serious about our fiscal condition, what would you have us do?" If you are not concerned for the future of our children and their children, then we will continue to be strongarmed by the lobbies that visit this town. Let there be no doubt about it. I want to be very clear on this. The lobbies have already succeeded once in the House of Representatives.

And they are planning their 30-second television ads right now depicting a Congressman or a Senator who attempts to be fiscally responsible as a heartless rascal and a man that wants to cut benefits and create hardships that would be unbearable. I can see them and so can everyone else who holds elective positions.

We have tried time and time again to address the problem legislatively. We have failed due to the lack of political courage. In many instances, however, we were only reflecting the wishes of the majority of the folks back home that sent us here, but even that does not relieve us of our sworn duty to keep a nation safe and secure and, yes, financially solvent.

We took an oath to uphold and defend the Constitution of the United States, and we take that charge very seriously. I believe if balancing the budget is a part of the Constitution, we shall take that charge just as seriously.

The GAO put it bluntly in their recent report entitled—and I quote: "Prompt Action Necessary To Avert Long-term Damage to the Economy." They are referring to the prompt action to deal with the deficit and to deal with the debt this country has incurred over the past 30 years.

Some would take this warning lightly, thinking that if it is ignored, it will go away. In my view, it is time we listened to Thomas Jefferson, as alluded to by the Senator from Arizona, if we vote for a balanced budget amendment, we are on our way to lay rest the fears of that great American who speaks to us today from 200 years ago. It was a wise observation then, experimenting with a new democratic form of govern-

ment, and it is a wise observation today.

I truly believe in this amendment, but I must warn you that all who would support it to beware. If it is passed, we just cannot declare victory and walk away. If we do that, we are voting for an economic disaster. We must also legislate a budget process to position Congress and this Government that are—when and if it is ratified—we are in a position to put forth a balanced budget.

At the present time, and under current conditions, we cannot do that.

So the larger task is ahead of us, and it is my sincere belief that we are ready to face these realities and ready the act and tackle the challenges that lie ahead.

I would make the following suggestions to my colleagues who serve on the Finance and Budget Committees:

First, do away with baseline budgeting and get into the real world of spending. To do this, base the budget on previous year's actual spending or expenditures.

History tells us that we cannot rely on revenue growth in the outyears consistent with an automatic 6-percent increase for every Federal program. We must measure growth in real dollars based on actual dollars spent the previous year. That is just fiscal responsibility.

Second, cap the growth of Federal spending at some level, possibly 4 or 5 percent, above the previous year's spending. The cap should apply to all spending. In my view, that will force the reform of entitlement programs, which currently make up to 30 percent of all Federal spending and will grow to 40 percent by the year 2020 if we do not act now.

If we do not do this, then we are going to have more folks standing at the trough than those paying taxes to keep the trough full.

Third, move toward long-term budgeting. As a county commissioner in Yellowstone County, MT, we put in place a 5-year budget. We were always working 5 years into the future and if problems presented themselves, it allowed us to adjust, make some tough decisions a little bit easier—make them earlier, but it sure avoided tougher decisions had we not made them then. I would suggest a 2-year budget for the Federal Government. The GAO report that I mentioned earlier cites this solution as well.

The report states—and I quote: "The objective of enhancing long-term economic growth through overall fiscal policy is not well served by a budget process preoccupied with short-term results." Of necessity, Government is kind of like agriculture. You have to have a little bit of faith on what is going to happen. But what we do today in this body really has no effect on what happens tomorrow, but it sure does next year.

Adopting a multiyear budget would allow us to reorient Federal spending toward investment spending—and there is a difference—spending on infrastructure and education, and get us away from consumption spending that returns nothing to this Government or to this society.

Finally, we cannot gain any efficiency in Government without incentives. I have often spoken on the floor about maintaining a reserve for national emergencies. We have one brewing in the high plains as I speak. We have a drought in our part of the country.

In this Government, we currently have a policy spending leftover funds at the end of fiscal year so that we do not have to turn them back to the Treasury. That is nonsense. And it is not good sense. This just does not get it. I would suggest the departments and agencies which have excess funds at the end of the year be allowed to invest those funds in a reserve account for their use and their use only in times of emergency.

Congress would have to monitor those accounts and ensure the agency that those reserves cannot and will not be raided or used for any other purposes. We should give the efficient agency credit for their efforts.

It is my belief that a good old injection of private sector mentality of giving incentives for productive behavior will pay great dividends to this society. Let us see some innovation, let us see some motivation, to serve the people that send us here.

Some would argue that operating under these restrictions would inhibit the formation of new programs or, in other words, new spending. Nothing is further from the truth.

I would say, however, if a new spending is needed or desired, the American taxpayers should know it up front, know what it is, and know what it costs, and those costs should be in real dollars.

So let there be no doubt about it, these suggestions are not without controversy and they are tough. But, nonetheless, it is our only step toward fiscal responsibility.

I yield the remainder of my time, Mr. President.

The PRESIDING OFFICER. The time allocated to the Senator from Montana has expired.

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

The PRESIDING OFFICER. The Senator has 31 minutes and 42 seconds remaining.

Mr. NICKLES. Mr. President, the Senator from Alaska is next to be recognized. How much time does the Senator request?

Mr. MURKOWSKI. I would anticipate, Mr. President, about 4 minutes.

Mr. NICKLES. Mr. President, I yield my colleague and friend from Alaska 5 minutes.

The PRESIDING OFFICER. The Senator from Alaska is recognized for up to 5 minutes.

Mr. MURKOWSKI. I thank my friend from Oklahoma and I thank the Chair.

Mr. President, I think it is appropriate to recognize a couple of things. One is that according to the Washington Post poll of a recent date, 77 percent of the likely voters in this Nation support a balanced budget amendment.

Second, 2 years ago, I and a number of my colleagues were out on the steps of the Capitol unloading mail, mailbags that had come into this body referencing indeed the support of the American people of a balanced budget amendment. There were not just a few stacks, Mr. President. There were a few trucks. And it was quite an event. Those of us there thought surely that this represented the prevailing attitude of the American people which would be carried into this body. The balanced budget amendment was discussed, it was debated, and no action was taken.

I would hate to suggest what the increase in our deficit has been since that time, but it is in the trillions.

Mr. President, some interest groups say that a balanced budget amendment is a bad thing. They say the deficit is a problem, but we need to save all our programs and this is the best way to do it, by simply putting off the reality associated with fiscal discipline, which is what a balanced budget amendment is all about. They say the deficit is certainly a problem, but there must be a solution other than the balanced budget amendment.

Well, Mr. President, there is no other solution. There are only two things that can be done around here. You can either increase revenue or reduce spending. Now, some people would suggest that, given enough attorneys, somehow there is another alternative. There is not.

We are talking about the health of the Nation, the health of our political system. It is shameful to contemplate the debt we are leaving to our grandchildren, to pretend the deficit will go away if we do not do anything about it. It is shameful to try and protect every single Government program and never mind who is paying for it.

Mr. President, the continuing deadlock over a balanced budget amendment is only one sign of the gridlock this country is in. We are like a pipe that is clogged up. The Federal Energy Regulatory Commission takes 6 years to act to license a project. The smaller projects are simply gone. The small businessman and woman in this country simply do not have the resources to fight the agencies.

The Endangered Species Act, the global warming scare wetlands regulation; each of these indicate a system out of balance. We need a responsible environmental policy, but we need to balance it in the real world with jobs

for people who have children and want to bring them up, who want to have the assurance they are going to be able to afford homes. We are exporting our jobs overseas. We are importing our oil. Half of our trade deficit is oil and the other half is japan. This simply cannot continue, Mr. President.

I am told that a GAO study says that by the year 2010 a full third of our annual Federal expenditures will go to the interest on debt. I have been a banker for 25 years, Mr. President. That is like having a horse that eats while you sleep. Can you imagine that? A third of our Federal expenditures will go for interest on the debt. That money employs nobody and provides no jobs. The debt is like a cancer and we are not addressing it.

Mr. President, we are in a state where, if I could compare it to an individual, our fiscal house is such that we belong on the front door of a loan shark. And that is what we are doing. We are depending on foreign investment in this country to underwrite our deficit. The fiscal irresponsibility is evident by the fact that we are carrying $4 trillion in accumulated debt.

Mr. President, we simply have to turn this situation around. Bringing the deficit under control is an obligation of all of us. The American people understand it, even if some in Washington do not. We can talk about having self-discipline in this body. We can talk about not having to mandate this by a constitutional amendment. But, Mr. President, let us be realistic. Nothing else has worked. And the proof is in the pudding as we address the situation we are in today where clearly we have less and less discretionary spending left and the interest is continuing and continuing and continuing to pile up for future generations to pay.

So in closing, Mr. President, if we do not bring this deficit under control, who will? The American people are looking to us, they are looking to the Senate of the United States of America, they are looking to this body to pass the balanced budget amendment so it can go back to the House of Representatives so they can have another shot at it and we can get on with the business of bringing this Nation under responsible fiscal control.

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

To whom does the Senator from Oklahoma yield time?

Mr. NICKLES. First, I would like to compliment my friend and colleague from Alaska, Senator MURKOWSKI. He believes in this issue and has spoken on this issue time and time again. I compliment him for an excellent statement.

In order of appearance, our next speaker would be our friend and colleague from New York, Senator D'AMATO, for no more than 12 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York [Mr. D'AMATO] for up to 12 minutes.

Mr. D'AMATO. First of all, let me commend my colleague, Senator NICKLES, for bringing this important matter to the floor. It is long overdue. There are some people who would like to deflect it. They do not want to talk about it. They ridicule it. Well, let me tell you something. We should be the subject of ridicule because we have not had the courage to do what we should. And if it takes a constitutional amendment to balance the budget, then let us do it.

We have flim-flammed this business for far too long. If you believe in balancing the budget and getting our economic House in order, then now is the time to stand and do what is right for the country; not engage in partisan politics, but do what is right for this Nation.

So I support a constitutional amendment to balance the budget. It is not only about balancing the budget. It is about providing a productive, stable environmental for our children and our grandchildren and creating a basis for economic growth today and in the future.

Our deficit approaches $400 billion in fiscal year 1992 and the total amount of interest paid on the national debt is almost 15 percent; 15 percent of all the money that we spend goes to interest on the debt. That will only continue to grow and grow. And when it grows and grows, it chokes out the private sector, the engine that pulls this economy. And, we wonder why we have increased borrowing, we wonder why the world economy shakes.

The world looks and they say: you are not going to be able to compete, America, if you are borrowing and borrowing more and mortgaging your future. And the interest rates, the long-term debts continue to soar, and the private sector suffers and we lose jobs and productivity. That is not good for this economy. It is not good for the businessmen or the workers of this country.

How are we going to change it? The American people have a right for action and they can no longer tolerate the inaction or the stalemate when it comes to reducing the deficit, a la Ross Perot. We wonder why Mr. Perot looks like maybe the savior—maybe because of our own inadequacies or inaction, our incompetence, our political layering of all the problems, blaming one or the other instead of coming together and saying let us come to grips with it. No more flim-flam.

No, it is a fundamental responsibility of every American to balance his budget. They try and it is not easy. The working middle-class families of America do it. They face tuition increases, medical cost increases, car payments, mortgage payments, higher taxes. They work. They try to do it. It is tough.

On the other hand, the Federal Government, what do we do? Do we make the tough decisions? No. Since 1985 Congress has looked to the Gramm-Rudman-Hollings plan to achieve some kind of deficit reduction. The original agreement has been undermined at every turn. Whenever we have a tough thing to do, a new plan, what do we do? Well, we just put off the effective dates, for balancing the budget. In 1987 we changed the effective date to 1993. And then, the granddaddy of all, in 1990, the so-called deficit reduction law, altogether eliminated the requirements for any kind of balanced budget.

It only goes as far as establishing a minimum deficit of $83 billion by 1995.

Let me just suggest that the 1990 Deficit Reduction Act, I think, was the straw that broke the camel's back. Even the American people, who had been rather lethargic up to then, woke up. In fact, the 1990 law increased spending by $380 billion over 5 years. It increased taxes by $185 billion over the same period.

Those tax increases did not go towards deficit reduction; they went towards increased spending. And instead of making the tough decisions to cut back spending and eliminate unnecessary programs, Congress raised taxes on everything that moved, and even some things that did not. And, the deficit hit an all-time high.

I believe we should support a balanced budget amendment. But we should not put off addressing the important issues today. Some say it is only cosmetic; they are right. If we are just going to pass a balanced budget amendment and not take any action between now and the time it comes into being, we are not doing what is right.

So what do we do? I think we have to act responsibly and exhaust all efforts to cut the bureaucracy, cut waste, freeze out-of-control spending—cap spending. We have a long, long way to go to exhaust these efforts.

Not only must we cut and freeze, but we must redirect Federal programs to focus on self-sufficiency. We should support workfare, not welfare. We must support the HOPE Program, which allows public housing residents to own their own homes. Give families hope; not just a piece of the American dream, but a mechanism to make it work, to make it become a reality. We must offer the opportunity for people to contribute to society, not remain dependent upon it.

Today there is something we can all do together to get the deficit off the backs of the American middle class. We as a Congress should demand the Treasury and the Internal Revenue Service take swift and meaningful action against those foreign companies who continue to defraud the U.S. Government and the American people by their blatant evasion of taxes.

It is criminal. It is outright criminal, and we have allowed them to get away with it for more than a decade. They have been cheating the American taxpayers and the Federal Government out of millions of dollars each year. The estimate for unpaid taxes in 1989 alone for foreign corporations is over $30 billion. Imagine; $30 billion in 1 year.

The evidence is clear. The income of foreign companies has soared while their profits have plummeted. They take in more money and the show less profits. And they use schemes and gimmicks of every kind to evade the billions of dollars in taxes. And we do nothing.

Why? Is it because of their high-priced lobbyists? Do we look the other way and make rules for them to escape the payment of their fair share of taxes? Shame on us.

During the 4-year period between 1986 and 1989, U.S. assets of foreign-controlled corporations increased by 70 percent, and their receipts increased by 78 percent. The Japanese companies as a group grew faster than other foreign companies. During that same 4-year period, the assets of the Japanese companies in the United States increased by 142 percent, with an increase in their receipts of 100 percent. At the same time, their balance sheets showed little or no profit growth.

Can you imagine that? They are really doing tens and tens of billions of dollars in increased sales and increased acquisitions, and they show smaller profits.

The result: Foreign countries paid little or no taxes. It is outrageous. It is unacceptable. It is the kind of thing we have to address.

Mr. President, we must move on the balanced budget amendment, and we have to demand action on issues like those I have outlined and not wait for another time.

I give my support, and I commend my colleagues for their assertiveness in addressing a critical domestic policy issue—that of achieving a federally balanced budget—so we can be a strong America in every way.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DODD). The Senator from Oklahoma.

Mr. NICKLES. I wish to compliment my friend and colleague, Senator D'AMATO, for an outstanding statement and help and cooperation on this very important issue.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 17 minutes and 16 seconds.

Mr. NICKLES. Mr. President, I yield to my friend and colleague from the State of Washington 5 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. GORTON. Mr. President, I stand before you and before my distinguished friend and colleague from Oklahoma this afternoon, a penitent and a convert. On the two previous occasions in the 1980's during which a constitutional amendment mandating a balanced budget came before this body, I voted against those proposals.

I did so because it seemed to me, as serious as the disease of an unbalanced budget and our fiscal problem was, the remedy of changing the Constitution was too drastic. I cast my lot first with Gramm-Rudman, a proposal for a statutory correction in the direction of a balanced budget, which seemed to me to have great promise. In fact, Gramm-Rudman did lower the rate of spending increases in those spending fields to which it applied. But it had two serious defects.

The first was that it did not apply to entitlements, the largest and most rapidly growing element in the spending of the Government of the United States.

And the second, when the shoe really pinched in 1990, was the fact that it was, for all practical purposes, repealed by the budget agreement of 1990. That budget agreement was the next attempt to deal with a balanced budget from the point of view of a statute.

I had no faith in it at the time, and voted against it. But it did follow the liberal prescriptions of the Washington Post, the New York Times, and much of the rest of the liberal establishment, by increasing taxes and promising lower spending. The increased taxes the people of America got. The discipline on spending, they did not receive.

Nevertheless, that same group, together with Gov. Bill Clinton, proposes the same thing for next year. New spending programs, considerable increases in taxes, and vague and unspecified limitations on other forms of spending. It is no more likely to work in 1993 than it did in 1990.

Most recently, in April this year, this Senate did, in fact, vote on a proposal which would have limited the growth of entitlements, the field of spending which is the principal cause of the increasing budget deficits shown on the chart which the Senator from Oklahoma has used. That proposal got precisely 28 affirmative votes in this body, and was a final illustration that the Congress of the United States and President of the United States will not deal successfully with this problem without outside discipline.

I am now convinced that only a constitutional amendment will cause the issue to be so central with the American people, year after year, that they will demand the tough votes of their Members of Congress required to balance the budget. It will be more difficult to vote to waive this constitutional amendment than it will be to obey it. And therefore the constitutional amendment will be effective.

Only a constitutional amendment will force Members of the Congress to face up to the difficult reality that, in the present time, we are simply spending more than we take in; we are providing more in the way of services than we are willing to pay for; and we are therefore penalizing our children and grandchildren.

So for the sake of those children and grandchildren, I urge my colleagues to follow the lead of the distinguished Senator from Oklahoma; to vote for this constitutional amendment; to allow the States the opportunity to ratify it; and to give ourselves the promise that we will actually do something about the deficit, and not merely talk about it.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my friend and colleague, Senator GORTON from the State of Washington, for his decision to support this amendment, and also his leadership in now pushing it.

I hope people listened to his comments because he has thought a lot about this issue. As he stated, in the past he didn't always support it. But I think his statement is an excellent addition to the argument of why we need a balanced budget amendment, and I hope my colleagues will follow his lead.

How much time is remaining?

The PRESIDING OFFICER. The Senator from Oklahoma has 12 minutes and 18 seconds.

Mr. NICKLES. Mr. President, I will just make a few short comments. I wish to thank the majority leader for accommodating my request for additional time. I also wish to thank my colleagues. We have had 15 Senators participate in this debate.

I might also mention we have had, I think, an additional five Senators who have wanted to participate and have not been able to get in at the right time without waiting in line for other Senators. So there is a lot of support for this amendment.

This amendment needs to be adopted. I hope this amendment will be adopted.

I might just clarify a couple of things procedurally so people will know what the situation is now on the floor. We have my amendment pending, a constitutional amendment to balance the budget. I might tell my colleagues this is the exact same amendment that was voted on in the House of Representatives and failed by 10 votes. They had 280 votes. It takes 290 to get the requisite two-thirds vote in the House of Representatives. This is the same amendment, so-called Stenholm-Simon amendment. In my opinion, it is a very good amendment.

We voted on a couple of other constitutional amendments worded somewhat differently both in 1982 and 1986. We passed the one in 1982 with 69 votes. We did not pass the one in 1986; we only had 66 votes. As everyone knows, in this body it takes 67 to pass a constitutional amendment.

So we now have it pending before the Senate. I had hoped that we would consider it as a freestanding measure and have an up-or-down vote on the constitutional amendment to balance the budget. That is not the case. We fully understood that it might not be the case. Frankly, the leadership in the Senate, Senator MITCHELL, Senator BYRD, and others, have been opposed to this amendment. It is certainly their right to do so, thus we have not been able to move to the measure. So we have offered it as an amendment, making a little bit of history because we offered a constitutional amendment to a bill.

I inserted in the RECORD earlier this morning the precedent for our initiative. That precedent goes back to a Barkley decision, Vice President, former Member of the Senate for several years, who made a ruling in 1950 that we checked out with the Parliamentarian that gives us a legitimate way to offer this amendment. We offered it as a substitute to the so-called CSE bill. We considered other bills. We tried to find a vehicle and this is the one that we selected.

When we laid the amendment down last night, Senator BYRD amended this bill in two degrees. He has two amendments. The first amendment is an amendment that says President Bush shall outline how he would balance the budget, give his plan for balancing the budget by September of this year, and call for a balanced budget by the year 1998. I would support that proposal, except the problem is that it guts the constitutional amendment. His amendment eliminates my constitutional amendment, so it is therefore a killer amendment.

The second-degree amendment as introduced by Senator BYRD is the so-called GSE bill as introduced and modified by Senator RIEGLE and Senator GARN. It is a very extensive, very thick, very comprehensive bill. Again, this Senator does not have a problem with that bill, but it is a second-degree amendment to the first-degree amendment, both of which are killers to my balanced budget amendment.

The amendment that is pending is the constitutional amendment to balance the budget. If we adopt either of the Byrd amendments to this amendment, we just killed the constitutional amendment to balanced the budget. So that will be the critical vote. I wish it could be a straight up or down vote. I do not have that prerogative. Scheduling is the prerogative of the majority leader and others, so we couldn't get the up-or-down vote. Maybe we will. Maybe they would allow us to have that vote. I don't know. I would hope so. We will try to get that. My guess is we will be voting on possibly one or the other of the Byrd second- or first-degree amendments or maybe a motion to table one of those two amendments. We will do one of these, but I am not sure when.

At the conclusion of our time, which has now been extended to 3 hours of what I consider excellent debate, Senator BYRD, under the unanimous-consent agreement reached last night, will be recognized for a time uncertain, an unlimited amount of time. The Senator from West Virginia is entitled to speak.

Many of my colleagues have asked me when we'll vote. I do not know when we'll vote. That will be determined, of course, by the length of the debate. But we've had an excellent debate this morning, and I think it helped outline the proposition that many of us feel very, very strongly that we need a constitutional amendment to balance the budget.

Many of us feel very strongly the problem is not just the deficit; the problem is that we are overspent. If you look at the history of Federal spending—and I have already several charts in the RECORD in my earlier statement—Federal spending has grown by enormous amounts. Actually, in 1960, we spent less than $100 billion; in 1970, we spent a little less than $200 billion; in 1980, we spent a little less than $600 billion; in 1990, we spent a little less than $1.25 trillion; and, today, we are working on a budget—the Congress has already approved a budget—for fiscal year 1993 that is $1.5 trillion.

So, as you can see, Federal spending has exploded. We're spending $1.5 trillion. That spending is the equivalent of about $6,000 for every man, woman, and child in the United States. We cannot continue with the Federal debt exploding to an amount equal to $16,000 for every man, woman, and child. This year the total amount of Federal debt will exceed $4 trillion or, again, over $16,000 for every man, woman, and child. We cannot continue doing that.

Frankly, I wish that we would have passed the constitutional amendment to balance the budget in 1982. I wish we would have passed it in 1986. Maybe our children would not be inheriting the enormous deficit they are today if we would have received those extra couple of votes either in the House or in the Senate. When you think of the growth of spending and you think of the amount of debt that has been incurred, it is staggering, it is frightening.

You have not heard this Senator casting blame. You have not heard this Senator making a lot of partisan comments. That's not my purpose. My purpose is to change for the future. My purpose is to pass a constitutional amendment so our children will not be inheriting trillions and trillions more of Federal debt. I do not think we can continue on the same path that we're on. We have to change our ways. This amendment will change America if we will simply pass it.

People have said, time and time again, that it doesn't make any sense to push this now because the House has defeated it. They are wrong. If we pass this in the Senate, the House has adopted a rule saying they will expedite consideration of this amendment. I will just read the rule, because it's a tremendous House rule, and I am delighted they passed it. House Resolution 450 states that it shall be in order at any time—let me read the whole thing in section 3:

> If a comparable joint resolution has been passed by the Senate, it shall be in order at any time after House consideration of House Joint Resolution 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.

In other words, if we pass this amendment it will be of the highest priority. As a matter of fact, if you read section 4, it says:

> 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 motion, business, or order of the House, and the House shall proceed with such consideration to final passage without intervention of any other motion, order, business, except as otherwise provided for in this resolution.

So, Mr. President, we are shooting real bullets. We are not wasting our time. In this Senator's opinion, there is no issue, none, that is more important than this constitutional amendment to balance the budget. I hope that my colleagues will adopt it. I hope that we will eventually get to a straight up-or-down vote on this amendment. I hope that we can garner the necessary two-thirds to pass it and that our colleagues in the House will have a chance to reconsider their previous vote.

Mr. President, again, I wish to thank all of my colleagues who participated in this morning's discussion and debate on this issue, and I yield the remainder of my time.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia, the President pro tempore of the Senate, is recognized.

Mr. BYRD. Mr. President, the Government-sponsored enterprises legislation now before the Senate has become the unlikely vehicle for that particular brand of Washington craziness known as the election year politics. The "illogical logic" of the Mad Hatter has invaded the Senate Chamber, and we have all followed the White Rabbit down the rabbit hole and into the world of Wonderland.

The Senate is being told to hurry and eat this magic mushroom marked balanced budget amendment, which will instantly shrink the size of the deficit, because we need to rush to drink from the cup of the Russian aid bill which will make our foreign aid spending grow.

Frankly, the whole situation seems to be getting curiouser and curiouser.

The Senate is running a "race course in a circle" in the hopes that when the race is over the Dodo will proclaim that everybody shall have political prizes.

Mr. President, in my view, this Russian aid bill presents the Senate with an especially steep climb. You see, the Russian aid bill is backed up behind the current measure. And so to begin with, I want to direct a few remarks toward that bill that is backed up behind the bill that is before the Senate.

I am quite puzzled as to why the administration's forces on my right would seek to delay the bill that is before the Senate—that is what they are doing—in their attempt to attach to the bill before the Senate a constitutional amendment to balance the budget. They are delaying action on the bill before the Senate, and yet they want the bill that is backed up immediately behind it, the Russian aid bill.

So, lest we be deterred in getting that bill for a few days, I have a few things on my chest that I wish to say about that bill.

There are lots of problems with that bill. There are a number of murky provisions, there are loans that are not really loans, and there are open-ended items. This is a difficult fiscal environment in which to talk about foreign aid programs, despite the obvious Russian need and the pleas of Russian President Boris Yeltsin. Now, we are presented with additional hurdles. The Senator from Texas, Mr. GRAMM, wants to mix up the problem with the balanced budget amendment as we are running out of time before the Fourth of July recess. We do not have many days left. And our friend, the junior Senator from Texas, Mr. GRAMM, is making the climb over the Russian aid hurdle a lot higher, a lot tougher, by attempting to attach to the bill that is now before the Senate the constitutional amendment on the balanced budget. He may very well assist those skeptical of the wisdom of the Russian aid bill in pushing the Russian aid program over the edge. There is a real prospect, a real prospect—certainly a possibility—that that bill, with all of its problems, will sink like a stone, weighed down by the balanced budget ploy of the Senator from Texas. He is making it a lot harder for Senators, certainly Senators on this side of the aisle, to support the President and the Secretary of State.

There is no doubt that Russia has severe economic problems, but we cannot ignore the fact that we have severe economic and unemployment problems right here at home, right on our own doorstep. It seems to me that the administration is always ready for a handout to foreign countries—you name it—but it turns a blind eye to the problems in our own Nation, a blind eye and a deaf ear to the problems facing this country, with its bridges falling down, its highways filling with potholes, and its communities in need of water and sewer grants, and its students falling behind the students of the other industralized countries in the world. We do not have to go overseas to find poverty, unemployment, homelessness, or lack of hope and opportunity. Those problems are epidemic in many of our Nation's urban and rural areas.

We have known those problems for years in West Virginia, all throughout Appalachia, from one end to the other among the 13 States that are in Appalachia—also the rust belt, with its smokestacks, its factories, its steel ovens closed down, jobs sent overseas to foreign workers. West Virginia has one of the highest unemployment rates in the Nation. The population is declining as people are forced to leave West Virginia to search for jobs and opportunities elsewhere.

I know that this does not make much difference to the media inside this beltway, and apparently does not make a great deal of difference to the people at the other end of Pennsylvania Avenue.

When I first came to Congress, we had six Members of the House of Representatives from West Virginia. Next year we will have only three. There is a critical need within the State for basic infrastructure improvements, including better roads, bridges, and sewer and water systems. And West Virginia is not unique in that respect. It is not alone in its problems.

Throughout the Nation, we can see the physical effect of our economic problems—the deteriorating highways, crumbling bridges, overcrowded and unsafe airports, boarded up factories and businesses. The human toll of our domestic economic problems, measured in terms of education, health care, research advances, and family services, may be even more devastating to the Nation in the long run.

Clearly it is in the best interests of the United States for democracy and stability to prevail in the former Soviet Union and throughout the world, but we simply cannot afford to bankroll the economies of foreign countries at a time when we have so many critically unmet needs within our own borders. Charity begins where? At home.

At this point, I wish to take a few minutes to discuss the so-called Freedom Support Act, a bill to provide aid to the nations of the former Soviet Union. Since last week's stirring speech by President Yeltsin, we have witnessed growing pressure to rush to consider that legislation. Again, I cannot understand the strategy of delaying that legislation on the part of the administration's forces, a strategy of delaying it by attempting to attach to the legislation which is before the Senate a constitutional amendment on the balanced budget. It just does not add up. And my rereading of "Alice in Wonderland" did not help me.

Yet, I have serious doubts that the bill, at least in its present form, is something that the Senate should hurry to consider. Several weak points in this legislation, I think, deserve consideration before the Senate is consumed by the rush to help the former Soviet Union.

First, and perhaps most importantly, we have very little idea what that bill is going to cost us. The Congressional Budget Office cannot even pin down the costs accurately enough to give us an exact cost estimate.

What are we going to do, buy a pig in a poke? That is what we are being asked to pass.

Part of the problem is language in the bill that authorizes "such sums as may be necessary to carry out the provisions of the bill." That is a wide open hole through which any number of 16 wheelers can be driven through. This open-ended authorization puts tremendous pressure on the appropriations committees, and the rest of the Congress to provide whatever funds the President may request.

I understand that the Foreign Relations Committee intends to offer an amendment to replace this language with specific dollar amounts, and this would be an improvement. But when we are about to begin debate on a major piece of legislation and we have no idea what the costs are, it points out the fact that there is an awful lot of work left to be done on the bill.

A second major problem with the current version is that it contains two provisions that authorize direct spending. One of these is the extension of special immigration status to people of the former Soviet Union, Vietnam, Cambodia, and Laos. This special status would make these individuals eligible for various Federal, State, and local assistance programs. Get that! CBO estimates a modest increase in funding required for these programs, but if we witness a dramatic change in the situation in those countries, the costs could escalate dramatically, and we have no way of estimating this. Why should we put additional stress on already overburdened social assistance programs by dumping more immigrants into the system when we cannot even take care of our own people?

When I pick up the telephone and call the local garage, I cannot understand the person on the other end of the line. I am not sure he can understand me. Do we want more of this? Our own people are out of work. There are homeless people on the streets. What are we doing, opening up another door here for more immigrants? We can only do so much.

A second direct spending provision is far more serious, and we have plenty of precedent to be worried. In the area of agriculture credit programs, the bill eases the creditworthiness requirement of current law that is used to determine eligibility for agricultural export credit guarantees. Sound familiar? The

administration has had a poor history of policing our agricultural loan programs. Iraq has recently defaulted on hundreds of millions of dollars, perhaps as much as $2 billion in such loans.

I understand that the distinguished Senator from Vermont, the chairman of the Agriculture Committee, Mr. LEAHY, plans to introduce an amendment to tighten the current bill's creditworthiness provision and prevent the administration from overriding the best interests of the American taxpayer. Senator LEAHY's amendment will strike a provision that would, if passed, allow the Department of Agriculture to extend loan guarantees to the former Soviet states based on "the substantial enhancement in the international financial standing of those states to which their proposed economic reforms can be expected to lead," rather than on more mundane, objective realities such as their ability to repay a debt.

We all know that these fledgling democracies are in dire economic straits. If they were not, we would not be considering this massive aid package. But let us not fool ourselves by extending loans that no bank would make and pretending that we will be repaid. It is just as likely that these states will default, no matter how good their intentions. Thus far, the Russians have met all of their United States-guaranteed agricultural loan payments, but only at the expense of other creditors. United States private business investors in the former Soviet Republics are owed, I am told, an estimated $120 million in commercial debts by state-owned agencies.

If these states default, the American taxpayer will again be left holding the bag—and he is not unused to that, of course, but he can do it again—to the tune of untold billions of dollars. I agree with Senator LEAHY that the current creditworthiness requirement is a prudent threshold for each country that participates in this commercial program. If it is undermined, the program becomes simply another foreign aid program, a very large one, outside the normal congressional limits, and we should recognize it as such. There are other commercial export and food aid programs that the administration can use to provide U.S. agricultural products to these states. It is not necessary to distort and misrepresent this loan guarantee program in order to help feed the states of the former Soviet Union. It does not help to build a market for U.S. farmers and farm products if we lead these states to overextend and default on their loans. That is simply bad business—abetting, not aiding.

If it is going to be an agricultural loan, then so be it. If it is going to be an agricultural aid program, let us call it that. Let us not disguise the real purpose of the program. We have had enough of defaults and winking with the so-called loans to Iraq, to Saddam Hussein. So we are going to have to do surgery on this provision as well. CBO estimates that the 5-year budget outlays will be anywhere from $100 million up to $2 billion for the agricultural credit program. That is a gigantic range of estimates—we have no idea what the taxpayer is signing up for with the agricultural provision in the bill now. It is a very serious problem. Because this provision on all agricultural loans, as well as the provision on immigration, authorizes direct spending, they are each subject to a Budget Act point of order. This creates yet another hurdle for this bill.

President Yeltsin gave a stem-winding blockbuster of a speech, full of democracy and the kinds of freedom ringing phrases that were welcome tones in the Chamber of the House of Representatives. We think we are witnessing the birth of a new democracy of some kind. But it is fragile, and we also have to point out uncomfortable facts that run counter to these plans and hopes. We need to point out, for example, that the Russian leadership is in no hurry to reach agreement with the sovereign nations of Latvia, Lithuania, and Estonia, as to the disposition of the some 130,000 Russian troops occupying those nations. Long negotiations have borne no fruit. So there is an occupying Russian army in neighboring sovereign lands, and no agreements have been reached with the leadership of those countries as to when or how the occupation will be scaled down and ended. We could at least ask the Russian leadership to expedite the conclusion of agreements with the governments of those countries. Yet, the administration is silent on the issue, as far as I have been able to determine, presumably because it is uncomfortable. It does not want to ask it. Why would we not want to condition aid to the successful conclusion of agreements between the Russian leadership and those governments? Why not use our leverage on aid to further the development of behavior which fits the model of sovereign Western nations and the standard rules of international conduct, such as not keeping occupying armies in the territorial limits of your neighbors?

Mr. President, there is little doubt that Russia needs help, and I certainly want to see Mr. Yeltsin succeed. I want to see stability promoted there. But we have a seriously flawed bill in the Freedom Support Act. It needs major work. It will take some time, and we do not have unlimited time, just a few days before the Fourth of July recess. That is a week from today. The President wants this program, but his supporters in the Senate want to make the whole process more difficult. They want to hold up the program. They want a balanced budget amendment added to the Constitution first.

I find great irony in the current situation. On the one side, we have Senator GRAMM, Senator SEYMOUR, and Senator NICKLES, and of course the amendment has been offered I believe by Senator NICKLES and Senator SEYMOUR. But we can see lurking in the shadows, in back of the action of introducing the amendment, our friend Senator GRAMM. He is the one who has been talking about tacking this amendment on.

The voice is Jacob's voice but the hands are the hands of Esau, so we have Senator GRAMM and Senator SEYMOUR and Senator NICKLES, all fine Senators, demanding a debate and vote on a constitutional amendment requiring a balanced budget, while at the same time, the Bush administration is pushing us to add unknown billions of dollars to the deficit for foreign aid.

Is this a way to balance the budget?

If the President and the Senator from Texas [Mr. GRAMM] want us to consider both the balanced budget amendment and the Russian aid bill, then let us consider how they are related.

The aid bill, as I have already pointed out, is virtually a blank check for the administration. That is what the administration wants in foreign aid. As a matter of fact, that is what most administrations have wanted, a blank check in foreign aid. CBO's preliminary cost estimate, and I say "preliminary" because CBO is unable to provide definitive estimates based on the current language, forecasts $13.445 billion in budget authority over the 1992 through 1997 time period for this bill alone. And when I say "this bill" I mean the one that is backed up behind the bill that is now before the Senate. I am talking about the bill that Senator GRAMM and others have backed up.

But I am sure that this is only the first installment, $13.4 billion. We can expect the President to be back next year looking for more. The CBO estimate does not even include the provision authorizing direct spending. As I said, this could add $2 billion or more to the total cost.

It is worth exploring the contributions that are being made to Russia and the new independent Republics by the oil-rich states of the Persian Gulf. Now, there is an idea. The Soviets stayed out of the gulf war and let us and our coalition have a relatively free hand with Kuwait. The Soviet leadership under President Gorbachev did not act as an aggravating, difficult counterweight to our activities in the region in wresting Kuwait's sovereignty back from the invading Iraqi armies. The Soviets were not, for the first time in decades, putting pressure on our allies in the region. So, it is pretty obvious that a hands-off Russia is in the interest of oil-rich Persian Gulf States. Those are the States where the coffers overflow with "black gold" day in and day out.

What financial resources are those States contributing to this effort? Has

anybody tried to find out? Here is the answer. Nothing. Not a penny, nothing. This is not surprising, of course. The Congress had to pass legislation authored by the Appropriations Committee to hold up arms sales to Saudi Arabia, Kuwait, and the United Arab Emirates until they paid their large, past-due balances to the United States as their contributions to us for our bailing them out from Iraqi aggression. They paid, finally, but many months late, after a long slow roll, and only after direct legislative action by this body holding up their ability to buy more arms. So, it is not surprising that we are faced again with the same situation. The American economy is on the ropes. The economies of the Persian Gulf States are doing very nicely, as usual. We are contemplating new billions in aid programs for the former Soviet Union. But those Persian Gulf States are not contributing. What are they doing? They are considering, thinking about, sending delegations to Russia to assess the situation. That is at least a hopeful sign.

This slow roll by the Persian Gulf States is not unusual. But I do not hear anything from the White House about leadership of a coalition to gather up some of that "black gold" in the Persian Gulf for Russian aid. We would rather just dig down in the pockets of the good old American taxpayers to do it when it is for foreign aid, but not when it is for aid for our own people, our own cities, our own States, our own counties, our own municipal bodies, our own schools. It is certainly in the direct national interests of those Gulf States to put the Russian economy onto a solid footing, I should think. Perhaps we should condition our aid on their aid, Mr. President. How would that be? Would that get the attention of the White House, to add a provision in the bill when it is finally up before the Senate? There is no hurry to get it up, because the immediate thing is to try to tack on the American Constitution an amendment to balance the budget. But at such time as it should come up, how about doing that? Why should we not add a provision conditioning American aid to Russia by requiring aid by Saudi Arabia and Kuwait? Would that get the attention of the White House?

I am informed by the State Department that our Government has been trying to stimulate the interest of the Middle East States in such an effort. Apparently we have to be the stimulator, but we have not gotten their juices running very fast.

Now, Mr. President, we have a new Russian aid program being promoted very hard. We also have an economy that is still mired in deep recession—no doubt about it. Wouldn't it be a good idea to tie some of this foreign aid to American manufacturing interests, advanced U.S. technologies and suppliers? Wouldn't it be a good idea to help build American markets in that country, so that at the same time we are providing foreign aid we are helping the American economy? But, no, there is not any tied aid program here.

What about technologies that help the environment, such as the clean coal technologies developed in the Department of Energy and now available from American manufacturers? What about tied aid to resuscitate the Russian Republics' oil fields with American oil equipment to increase the capability of those fields, put them back in shape, a program which would be mutually beneficial? Any program tying some aid to this kind of effort? No. There is no vigorous tied aid program that would make the bill more attractive to the American business community.

I understand that various Senators are preparing amendments to address many of the flaws in this legislation, but we do not know how. We do not know how we are going to get to the bill before the Fourth of July in order to offer the amendment. And we should not. Why should we hurry to get to that bill? We have a matter now that is before the Senate that ought to be debated. Let us debate it.

Let us inform the American people so that they will have an informed judgment on the question.

But even if all proposed amendments are adopted, the Russian aid bill will still provide a most bizarre juxtaposition with this debate on a balanced budget amendment. Does the administration want the program or does it want politics? It is their choice. We cannot be expected to jump through an unending series of hoops, clean up the bill with one hand, and fend off the junior Senator from Texas [Mr. GRAMM] and his wonderful colleagues, with the other. The choice is pretty clear.

Now, Mr. President, I will turn my attention to the matter before the Senate and for the moment remove my eyes from the Russian aid bill which is apparently not of too great importance to the administration and to its forces in the Senate.

It seems that we live in an age of little reverence and less patience. It is an era of fast food and slick advertising slogans, of instant analysis and rapid information. In politics it is a time of sound bites and media men. The practical application of democracy, as it has evolved, with its condensed messages and its blow-dried candidates stands in stark contrast to the carefully crafted, intricate, thoughtful system envisioned by the Framers and given form by the written document known as the Constitution of the United States of America.

Representative democracy is a slow, complex and cumbersome way of governing. Its strong point is not speed, but stability. In a world enamoured of instant gratification, 30-second political ads, 30-minute press conferences, rapid transit, fax machines, satellite communications and a whole host of lifestyle subtleties that peddle speed and simplicity as invaluable commodities, I sometimes wonder if, as a people, we have somewhere lost the patience for democracy. It is as if the perseverance to examine issues with meticulous care, considering and publically debating all aspects, until a solid consensus emerges, has gone out of style. Perhaps our ability to concentrate—the American attention span, if you will—has been shortened, rather like a child who has watched too much bad television. And there is plenty that is bad in that television that American children watch entirely too much.

Given our national fascination with time-saving devices that simplify our lives, it becomes easy to understand why intractable problems without quick or obvious solutions are especially frustrating to the American people.

In many American families both parents have to work just to make ends meet, and then, struggle to parcel out any left-over time, if there is any left over, to raise their children. The American people, frankly, are distracted by their own overly busy, fractured lifestyles, and the simple quick solution is currently at a premium value.

Some in the political sphere have seized upon that distraction and have made hay out of offering one-liner solutions to the Nation's most complex problems. Some manipulative politicians have discovered that the simple, the catchy, the obvious, the easy, will sell like hotcakes to an American public frustrated by the demands of making a living and disappointed by a political system that no longer seems to matter in their own daily lives.

Is the American public weary of budget deficits?

Pass a constitutional amendment to balance the budget. It is just that simple.

Do the voters disagree with their Representatives in Congress, or dislike their Senators? Do not bother to vote. Pass a constitutional amendment to limit their terms.

Suddenly, amending the Constitution has become the fad solution for all that ails us as a nation. It is the political cure-all of the 1990's.

Our forefathers did not intend that the Constitution never be amended for all time. They provided an article, article V, which provides for the amending of that document, if two-thirds of both Houses and three-fourths of the States give their approval to amending the Constitution. It can be done; it has been done. We have 27 amendments; 17 since the original 10 that we refer to as the Bill of Rights.

I am not above amending the Constitution. We may have good reason to

talk about that, in light of the decision by the Supreme Court of the United States on yesterday. No prayer; no prayer in the schools; no prayer at graduation exercises.

So perhaps the Constitution ought to be amended. But if it is amended, it will be because the American people, in their wisdom, believe that the current Court's holding does not comport with the intentions of the Framers, the Framers who had prayer at their convention in 1787 in Philadelphia.

Benjamin Franklin stood on his feet and he said:

> Sir, I have lived a long time, and the longer I have lived, the more convincing proof I see that God still governs in the affairs of men. And if a sparrow cannot fall to the ground without our Father's notice, is it possible that we could build an empire without our Father's aid?

He went on to move that henceforth, there be prayer at the beginning of each day at the Constitutional Convention. "Else," he said, "we shall succeed no better than did the builders of Babel." Now, that was Franklin talking.

I think it is utter nonsense, utter folly, to pretend that those Framers of the Constitution did not approve of the recognition of God, the Deity. And every President, beginning with Washington on down to George Bush, has mentioned the Deity, God, in their Inauguration Address.

I think the American people have a right to amend the Constitution, to make it clear to those who sit on the Supreme Court that the American people do not want God to be banished completely from the schoolrooms of this country. Let it be the Jewish rabbi's God; let it be the Catholic priest's God; the Christian minister's God. He is God. That was not a sectarian prayer that the Jewish rabbi was uttering. How utterly blind can the U.S. Supreme Court become?

But that is amending the Constitution to bring it in line with what the American people, I am sure, believe as a whole. I know you will find little splinter groups that do not want anybody else to live any way but their way, anybody who believes in God. They would like to take God out of everything, even out of this Senate.

They would like to take prayer out of the Senate. They will not be able to do that, but the Court would take it out of the schools. What we take out of the schools today, we will take out of the Nation a generation from today. The Court took it out of the schools a generation ago—a generation ago—and we see where our Nation is today, how much our Nation has gone down morally and spiritually since then.

So, to amend the Constitution in that respect is one thing. The American people feel that the Supreme Court Justices in their long, black robes have traveled afar from the intent of the Framers and they need to be jerked back. Yes, that is what article V is for.

But we are not talking about that here. We are talking about an amendment that would burst at its seams, the very pillars on which this constitutional system rests, the separation of powers and checks and balances. That is what it amounts to. That is what we are talking about here. Why do we not just throw out the Constitution and start over, start over anew? Perhaps we would rather do it by stealth, under the cloak of a balanced budget amendment to the Constitution.

Instead of approaching a change in the document which has preserved our freedom for over 200 years with some awe and trepidation, amending the Constitution has become the "in" thing to do. I find it more than a little disturbing that the interest in amending the Constitution appears to far outweigh the interest in reading it.

When was the last time our colleagues who are rattling the rafters in the interests of a balanced budget amendment to the Constitution—when was the last time they read the Constitution? When was the last time they read Madison's notes on the Constitutional Convention? When was the last time they read the history of England, to trace the roots of our Constitution back to the English charters and the struggles of Englishmen? There are some pretty good ideas in that grand old document, and we might be wise to leave well enough alone rather than to change the system itself. If we are going to change the system, let the American people know what they are doing. Some say that the American people are demanding these constitutional remedies. Some say—and I have heard it said this morning—a balanced budget amendment is the people's will.

The politicians have told the American people that the constitutional amendment is a way to forever solve the problem of budget deficits. Many of the very politicians who tout this amendment as a solution are the same great leaders who brought the Nation these huge budget deficits to begin with. And one of them is sitting right downtown in the White House in the Oval Office. He touts this amendment. This is the answer. That is his campaign platform. That is it; that is his program for getting the budget deficit under control.

The very President who cheers the loudest for the balanced budget amendment is the President who has never—never—sent to the Congress a balanced budget. His predecessor, Mr. Reagan, who began the balanced budget chant, served two terms and never once proposed a balanced budget; not once. He was all over the lot, "Give me a balanced budget. Write your Congressmen, tell them to give me a balanced budget." While we were all distracted by his extraordinary TV charisma, Ronald Reagan's policies drove this Nation into even more extraordinary debt.

The American people should remember that lesson and be highly suspicious of candidates for President and candidates for the United States Senate who call for a balanced budget amendment but remain mute about the course that he or she would advocate to achieve that balance. That politician is mum because he does not want to tell the American people the truth about the painful choices involved. Those politicians who champion a balanced budget amendment are well aware of the tough choices, but they do not want to tell the people in this election year. They count on that shortened attention span. They bank on public frustration. They want to peddle this amendment as a solution, vote for it, pass it, and then slide by the election. If that happens, these politicians will have achieved what, for some, is their long-term agenda. They will have accomplished by constitutional amendment what they could never achieve through the ballot box. Because what is really on the agenda here, in some circles, is not a balanced budget at all, but a power grab, a power grab.

What is really under way here is a new revolution, a new revolution without a shot being fired. The grand strategy of some is to erode the people's power and put it in the hands of the executive branch and a judiciary beholden to that same executive branch for its appointment. There is your power grab.

As I listen to some of my friends, I wonder if these are Senators or are they representatives of the executive branch. Does the executive branch have its people here in the Senate? When I was the majority leader, 1977 through 1980, I had a Democratic President in the White House. Did I say, I am the President's man? Did I say, I am doing his work in the Senate? No. I was quoted as saying, "I am the President's friend, but not his man."

I listen to some of the people here. I hear the same speeches that the President's department heads would say if they were sitting in this body—speeches always running down the Congress. The Congress is the only entity which can fight such a power shift, the only branch which the people directly elect—the people do not directly elect the President. He is elected indirectly, through electors. This is the only branch that the people directly elect, and it will have been permanently wounded by this amendment.

Suetonius, in his book on the lives of "The Twelve Caesars," writes of Nero, the last Prince who could allege the honor of being of the Julian line. When it came down to the end, the Roman Senate decreed that Nero was an enemy of the people and pronounced the sentence of death on the Emperor.

He tried to hide. As Ronald Reagan used to say—"You can run, but you can't hide." Well, Nero did not know that. He ran, but he could not hide. And when he heard the thunder of the horses' feet, he asked his servant if there were someone there who would die to provide an example for him so that he could better die. But no one wanted to provide the example. So he put the point of the dagger at his throat and Epaphroditus, the Secretary of Nero, assisted him in the dispatch of this cruel emperor.

John of Salisbury tells us in Polycraticus that Nero said, "I die shamefully." Suetonius said that Nero said, "I live shamefully." Whether Nero said I live shamefully or die shamefully, he died shamefully. That is about what we are about to do. Here we have this thing, a balanced budget amendment to the Constitution, a dagger at the throat of the people's branch. If we are going to commit suicide, then we should say, like Nero, "Let us die shamefully," before delivering the fatal wound to the legislative branch.

Decisions on taxation, program cuts, Social Security COLA's, military spending, education spending, farm price supports, and so forth, will likely be usurped by the executive branch and the courts. The executive branch, claiming a constitutional mandate, will say that extraordinary actions must be taken to comply with the constitutional requirement.

Senator DANFORTH said on the floor this morning that this is one of the things that concerned him about this amendment. He had good right to be concerned. He has felt the sting in his own State of judicial interference in the field of taxation involving the school district in the State of Missouri. He has a right to question this amendment. I will have more to say about that in a few minutes.

Let this amendment be passed, let it be adopted, send it to the States, let them ratify it. There are those who say it is not self-enforcing. That is one of the criticisms of it. There are others, like myself, who believe that it will be enforced. Disputes are going to arise and the courts will settle those disputes.

Our last four Presidents were each elected by less than 32 percent of the voting-age population. Ronald Reagan was elected the first time by probably 26 or 27 percent of the voting-age population. He was elected by 50.7 percent of the 53 percent of the voters who voted. Figure that out.

There is every expectation that that kind of trend is going to continue. Do the American people really want to cede their power to future minority Presidents, Presidents who are elected by a little more than a fourth of the total voting-age population? Do they really want to cripple their own elected representatives in the legislative branch? Do they really want to rig the game in favor of all future Presidents, most or all of whom will probably be elected to office by less than a majority of the voting-age population? Should such an amendment be ratified, the American people will have emasculated their own power base, the Congress, and in the process will have tipped the careful balance of the Constitution. And after that drastic step of tampering with the Constitution has been taken, the solution that we seek will still elude us.

A deficit approaching nearly $4 trillion cannot be eliminated by the wave of a wand. It will not go away because we pass an amendment to the Constitution. And to suggest that that deficit can be reduced to zero 2 years after such an amendment is ratified is a ridiculous assertion that threatens to gut the American economy.

Such precipitous cuts and revenue increases, as would be required to comply with that mandate, would throw millions out of work and would most assuredly plunge this country into a deep recession. The resultant chaos would reverberate throughout the financial capitals of the world and such would be the likely results of our hunger and thirst for the quick fix in an election year.

Yes, the American people are frustrated, and rightfully so. They are frustrated with 12 years of mounting debt and a consistent lack of leadership. They have been victimized by Presidents and political leaders who tell them that the budget can be balanced if we just eliminate waste and reduce taxes.

They are weary of waiting for the Nation to recoup the benefits of those policies and "grow" our way out of the deficit. They have been deceived by those promises and by claims that we can balance the budget without raising taxes or reducing military spending. They are promises that cannot be kept if we are serious about getting the deficit to zero, or closely thereto, quickly.

Of course, we need to balance the budget or get it within striking distance of balance. But we have been stymied in our efforts by Presidents and by demagogs who refuse to tell the American people what it would take to achieve that goal. The groundwork for that kind of sacrifice has not been laid. The choices have not been explained honestly and clearly to the American people. The American people have been hoodwinked into believing that major surgery can be performed on our national economy without pain, indeed, without even opening up the patient. Voodoo economics has become the order of the day. Voodoo economics has triumphed. The ultimate talisman, a balanced budget amendment, has replaced common sense, and now threatens to destroy the checks and balances and the separation of powers guaranteed to us by our national Constitution.

As a Senator who believes in the absolute necessity of investing in this country, investing in this country before investing everywhere else—investing in this country before investing in Egypt, before investing in Israel, before investing in Russia—I well understand the need for getting these budget deficits under control.

There is not a Senator who opposes this amendment who does not believe that we should get our budget deficits under control.

I well appreciate that the interest we pay on our national debt alone would finance these much needed endeavors. Just the interest on the national debt, add that to our domestic discretionary spending and we would have it made. So why would we, too, not want to balance the budget?

I well comprehend what the failure to invest in this country, because of the squeeze put on our resources by the huge deficits, is doing to our productivity and our way of life and what it is doing to our ability to compete. I well know what the drain of once good jobs from our shores to foreign lands is doing to our work force. But the answer must not be to perform a lobotomy on our Nation's most sacred principles of checks and balances and separation of powers simply because we are frustrated.

The solution to this problem can only be found through courage and through leadership.

Now, there are those on that side who said that would be our cry. "Oh, they will come on the floor and they will say the only way to get this done is through courage and leadership." Who would not say so, Mr. President, after seeing a vacuum of leadership in the Oval Office now for 12 years?

Well, they may say, why pick on the Oval Office? Because 535 Members of the House and Senate cannot lead. We elect a President to lead. If a tax increase is necessary to bring the budget deficits under control, who is so silly as to believe that Congress would walk that plank, knowing this President has vowed that he would veto such a bill and then beat Congress over the head with it? The move has to start from the other end of the avenue.

Mr. President, it requires courage and leadership. We must explain the sacrifices needed to reduce the budget deficits and then ask the American people to participate in that effort. The President should tell the people the truth and then call upon Congress to help get the job done. We need a plan, a plan, not a promise. We need leadership, not prestidigitation and legerdemain. Then and only then will we be on a path toward getting our fiscal house in order in a way that people can accept and support and understand.

I hear a lot about polls on this issue. I have heard it said just within the last little while that 77 percent of the American people want a constitutional amendment to balance the budget. Just stop and think. Is that really what they want? Seventy-seven percent of the American people are concerned—I am sure more than 77 percent—about the fiscal situation that confronts this Nation. That is what 77 percent are saying. They are not really saying give us a constitutional amendment. How many of them have the time, after they spend many hours in the coal mines, or in the fields, or in the factories, or in the shops, or in the offices, to read the Federal Register, or Madison's notes at the Convention, or the history of England, or even the Constitution itself? Senators do not bother to read the Constitution. Why should we think that the American people have a lot of time to do it? They are not talking about an amendment if they really understand what that would entail.

Ask them if they favor cutting Social Security to balance the budget, and you will get radically different numbers. Ask them if they favor raising taxes to balance the budget, and you will never get 77 percent of them to say yes.

That is precisely the problem. There is no consensus about how to accomplish a balanced budget. There is no leader risking his political hide to seriously deal with the problem.

George Bush is not going to do it. He is not going to risk his political hide. He has already said, "I will do whatever it takes to get reelected." Now, how much political hide does anyone have who says that? How much steel in the backbone does anyone have who will say that? When I hear a candidate say, "I will do whatever it takes to be reelected," I go away shaking my head. Surely, when I hear a candidate say that, I wonder where his convictions are. Does he have any convictions if he will do whatever it takes to be reelected?

I am not going to do whatever it takes to be reelected. If God lets me live and stay in good health, I intend to run again in 2 years. I am not going to do "whatever it takes to get reelected." If it takes voting for this constitutional amendment on a balanced budget to get reelected, then I will not be reelected. I am not going to vote for that. I voted for it in 1982, voted against it in 1986, and even now I see all the more the unwisdom of voting for it.

Just as the constitutional amendment cannot balance the budget, it also cannot create a consensus, it cannot put backbone in the spine of political leaders of this country. Why not just propose a constitutional amendment saying that the leaders of the country must have spine? I believe 100 percent of the American people would say they favor that.

So how do we forget that consensus? A step in the right direction would be to end the divided Government which has plagued this Nation now for several years—divided Government. The American people seem to have a love affair with it. Somehow, the people have come to feel that divided Government is a good thing—a further check beyond the checks and balances already in the Constitution. And yet, paradoxically, the people now seem to want to adopt an amendment to the Constitution which would destroy the checks that are already provided in the Constitution. All of these broad, fuzzy, ill-conceived constitutional amendments would seriously alter the constitutional balance of powers and rob the people of control of the power of the purse through their elected representatives in these two Houses, the Congress of the United States.

Instead of trying to hide behind the Constitution, let us try to restore our traditional reverence for our institutions and the democratic principles that have served us well. Let us reflect upon what it means to be Americans and the way in which statesmanship and compromise have always succeeded in conquering our most contentious and intractable problems. Solutions cannot be force fed as is being proposed here. The Constitution cannot be hemmed and tailored to respond to every new problem that arises in a democracy like a suit that can be altered to conform with the gain of a few pounds.

Now and then, if I pick up a few pounds, I ask my wife to let out my britches a little bit. And when I lose a few pounds, I say to my wife, "Tighten up my britches a little." So that is the way it is—mend, hem, shorten, lengthen, and all of that.

But the Constitution was meant to fit the Nation loosely, providing the necessary protection for our freedoms without binding us too tightly in any one area.

The Constitution is intricate, yet simple; ingenious, yet practical; brief, yet sweeping. It has survived in part because of its flexibility, in part because of its universality, and in part because of its balance and inspired brilliance. It has been revered by generations of Americans. The wisdom of this eloquent document has guided this great Nation for over 200 years of change, war, peace, internal strife, adversity, and prosperity.

Like a safe harbor, it has served as a refuge to revisit when uncertain of our course or confused about our purpose.

Nations around the globe have consulted with the American Constitution when setting up new governments or reforming old ones. It has been amended only 27 times. In a word, it has been "revered."

The oath that we, as the people's representatives take, charges us with the solemn responsibility to protect the seamless garment of the Constitution so carefully woven by those who well understand what it was to live under tyranny.

I believe that Senators will reflect on the meaning of the sacred vow they take, and that they will do the right thing. I believe that the people have not completely forgotten their schoolday lessons about the careful balance in their system of government as set out in the Constitution. And it is their Constitution, and it is the people's power that is so carefully preserved in the American Constitution.

I believe that we not only tamper with the Constitution; I believe that we are driving a trip-hammer right through the heart of that Constitution with this amendment because we are moving down the road of destruction of the separation of power, and the checks and balances. We are going to move the power of the purse—which is the bedrock pillar of this representative government—downtown, to the other end of the avenue, and across the way to that temple in which sit nine Supreme Court Justices, and to the other courts that are scattered throughout the land.

I believe that we undermine this Constitution at our peril. I believe that the time has come for us to slow down, avoid a precipitous action like this, concentrate on our problems, debate openly and honestly our options, and work together to forge a sane and sound solution to our budget crisis.

Benjamin Franklin reminded us long ago that our form of government depended on that constant viligance. And when asked what kind of government was embodied in the new Constitution, a republic or a monarchy, Franklin responded, "a republic if you can keep it."

I believe in the coming days, Senators should reflect upon those words, and find the courage and the wisdom to live up to Franklin's challenge. The people who sent us here deserve that kind of statesmanship, and it is our solemn responsibility, Mr. President, to provide it.

SECTION 1 OF THE NICKLES AMENDMENT

Now, Mr. President, I want to turn my attention to the Gramm amendment offered by Senator SEYMOUR and Senator NICKLES.

Section 1, of the Nickles amendment, states:

> 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.

Mr. President, it is not going to be possible to meet this requirement. If this amendment is wired into the Constitution, it will not be possible to meet that requirement.

Total outlays and total receipts cannot be known at the beginning of any

fiscal year. All that we will have is estimates of outlays, and receipts for any year, the same as today. We have our OMB and our CBO's estimates. On occasions in the past, we have had "rosy scenarios" based on highly optimistic forecasts of economic growth, and low interest rates.

The Reagan administration often used such forecasts in order to mask what the true deficit would be for a given year. Read David Stockman's book, "The Triumph of Politics." It will tell you all about it. He and Mr. GRAMM of Texas were the two original, I will use that word, "original supply siders." In other words, they were supply siders, inside and out, from ankle to forelock.

Mr. Stockman is very complimentary of Senator GRAMM in that book, in that sense. But Mr. Stockman is gone and Mr. GRAMM is still here, the original supply sider, and he has not repented. I do not say that critically. That is his way; that is his sincere belief. I always try to remember whether the other fellow may be right, and I may be wrong. But that is what we have, supply side economics, and it has proved to be voodoo economics. As I say, the Reagan administration used such forecasts in order to mask what the true deficit would be for a given year.

Congress, in its budget resolution, has often required CBO to adopt OMB's "rosy" forecasts in order to avoid having to make spending cuts or to raise revenue in order to meet deficit targets.

We appropriate budget authority, and we provide authority to obligate Federal funds. Outlays—the cutting of the check or the payment of the cash—are the result of that spending authority, and they occur only when a Federal contract has been satisfied or other obligation has been met. It is impossible to know for sure when a new road will be finished. Those outlays occur only when the contract has been met; only the contract spells it out. And the moneys are not paid out until that contract is fulfilled. We may know when we want the road to be ready, but it will not actually be ready until it is ready, the construction is completed, and the contract is fulfilled.

When we budget and appropriate, we do so based upon the best estimates from the administration and our staff. As good as those estimates are, they depend upon a myriad of factors, such as the economy, the weather, and many other factors, which no one can predict accurately. They are just estimates. That is all they are.

Actual outlays and receipts frequently vary from our estimates by billions of dollars. We do not know what the outlays are until the Treasury issues the checks, and even then those checks may not be cashed for a while. At the end of a fiscal year on September 30, we do not know what was spent. When the monthly Treasury statement is published on the 15th business day of October each year, we have the figure, but even that figure is subject to later revision as more data becomes available.

In fact, as these charts show, for the period fiscal year 1980 through fiscal year 1991, we underestimated deficits in every one of those 12 years.

This chart show the differences between revenues as estimated in budget resolutions for fiscal years 1980–91 versus what actual revenues turned out to be for each of these years.

For fiscal year 1980, actual revenues turned out to be $11.1 billion greater than estimated in the first budget resolution for that year. Then, for fiscal year 1991, actual revenues fell short of the estimate contained in the budget resolution by $11.2 billion. For fiscal year 1982, revenues fell short of the estimate by $40 billion; fiscal year 1983, short by $65.3 billion; fiscal year 1984, short by $13.1 billion; fiscal year 1985, short by $16.8 billion; fiscal year 1986, short by $26.6 billion; fiscal year 1987, revenues were actually $1.7 billion greater than estimated in the budget resolution for that year; then, for fiscal year 1988, revenues again fell short of estimates by $23.8 billion; for fiscal year 1989, revenues were actually $26.4 billion greater than estimated in the budget resolution; for fiscal year 1990, actual revenues were $34 billion less than estimated; and for fiscal year 1991, actual revenues were $55.7 billion short of the budget resolution estimate. The last column on the chart shows that the average yearly shortfall in revenues versus the budget resolution estimate was $20.6 billion per year between 1980 and 1991.

The next chart shows the differences between budget resolution estimates and actual outlays for fiscal years 1980–91. Do not forget that we are talking about a constitutional amendment here that is going to require that outlays not exceed receipts. All these things require projections. For fiscal year 1980, actual outlays were greater than estimated by $47.6 billion. For fiscal year 1981, $46.9 billion greater than estimated; fiscal year 1982, $32.9 billion greater than estimated; fiscal year 1983, $26.2 billion greater than estimated; for fiscal year 1984, outlays were actually $9.4 billion less than estimated in the budget resolution for that year; then for fiscal year 1985, actual outlays were $4.8 billion greater than estimated; fiscal year 1986, $22.2 billion greater than estimated; we are talking about the writing of checks now. This is where the rubber hits the road, where the cash is actually laid out. For fiscal year 1987, $7.9 billion greater; for fiscal year 1988, $21.7 billion greater; for fiscal year 1989, $43.2 billion greater; for fiscal year 1990, $85 billion greater than estimated; and for fiscal year 1991, outlays were $40.4 billion less than estimated in the first budget resolution. The last column on the chart shows that the average yearly difference between actual outlays and those estimated in the budget resolution was $24.1 billion greater outlays.

The next chart shows the differences between actual budget deficits for each of fiscal years 1980 through 1991 compared to the deficits estimated in the first budget resolutions. For fiscal year 1980, the actual deficit was $36.6 billion greater than it was estimated to be in the budget resolution. For fiscal year 1981, $58.1 billion greater; fiscal year 1982, $72.9 billion greater; fiscal year 1983, $91.5 billion greater; fiscal year 1984, $3.7 billion greater; fiscal year 1985, $21.6 billion greater; fiscal year 1986, $48.8 billion greater; fiscal year 1987, $6.2 billion greater; fiscal year 1988, $45.5 billion greater; fiscal year 1989, $16.8 billion greater; fiscal year 1990, $119.1 billion greater; and for fiscal year 1991, the actual deficit was $15.3 billion greater than was estimated in the budget resolution.

The last column on the chart shows that the deficit was an average of $44.7 billion greater than was estimated in budget resolutions for each year from fiscal year 1980 to fiscal year 1991. So, as this chart shows, the deficit was underestimated every year, and the yearly average of those underestimates was $44.7 billion.

The point is that no matter how hard we may try to project outlays and receipts, we have invariably failed—invariably failed. Receipts are often lower than expected and outlays are often greater than expected. And nothing in this amendment cures that problem. It does not say that at midterm or quarter term, we will take a new look; readjust and correct our course. We will have the identical problem that has plagued us under Gramm-Rudman-Hollings, and under the Budget Enforcement Act.

Furthermore, as I said, no midcourse correction is provided for in the amendment. The administration might know well in advance the budget would not be in balance, but the amendment would not provide any way to correct that imbalance until after the end of the fiscal year. And then it would be too late—too late then. Like an old country music song: "Honey, it is too late now"; so it will be too late to balance the budget for that year.

I will say it again. The administration might know well in advance that the budget would not be in balance, but the amendment would not provide any way to correct that imbalance until after the end of the fiscal year. And then it would be too late to balance the budget for that period.

Mr. President, on June 4, I compared the unintended consequences which would flow from a constitutional balanced budget amendment to the South American killer bees, bred for more

honey but yielding a more deadly sting. Today, I find another sting where many had hoped to find honey—in the debt limitation language of this amendment.

Section 2 of Senator NICKLES' and Senator GRAMM's constitutional balanced budget amendment states:

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.

Mr. President, how often do we approve debt limitation increases by three-fifths of the whole Congress? It is a rare occasion that a debt limit extension passes both Houses of Congress by a three-fifths vote. Of the 27 debt limit increases enacted since the beginning of 1981, only twice—in February 1981 and in October 1986—has a debt limit passed both Houses of Congress by a three-fifths vote.

The October 1986 increase was included in the Omnibus Reconciliation Act of 1986. And on three other occasions, the Senate has mustered 60 votes or more to pass a debt limit increase. But two of those votes were prompted by packaging the debt limit increase with the Gramm-Rudman-Hollings Balanced Budget and Emergency Deficit Control Act of 1985, and its successor modification, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987. So we have passed debt limit extensions by three-fifths votes rarely.

The other body presently includes its debt limit extension, I believe, in its budget resolution. But it would not be able to do that anymore, because this amendment says the limit on the debt of the United States held by the public shall not be increased unless by a three-fifths vote—the budget resolution that passes the House only requires a majority. From here on, once this is riveted into the Constitution, then the limit on the debt will not be increased unless three-fifths of the whole number—that House and this House—shall provide by law for such an increase by a rollcall vote.

If both Houses of Congress adopt this constitutional amendment by a two-thirds vote, and it is ratified by three-quarters of the States, we will soon find it extremely difficult, if not impossible, to increase the debt limit.

And it might be interesting to check back and see how many times those Senators who are proposing and supporting this very amendment have voted to increase the debt limit.

What happens if Congress fails to increase a debt limit? Now, what happens if Congress fails to increase the debt limit? What happens if there are not three-fifths of these two bodies who are brave enough or willing enough to put politics aside and vote for that debt extension? What happens?

This occurred once before, I believe, in our history, in late 1985, during President Reagan's second term, when a temporary impasse was reached in the formulation of the Gramm-Rudman-Hollings legislation.

First, the Secretary of the Treasury was forced to delay payments, which could be delayed without violating the law. Next, the Secretary disinvested the Social Security, civil service, military, and railroad retirement trust funds to fund Government operations. Contributions to these funds were not invested in Treasury bonds, as required by law, because Treasury bonds could not be issued without violating the debt limit.

Consequently, these trust funds contributions earned no interest until Treasury bonds could be issued. Subsequently, Congress and the President enacted a law to prohibit such trust fund disinvestments in the future. That is as far as our actual experience has gone.

If the failure to pass a debt limit extended another few days, after squeezing every dollar possible out of the Federal cash flow, all but essential Federal Government services would be shut down. Federal employees would be sent home. Most Federal expenditures would cease. Now, contemplate what kind of a fix we would be in then.

Federal contracts would be violated. How about that? Eventually, the Treasury would be forced to default on a portion of the Federal debt. What does that say about Uncle Sam? Financial institutions seeking payment of interest and principal on maturing Federal debt would find the Treasury unable to make those payments. A financial crisis would ensue. If we think that the Amtrak strike is pretty bad, wait until this happens.

If not checked immediately, a Federal default would quickly throw the economy into a depression. A default, even for a day—1 day—would cause the United States to pay higher interest rates on borrowing for a long time afterward, because we have never defaulted before. And if you cannot produce the three-fifths vote in one of these Houses, then watch out—a Federal default for the first time.

The ultimate result of a constitutional debt limit would be a dramatic increase in the Federal debt—increase in the Federal debt—not a reduction.

With dire consequences like these, the amendment would provide quite a temptation for a two-fifths-plus-one minority to refuse to pass a debt limit unless some demands were met. I can say: OK, Mr. Leader; you want my vote on this debt limit extension? I have a coal miners' amendment here. I have a coal miners' amendment to the Clean Air Act. You want my vote? That is my price. And there would be lots of other demands.

We might be forced to cut capital gains taxes, or to increase defense spending in the face of a rising deficit just to muster the three-fifths necessary to increase the debt limit. A sudden recession would often become the occasion for such minority demands as falling revenues necessitated a quick increase in the debt limit. Minority government would not be a pretty sight. I am confident that many here would rue the day that they voted for this amendment.

By the time the Treasury Department finds it must increase the Federal debt limit, the tax and spending decisions which gave rise to that necessity are long past—it could be months—it could be years in the past. Those responsible for profligate spending and tax reductions might be long gone from their positions of power.

Exerting genuine control over the federal debt would require controlling tax and spending decisions well in advance of the ultimate increase in the federal debt. That requires leadership. It would require a President who is willing to submit a balanced budget. It would require us to make the hard decisions to cut spending and to raise taxes.

We should also note that this amendment only limits the federal debt "held by the public." This language would permit large Social Security and other trust fund balances to hide unrelated deficit spending. This has already been the subject of some outcry, and this amendment would perpetuate that problem by writing it into the Constitution for all time.

Mr. President, this constitutional amendment would lead to dire consequences which are not readily perceived in the mere reading of the language amendment. This amendment could lead to default and depression. These risks far outweigh the hoped for benefits—more private investment and lower interest rates—intended by this amendment.

The only means to truly control the federal debt is to summon up the leadership and the political will to control spending and tax decisions. Until that can be done, there will be no controlling the federal debt—no matter how stringently we restrict debt limit increases.

Mr. President, advocates of a constitutional balanced budget amendment claim that what works for 49 States will work for the Federal Government.

The President recently had a televised news conference in the East Room of the White House. He spoke of the constitutional amendment on the balanced budget, by my count, 23 times. "That is what the States have." That is what Mr. Reagan would say. "Give me what the States have. Give me a constitutional amendment."

I heard Senators this morning say States balance their budgets. I heard the distinguished Senator from California, Mr. SEYMOUR, talk about how his

municipality used to balance its budget, how the State legislature of his State balanced the budget.

But how well do balanced budget requirements work for the States? Let us take a look at that.

Many people accept the assertion right on its face that the States balance their budgets. "Why can't we? They have constitutional amendments or statutory requirements that they have balanced budgets. Why can't we, Mr. President?"

But people accept that assertion without ever looking to see if it is true. How well do the States manage their fiscal affairs? Have constitutional balanced budget requirements worked so well in 49 State capitals that we should adopt them here in Washington?

All States, except Vermont, have some form of constitutional or statutory requirement to balance their operating budgets, and yet States run deficits all the time. They borrow money all the time.

We hear this old cry, "Well, I have to balance my family budget. Why can't the Federal Government balance its budget?" There are not very many families in this country that balance their budgets. They borrow also. They pay mortgages on their homes. They are making payments monthly on their cars. They borrow. Families borrow. States borrow.

According to the National Association of State Budget Officers, five States ran operating deficits in 1991; three in 1990; one in 1989; one in 1988; two in 1987; three in 1986; two in 1985; one in 1984; and six in 1983. There has not been a single year in the past 10 years when all the States have balanced their operating budgets.

This count of States reporting deficits to the National Association of State Budget Officers ignores States that do not admit to a deficit. Several States simply fail to report their deficits or use creative accounting to hide their deficits. Computing operating budget deficits based upon Generally Accepted Accounting Practices [GAAP] would move several States into deficit. New York ran large GAAP deficits in 1990, 1991, and will certainly have one in 1992. Michigan had GAAP deficits each year from 1975 through 1982.

California is one of our largest States, so it provides an instructive example of how effective a balanced budget amendment might be at the Federal level. It has a constitutional balanced budget requirement, a constitutional debt limitation, strict statutory limitations on State spending adopted in 1979, and the Proposition 13 tax limitation. Despite all of these requirements, California—Mr. SEYMOUR's State—ran operating deficits in 1983, 1988, and 1991. This year, California will run its largest deficit ever, an estimated $9 billion, and there seems to be no end in sight.

Forty-nine States have a constitutional and statutory requirement to balance their operating budgets. As I say, only Vermont has no such requirement. Let us look further into these State-balanced budget requirements. This chart shows the 49 States that require a balanced budget, but it also shows how readily many States escape that requirement. Only 44 Governors must submit—must submit a balanced operating budget. Only 38 State legislatures must—must pass a balanced operating budget. Only 31 Governors must—must sign a balanced operating budget. Nine States permit the carryover of a deficit to a later year—technically avoiding a deficit in the current year. Finally, if all State spending is included, no State balances its budget.

State and local governments could not balance their operating budgets without massive grants from the Federal Government.

"We balance our budgets," Governors say. "We balance our budgets. We, the States, balance our budgets."

I was majority leader. I saw the Governors come to Washington with their hats in their hands, wanting more money, more money, more money from the Federal Government.

According to the President's January budget, fiscal year 1991, State and local governments received $152 billion in grants from Uncle Sam, from the Federal Government—$152 billion.

In fiscal year 1992, Federal grants to State and local governments are estimated to rise by $30 billion to $182 billion, a 20-percent increase in 1 year. Over the past 10 years, Federal grants to State and local governments have grown 97 percent. This chart shows that the rapid growth of Federal grants to State and local governments has a long history. In fiscal year 1960, Federal payments to State and local governments totaled $7 billion. That was 2 years after I came to the Senate, $7 billion.

By fiscal year 1970, those payments increased 243 percent to $24 billion. By fiscal year 1980, Federal grants to the State and local governments increased 280 percent to $91 billion. By fiscal year 1993, they had risen 118 percent to $199 billion.

So there you are, $199 billion flowing through the Federal pipeline that begins right downstairs on the next floor, the Appropriations Committee. Flowing across the Alleghenies, across the Mississippi, across the prairies and the plains, across the Rockies to the Golden State of California, and to the South and to the North, the Federal pipeline right out of that Appropriations Committee. And then to have the gall to stand and say the States balance their budgets.

The Federal Government, which is essentially bankrupt, is balancing the State's budgets. I know, I am the chairman of that Appropriations Committee, which the junior Senator from Colorado said is the worst Appropriations Committee in the history of this country. It sends funds to his State and to every other State in the Union.

It is amazing that anyone would claim that the States balance their budgets. They do not. The Federal Government balances State budgets—helps them to.

Balanced budget requirements do not balance State budgets. Balance is achieved with massive Federal aid. Balance is achieved by ignoring much of all State spending that is contained in capital budgets—States have two budgets; capital budgets and operating budgets—and spending that is contained in other off-budget spending which is financed with debt. The States balance only their operating budgets and they balance those operating budgets with Federal help.

State and local governments also benefit from Federal tax expenditures. Over the next 5 years, State and local governments will benefit from an estimated $228 billion. Federal revenue foregone through tax deductions for nonbusiness, State and local income and property taxes and through the exclusion of interest on State and local debt.

The States use a myriad of gimmicks to achieve their balanced operating budgets. They count revenues, sometimes, that are not actually received. They also count short-term borrowing as revenues. They raid retirement funds. They delay paying their bills. They sell assets. By one count, the State have set up 25,000 off-budget agencies to escape balanced budget requirements. Recently, New York sold Attica State Prison to an off-budget agency. That helped to achieve balance in the State's operating budget.

Balanced budget requirements have not prevented the States from going on a borrowing binge, as shown in this chart. Thirty State constitutions limit State borrowing authority, but total State debt rose sixteen-fold between fiscal year 1960 and fiscal year 1990 as measured by the Bureau of the Census. The States ended fiscal year 1960 with total debt of $18.5 billion. Ten years later State debt had more than doubled to $42 billion. Ten years later State debt had then tripled to $122 billion. Ten years later State debt stood 2½ times higher—$318.2 billion.

Full faith and credit debt used to account for almost all State and local debt, but now, it accounts for only 24 percent of the total. On the other hand, so-called nonguaranteed debt accounts for 76 percent of all State debt. This is debt incurred under State authority, but the States do not stand behind this debt with their full faith and credit. Instead, the States have created off-budget public authorities to collect tolls to build toll roads, fees to improve waterways, and rents under long-term leases

from State governments to build State buildings. These off-budget activities have grown so rapidly that they now consume over three-quarters of all State borrowing.

State and local governments have granted their borrowing authority for all manner of private purposes and off-budget activities. At the height of this borrowing binge in the early 1980's, the States were borrowing to build private racetracks, sports facilities, and buildings which housed massage parlors.

The resulting scandal led directly to restrictions on the Federal tax exemption for interest on such private purpose, State nonguaranteed debt in the Tax Equity and Fiscal Responsibility Act of 1982 and later legislation.

This chart also shows the growth of such nonguaranteed debt, and it shows it in the red portion of the bars.

At the end of fiscal year 1960, the nonguaranteed State debt totaled $9.2 billion out of the total State debt of $18.5 billion. Ten years later, it had more than doubled to $21.1 billion, out of the total debt of $42 billion. And then 10 years later in 1980, it had more than tripled to $75 billion out of the total of $122 billion. Ten years later, it more than tripled again to more than $240.5 billion out of the $318 billion total.

If State balanced budget requirements and debt limitations work so well, why have the States gone on such a borrowing binge? The answer is obvious, Mr. President. These limitations do not work. The States have evaded balanced budget and debt limitations with ease—the same ease with which the Federal Government would also evade a constitutional balanced budget requirement—making a mockery out of the Constitution. If we adopt a constitutional balanced budget requirement, the States have shown that such a requirement would not be enforced.

Keep in mind old Uncle Sam standing up there with that money bag, money flowing through the pipeline in all directions out to the States, helping them to try to live up to the limitations in their constitutions. And then they boast about balancing their budget and the State legislators and the State Governors, many of them—not those from my State, they know better—try to make us believe that they balance their budgets, and all the while they have their hat in their hand out to Uncle Sam: Give me, give me, give me.

The State experience is clear for all to see—constitutional balanced budget requirements and debt limitations do not work, without the aid of the Federal Government.

These calls for a constitutional amendment to balance the budget by this administration belie a consistent inability and unwillingness to propose, much less produce, a budget that even comes close to balance.

The following chart shows the administration's proposed deficit estimates through fiscal year 1997. This information on this chart comes directly out of the President's 1993 budget supplement. Read it and weep. The deficits shown exclude Social Security and the Postal Service. These are not my estimates, they are not CBO's estimates, they are not the Government Accounting Office's estimates—they are the President's estimates.

The President's proposed budget for fiscal year 1993 projects the 1992 deficit to be $449.1 billion. For fiscal year 1993, the President proposes a deficit of $411.7 billion; for fiscal year 1994, $286.8 billion; for fiscal year 1995, $279.5 billion; for fiscal year 1996, $283.1 billion; and for fiscal year 1997, $303.6 billion.

CBO says that the figure will be $388 billion for fiscal year 1998.

This continuance of record-breaking triple digit billion dollar deficits are what the President proposes in his—his—fiscal year 1993 budget. In other words, even if we enact everything that the President has proposed in his 1993 budget, including all of his legislative proposals—lock, stock, and barrel—we still will have these record-breaking deficits.

The national debt, as shown on this chart, proposed by the administration, will rise from $4.5 trillion by the end of fiscal year 1992 to $5,917,700,000,000 by the end of fiscal year 1997. That is an increase of $1,867,400,000,000 between 1992 and 1997.

This is what the President has proposed. He proposes to increase the national debt by almost $2 trillion over what it will be on September 30 of this year; almost $2 trillion by 1997.

The final chart shows the administration's proposed interest on the national debt. If we follow the President's plan and enact his program, his budget projects interest on the debt to go from $198.8 billion for fiscal year 1992 to $263.5 billion for fiscal year 1997.

Mr. President, I submit that not only is the country going bankrupt as a result of the policies of the past 12 years, but that we have an administration that is bankrupt when it comes to leadership. The President has said that he will do anything it takes to get reelected. But he refuses to address the fact that his administration has presided over the largest deficits in the history of the country. The administration instead has chosen to embrace a constitutional amendment requiring a balanced budget while submitting a budget that proposes to continue on with record-breaking deficits through 1997 and proposes to increase the national debt by another $1.867 trillion by 1997. Surely the American people can see through this charade. They need to understand that this administration, like the one before it, while calling for balanced budgets, has not even come close to submitting a balanced budget. They need to further understand that this administration, in its own 1993 budget, has proposed a continuation of more triple digit billion dollar deficits as far as the human eye can see.

This President, as did his predecessor, has called repeatedly for a constitutional amendment to require a balanced budget. Yet, also like his predecessor, this President has never once submitted a balanced budget for any coming fiscal year. President Reagan did project balanced budgets for the out years, by using "rosy scenarios" for economic and technical assumptions.

Just read David Stockman's book; the insider tells it all. Mr. Reagan never once submitted a balanced budget for the upcoming fiscal year.

The amendment I have proposed points out that President Bush's fiscal year 1993 budget estimates that the on-budget deficit for fiscal year 1992 will be $449,125,000,000. It further points out that the President's 1993 budget estimates that the national debt will reach $4,513,229,000,000 by the end of fiscal year 1993 and will rise to $5,917,713,000,000 by the end of fiscal year 1997.

My amendment states that the President and the Congress must agree upon a plan to balance the budget in order to decrease the debt burden on current and future generations and provide a long-term sound economic structure for future generations.

Now, if Senators really want to do something for their grandchildren and their children, if they really want to shift the burden from posterity to ourselves, let them support my amendment.

To get that process started now, instead of years from now, as would be the case with a constitutional amendment requiring a balanced budget, my amendment requires the President to submit by September 1, 1992, a 5-year deficit reduction plan that will achieve a balanced budget no later than September 30, 1998.

It does not take any courage to vote for that constitutional amendment. That piece of paper, on the face of it at least, does not cost one thin dime. It does not cut 1 cent out of any program. It should not raise the hackles of any special interest group in this country or anybody else. It is odorless, tasteless, painless, easily swallowed, easy to vote for because we do not pay for our own transgressions on our watch. It will not go into effect for several years. By then, the President will be up in Maine running his speedboat, playing golf. Some of us will be back home sitting in the old rocking chair drawing that pension. Somebody else will have to pay the political price.

In order to prevent the use of gimmicks or "rosy scenarios," the amendment requires the President to use the same economic and technical assump-

tions that were used in his fiscal year 1993 budget.

Finally, the amendment requires this deficit reduction plan to include cuts in discretionary spending for the military, foreign aid, and domestic discretionary. It requires reductions in, and controls on, entitlement and mandatory spending, and it requires increases in revenues. In other words, everything is on the table. No category of spending will be exempt and revenues will be required.

Can we afford it? Can we afford not to? Oh, yes, we can shift it onto the backs of our children but they will not rise up and call us "blessed."

My amendment makes something happen. This piece of paper, this constitutional amendment will not make anything happen. We just vote for the amendment, crank up our newsletters, and write home, write home to the folks: "I voted for the constitutional amendment." We will send you a feel-good message. That is what we heard out of the White House for all these years, all during the years Mr. Reagan was President. Good morning America. Go ahead and use your credit card. There is really a free lunch. Go on living for today at the expense of tomorrow.

So we can vote for this amendment, feel good and go home and get pats on the back. It does not take any courage to vote for a piece of paper. It does not cost anything. Black magic. Voodoo economics. Voodoo constitutionalism. Voodoo journalism. Quick fix.

But in this amendment that I have introduced, no category of spending will be exempt, and revenues may be required.

My amendment makes something happen by September 1. It directs the President to send up a plan, not a feel-good message, a plan, not wait for the long process of ratification of a constitutional amendment. That would be after his term of office has expired. The constitutional amendment goes right past his desk. He does not even have to use a pen on that. He does not even get to salute it. It doesn't stop at his desk.

A vote for this constitutional amendment is a vote for delay. It is a vote to let the President and the Congress do nothing about the deficit but they can claim that they have, just claim they have. My amendment says let us do it. Let us get started on considering a plan to get these deficits under control.

My amendment directs the President to use fairness in his plan. I would like to send this to the President's desk. Unlike a constitutional amendment which detours the President's desk, this ought to go to the President's desk. Let him sign it. Or let him veto this one.

He has to use fairness in his plan. No favorite exemptions, everything on the table. Everybody participates in getting the budget balanced, not just the Congress but the President also. It directs him to balance the budget using every tool available to him in his plan. That is the fair way to do it. Everybody has to contribute toward the balanced budget goal.

If the President wants a constitutional amendment, he ought to be willing to lead the way in proposing a plan and convincing the American people to get on board. This Congress will expeditiously consider this plan and work with him, and we will be on our way. We would be obligated to work with him.

We say, "Send us up a plan." If he sends up that plan, we cannot turn tail and run. We have a duty then to sit down. Let him send up his plan.

My amendment gets the ball rolling now. It does not allow the Congress or the President to hide behind a cheap, easy vote on a constitutional amendment and then sit around for 2 or 3 years or longer and do nothing.

It starts the ball rolling without doing untold violence to our Constitution or our economy, or to the balance of powers which has been so carefully preserved for over 200 years.

I should also point out to Senators that my amendment includes the text of the GSE bill, as modified by the managers' amendment, as amended thus far.

I urge my colleagues to support this amendment so that we can begin to address the need to eliminate the Federal deficit this year rather than waiting for future Congresses and future Presidents to begin this extremely difficult task.

Mr. President, I listened this morning with interest to what was being said by the advocates of the balanced budget amendment to the Constitution. Let me say again that I do not question the sincerity of some of the Senators on both sides of the aisle. Some of them really think this will do it. There are others who know better.

Someone said that this amendment by Senator BYRD was a "killer" amendment. Mr. President, it is not a killer amendment. It is an amendment to force action this year. That is what is tough about it. It forces action by our President. Someone said that whoever votes for this amendment is just saying that "the status quo is great; that is what we want, status quo."

Mr. President, deficits are serious, of course, but it is the proponents who want to continue the status quo for several years until the amendment is ratified.

My amendment says the status quo will not do, and waiting will not do. My amendment says start now, do something. Those who vote against my amendment and who support the so-called balanced budget amendment are saying, well, now, let us wait. Let us just hold on here a minute. Let us hold on to the status quo yet awhile. Let us not do anything now, let us not put anything on the President's desk that requires him to send up a plan now—that is, before the election. Let us hold on to the status quo. This balanced budget amendment will allow us to hold on to the status quo, beyond the election, even beyond the election, every beyond that, or perhaps beyond the next one, 2, 4, 6 years down the road.

So let us hold on to the status quo. Let the good times roll. Status quo is what we want for a few more years. And the way to get the status quo for a few more years is to vote for Senator Gramm's balanced budget amendment.

Someone said let us pass this amendment, let us adopt this amendment and make it a big present, a big present, to the American people for July 4. Mr. President, on the contrary, it would be tragic to gut the Constitution and call that an Independence Day present. Is that what Washington and his starving troops fought for at Valley Forge? Is that what Nathan Hale had in mind when he said "I only regret that I have but one life to lose for my country"? Independence Day gift, gut the Constitution, raise Old Glory, but gut the Constitution.

Another Senator said adopt this amendment, it is "going to change America forever." You bet it will. You bet it will change America forever. It will mutilate the Constitution, change it from a butterfly to a caterpillar that eats away at the people's branch. It will change America forever.

Our friend from California, Mr. SEYMOUR, says vote against this amendment, and you are like the ostrich; we will be like the ostrich; we will be going on with our head in the sand; we will be ignoring the issues. On the contrary, Mr. President, this constitutional amendment ignores the issue. It puts off the resolution so we can all get by the next election.

Someone said no one believes Congress anymore. That is true. It is all being laid at the feet of Congress. I listened to the speakers this morning. Speaker after speaker after speaker condemned the Congress, the Congress, "big spending Congress"; nothing said about the President. The President says only the Congress appropriates money. But under the 1921 Budget and Control Act, Presidents are required to send budgets to the Congress. Senator after Senator standing on his feet, and fouling the nest to which he belongs.

Many Senators would give their right arm to become Members of this body. They get out and they demean themselves by raising money in this dirty campaign financing system that we have, and they get themselves beholden to every group they run across. They no longer remain men. They promised everything to everybody, just anything to get here, run all kinds of negative ads, tear down the character and the

reputation of their opponents, anything to get here, and then when they get here, they run this institution down. What kind of Senator is that?

Majorian, when he was made Roman Emperor in the year 457, referred to himself in speaking to the Senate, referred to himself as a prince "who still glories in the name of Senator." Only 1,799 men and women have ever, ever, ever stood up there and taken the oath of a Senator; 1,799 out of the millions of people who have lived in this country for these past 200 years since it became a Republic. An august throng of men and women. People who come to this body ought to revere the body, ought to believe in the institution, and they ought not run it down; they ought not come here and act like the President's men. Let them be Senators.

Talk about the Congress spending. The President sends up the budgets. Since 1945—get your pencils out—since 1945, continuing through last year, all of the Presidents during those years—45 years—requested $11,710,201,833,552. Those were the Presidents' requests.

How much did Congress appropriate in all of its regular bills, supplemental and deficiencies? $11,521,432,604,188. What is the difference? Congress appropriated less than the Presidents requested by the amount of $188,769,229,364. So there you are. Congress appropriated less money than the Presidents had requested by $188 billion.

Well, how about the President who wanted the balanced budget amendment, President Reagan? Someone may say that surely under his administration, for those 8 years, Congress must surely have appropriated more money than he requested. No; Congress appropriated $16,147,670,001 less than Mr. Reagan requested during his 8 years.

So let us not put it all off on Congress. Do not lay it all at the feet of Congress. I have not heard the proponents mention the Presidents once today; that neither of these Presidents, Reagan nor Bush, has sent up a balanced budget. We have a national debt that is four times as much as it was—four times as much as it was—since Mr. Reagan took office. I say to the Senator from Tennessee, four times as much—$4 trillion.

When Mr. Reagan came to town, it was $932 billion, after the Nation paid its Revolutionary War debts, paid for the War of 1812, the war with Mexico in 1846 to 1848, the Civil War, Spanish-American War, World War I, World War II, the war in Vietnam, the war in Korea, all these wars; recessions, the Great Depression in the early thirties. So it went, through all of these panics, recessions, wars.

Thirty-nine Presidents, thirty-nine administrations, all the way from Washington, John Adams, Jefferson, Madison, Monroe, John Quincy Adams, Jackson, VanBuren, William Henry Harrison, Tyler, Polk, Taylor, Fillmore, Pierce, Buchanan, Lincoln, Johnson from Tennessee, Grant, Hayes, Garfield, Arthur, Cleveland, Benjamin Harrison, Cleveland again, McKinley, Roosevelt, Taft, Wilson, Harding, Coolidge, Hoover, Roosevelt, Truman, Eisenhower, Kennedy, Lyndon B. Johnson, Nixon, Ford, and Carter—all of them—$932 billion.

Mr. Reagan blew into town fresh out of Hollywood. Those are the people who think that supply-side economics is one more Mercedes. He blew into town preaching supply-side economics. Read Stockman's book. He will tell you how PHIL GRAMM and Jack Kemp and he and some others taught the President supply-side economics, and how it failed the country.

I will close my statement at this time with some excerpts from David Stockman's book, the "Triumph of Politics." Let him, the supply-sider nonpareil, tell us, after he had been with the Reagan administration for 4 years. Let him close up my little statement:

By the end of 1985 the economic expansion was three years old and the numbers demonstrated no miracle. Real GNP growth had averaged 4.1 percent—an utterly unexceptional, prosaic business cycle recovery by historical standards, and especially so in light of the extraordinary depth of the 1981-82 recession. The glowing pre-election GNP and employment numbers, therefore, had manifested only the truism that when the business cycle turns down, it will inevitably bounce back for a while.

Still, the White House breastbeating had to do with the future, and that depends upon the fundamental health of the economy and the soundness of policy. Yet how can economic growth remain high and inflation low for the long run when the administration's de facto policy is to consume two thirds of the nation's net private savings to fund the federal deficit?

The fundamental reality of 1984 was not the advent of a new day, but a lapse into fiscal indiscipline on a scale never before experienced in peacetime. There is no basis in economic history or theory for believing that from this wobbly foundation a lasting era of prosperity can actually emerge.

Indeed, just beneath the surface the American economy was already being twisted and weakened by Washington's free lunch joy ride. Thanks to the half-revolution adopted in July 1981, more than a trillion dollars has already been needlessly added to our national debt—a burden that will plague us indefinitely. Our national savings has been squandered to pay for a tax cut we could not afford. We have consequently borrowed enormous amounts of foreign capital to make up for the shortfall between our national production and our national spending. Now, the U.S. economy will almost surely grow much more slowly than its potential in the decade ahead. By turning ourselves into a debtor nation for the first time since World War I, we have sacrificed future living standards in order to service the debts we have already incurred.

Borrowing these hundreds of billions of dollars has also distorted the whole warp and woof of the U.S. economy. The high dollar exchange rate that has been required to attract so much foreign capital has devastated our industries of agriculture, mining, and manufacturing. Jobs, capital, and production have been permanently lost.

This is David Stockman talking in 1986. At least that is the date of the copyright on this book.

All of this was evident in 1984, and so was its implication for the future. We had prosperity of a sort—but it rested on easy money and borrowed time. To lift the economy out of recession against the weight of massive deficits and unprecedented real interest rates, the Fed has had to throw open the money spigots as never before. This in turn has stimulated an orgy of debt creation on the balance sheets of American consumers and corporations that is still gathering momentum today. Its magnitude is numbing. When the government sector's own massive debt is included, the nation will shortly owe $10 trillion—three times more than just a dozen years ago.

One thing is certain. At some point global investors will lose confidence in our easy dollars and debt-financed prosperity, and then the chickens will come home to roost.

This is David Stockman talking. He was talking at a time when the Republicans were in control of the White House and this Senate. He was the ultimate insider. He was the one who used the magic asterisks and cooked the books and said so.

One thing is certain. At some point global investors will lose confidence in our easy dollars and debt-financed prosperity, and then the chickens will come home to roost. In the short run, we will be absolutely dependent upon a $100 billion per year inflow of foreign capital to finance our twin deficits—trade and the federal budget.

And Stockman went on to say:

Still extricating ourselves from the fiscal folly now upon the nation by means of an alternative legislative solution will test our institutions of governance and our political leaders as rarely before. Folly has begotten folly, and the web has become hopelessly entangled in a five-year history of action and reaction. But the politicians of both parties still have a sound and valid reason for disengaging from the Reagan Revolution's destructive aftermath. A radical change in national economic policy was not their idea; economic utopia was not their conception of what was possible in 1981 when the policies of the past collapsed. Republican and Democratic politicians together can tell the American people that a few ideologues made a giant mistake, and that the government the public wants will require greater sacrifices in the future in the form of the new taxes which must be levied.

That is from a Republican. That is from David Stockman, the ultimate supply-sider.

Mr. President, what we are talking about here in this constitutional amendment, with all due respect to my dear friends—as I say, some of them really feel this is what it will take; others know better. To those who know better, it is as phony as a three-dollar bill, phony as a three-dollar bill. It is a copout. It will straitjacket the Government in recession, and it will force us to overload services and programs on the States and, in the end, it will open the way to litigation and the invitation to the courts of this country to be-

come the superoffices of management and budget and involve themselves in the legislative control over the purse.

Mr. President, fame is a vapor, popularity is an accident. Riches take wing. Those who cheer today may curse tomorrow. Only one thing endures: Character.

I hope that the Senate will once again demonstrate that it has character and reject this piece of paper that will either undermine the Constitution of the United States, the separation of powers, and checks and balances, or give the people a real dose of taxation without representation by enthroning the judges of this country with the power to tell the people where the money will be spent and how revenues will be raised.

Taxation without representation. The American people fought one war for that principle. Who knows? If we go down this road, we may again see a revolution over taxation without representation imposed by black-robed directors of the supreme Office of Management and Budget, men who were never elected at the ballot box who will hold their offices for life.

I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I have listened with great interest to the very eloquent presentation made by the President pro tempore on the floor of the U.S. Senate today, where he has spoken at great length, as he has on many other occasions.

Mr. President, I think the message that the distinguished President pro tempore gives to his colleagues today is one that is heartfelt and one that we certainly must consider long. He has pointed out, I think clearly, the problems that we face with the so-called balanced budget amendment that is presently before us. And he has pointed out also, with great clarity, how this amendment could diminish the effectiveness and the authority of the U.S. Senate as it was granted to this body by the Framers of the Constitution.

I want to commend and congratulate the distinguished President pro tempore for a very eloquent, persuasive, and perceptive presentation here this afternoon.

Mr. BYRD. Mr. President, I thank my friend from Tennessee for his very charitable remarks. I am grateful for them and I shall cherish them.

Mr. SASSER. I thank my friend from West Virginia.

Mr. President, when the distinguished senior Senator from West Virginia speaks on the history of this country and on the history of this institution, then all Senators, I think, listen and listen with great interest and listen very carefully. I believe his presentation here this afternoon has done us all a great favor.

Let me just make a point about the underlying intention of the so-called Nickles-Gramm-Seymour substitute amendment before I comment at a later point in support of the substitute offered by the distinguished President pro tempore.

Mr. President, to force a vote on the balanced budget amendment to the Constitution in this way at this time is purely a political gesture. Every Senator in this body knows that to be the case. Any informed observer knows that to be the case. It is a cynical, political maneuver that I submit is deeply misguided.

Those offering this amendment are doing so for reasons that are really a mystery to nobody. Not a single U.S. Senator is under the illusion that we are going to be sending a balanced budget amendment to the Constitution out to the States for ratification this year. We all know it is not going to happen this year.

The balanced budget amendment to the Constitution was defeated by the House of Representatives less than 2 weeks ago. So we all understand what was motivating the junior Senator from Texas when he rushed to the floor to demand that the U.S. Senate stand up and be counted on a balanced budget amendment to the Constitution.

It was not an effort, and is not an effort, to secure such an amendment to the Constitution. Of course not. He does not want legislation. He does not want serious debate, even though we are talking about the fundamental legal covenant of this country. And I do not think it is any exaggeration to say it is the most sacred political document of this democracy of ours and certainly one of the most esteemed political documents in the history of the human race.

The junior Senator from Texas is not interested in serious debate on this document. He is interested in a cynical effort to generate material for the all powerful political attack ad. It is as simple as that. That is what this debate is all about. In other words, it is nothing more than a political game. It is exactly the kind of sideshow that the American people are sick to death of. It is exactly the kind of political cynicism that they are rejecting.

Now, it may not be obvious on the face of it, but a balanced budget amendment to the Constitution of the United States, no matter how it is drafted, forces us to alter the underlying framework of this basic document that is the foundation of the political processes of this, the largest and most powerful democracy on the face of the globe. Such an amendment raises the most basic questions about how this country is to be governed and by whom; fundamental questions about whether we blindly and unthinkingly increase the fiscal power of the executive branch of the Government; nearly imponderable questions about a constitutional deadlock that might result if the courts begin directing the fiscal policy of this country; and absolutely primary questions, dating back to 1789 and before, about whether concentrations of power in one branch or another might lend themselves to tyranny or despotic rule.

These fundamental questions to the rights of a free people should not be the stuff of which political gains are made. They should be and they must be subject to dispassionate, calm, and informed deliberations.

In recent weeks the members of the Senate Budget Committee have had the benefit of hearing from some of the most distinguished constitutional scholars in this country. They testified on the subject of a constitutional amendment to balance the budget. Their testimony was not partisan. We did not seek partisans to appear before that committee. Our hearings were aimed at examining the complexities of such a proposal. The hearings were not for the purpose of promoting advocacy. And I can say without hesitation that the issues raised by our hearing are in my view among the most important and profound that any U.S. Senator could be asked to consider.

All of the witnesses who appeared before the Senate Budget Committee confirmed that by writing fixed fiscal policy into the Constitution of the United States we are not tinkering around at the margins or at the edges of the Constitution. By writing such an amendment that puts fixed fiscal policy into the Constitution, they testified we are going straight to the heart of our basic governmental covenant.

Prof. Walter Dellinger of the Duke University Law School, and one of the foremost constitutional scholars in this country, called a balanced budget amendment, "the most fundamental change in balance of powers in 200 years." He was talking about the balance of power between the three branches of Government: legislative, judicial and executive. And he said: "A balanced budget amendment would be the most fundamental change in that balance of powers in 200 years."

Prof. Laurence Tribe of the Harvard Law School, perhaps the preeminent constitutional law scholar of the country, also appeared before our committee and testified at great length. He concluded:

> A balanced budget amendment would unbalance the Constitution, seriously distort the separation of powers, and undermine the credibility of the Constitution itself as our fundamental law.

I am not asking Senators to agree or disagree with the conclusion of these two profound thinkers in the area of the Constitution. The conclusion is not the point. The point is this: That the mere potential for such radical consequences demand that we conduct a

constitutional debate in an atmosphere of high moral seriousness. The atmosphere we have now is closer to a political mud fight. So clearly an issue of this importance, of this historic magnitude, warrants the full deliberative attention of each and every member of this body. And clearly an issue of this importance and of this historic magnitude deserves more than it is getting here today.

Let us just examine some of the constitutional complexities for just a moment. The consensus among constitutional scholars of all political persuasions, from Robert Bork on the right to Laurence Tribe on the left, is that a balanced budget amendment to the Constitution is an unprecedented transfer of power from the legislative branch to the executive branch of Government. It would afford the President the constitutionally protected, perhaps even constitutionally required, opportunity to engage in selective impoundment of funds.

There are those who say that there is no intent to give the President impoundment authority, and I firmly believe that some of the supporters of this constitutional amendment to balance the budget have no intent to give the President impoundment authority. But according to Professor Tribe, and I quote this distinguished constitutional scholar, "The very words 'total outlays shall not exceed receipts,' coupled with the President's oath to uphold the Constitution, is a delegation of power to impound." So says Laurence Tribe, professor of constitutional law at the Harvard Law School.

Let us just imagine for a moment the consequence of such authority. A President who has the power to selectively withhold expenditures is a President with the power to influence the actions of Members of Congress on a wide array of issues. Such a President could hold hostage legally mandated expenditures by the Congress that might be critical to the people of a Senator's State or to a House Member's district. Extended to its logical conclusion, we are talking about precisely the kind of immense power concentration that the Founding Fathers and the drafters of the Constitution struggled to avert.

We have heard many times the distinguished President pro tempore on this floor tell us of how the Parliament wrested the power of the purse at long last from the Kings of England. And once they got the power of that purse, the Parliament was able to use that to counteract the great powers of the King. And that was, really, the essence and the basis of parliamentary government.

Would we be giving that away if we adopted a constitutional amendment to balance the budget? Prof. Laurence Tribe obviously thinks we would.

Professor Dellinger of the Duke Law School put it this way:

> The placing of the power of the purse in the hands of the legislature—and not in the hands of the executive or judicial branches—was not a decision lightly made by the framers of the Constitution. * * * Congress should hesitate long before proposing an amendment that would transfer such a vital legislative power to the executive or to an unelected judiciary.

When we speak of the judiciary we are talking about the Federal judiciary. And that brings me to the very troubling question of judicial control over fiscal policy, or, stated more clearly, the Federal courts deciding how the funds are to be spent. Constitutional concerns aside for a moment, think of the practical effects of a court, most probably the Supreme Court of the United States, disbursing Federal funds, picking and choosing which programs will live and which programs will perish for lack of funding. I think Robert Bork got it right.

Yes, Judge Bork got it right when he commented "the whole thing strikes me as the potential for a big legal mess."

Laurence Tribe called it a litigation nightmare. Professor Tribe explains it this way:

> A trial on the question of what the actual outlays were and how you classified this or that deferred expense with every imaginable high-priced accounting firm in the country taking sides and testifying, with experts called, with the Office of Management and Budget, with the Congress' own budget office present, the trial alone could last for months or years. The appeals could drag on forever.

So says Professor Tribe.

That is the nightmare at one extreme, with the Federal courts trying to decide how the funds should be disbursed, what was a receipt, what was a disbursal, when was the budget balanced or unbalanced? Judge Robert Jackson, a distinguished Supreme Court judge, in 1941 described the risk of adopting a provision to the Constitution that becomes unenforceable and he called an unenforceable provision in the Constitution "a promise to the ear to be broken to the hope, like a munificent bequest in a pauper's will."

Mr. President, Alexander Hamilton assured the country in the 78th Federalist Paper that the judiciary has no influence over either the sword or the purse. And James Madison assured the country in the Federalist Paper No. 48 that in our system "the legislative department alone has access to the pockets of the people."

So these drafters of the Constitution remembered the Magna Carta, they remembered the fount of liberty and freedom for the people of England, they remembered the tensions and the controversies and the quarrels and the struggles between the kings and the emerging and very delicate Parliament. These Framers of the Constitution knew that it was the power of the purse and the freely elected representatives of the people that was critical and crucial to the survival of this fledgling democracy.

In the few moments it takes to offer this amendment, the Senate could signal that it is willing to abandon these hallowed principles. I think it is unfortunate that some would take us down this dangerous road in such a cavalier way. My friend, the junior Senator from Texas, said the other day on the floor that between the truly important issues—unemployment insurance and Russian aid—we have time to slip in an up-or-down vote on how we structure the Constitution of the United States.

I value this Constitution much higher than that. I put a greater premium on the Constitution of the United States. Yes, unemployment insurance, extension of unemployment benefits to millions of Americans who are unemployed as a result of the poor performance of this economy is important, no question about it. And the whole discussion about whether the United States of America should come to the aid of Russia and offer financial resources, that also is important.

But I submit to my colleagues that neither of these two endeavors are nearly as crucial and critical to the health and survival of this country as the Constitution of the United States and how we amend it and who is to interpret it.

So to say that we are going to simply slip in an amendment to the Constitution of the United States between unemployment insurance and Russian aid, I ask my colleagues to think about that for just a moment.

What does that say about the motivation behind this amendment?

One moment we are being told by our friends on the other side of the aisle this morning that a balanced budget amendment is absolutely imperative. The next moment we are being told that it is a matter of such little consequence, though, that you can slip it in between two other pieces of moving legislation. It is a concession at the start that either this amendment to the Constitution is secondary to the rest of the Nation's business, which I do not even believe the proponents of the amendment believe to be true, or that they are really not serious about this after all; that this is, indeed, just a political game, a political ploy, something else to be used perhaps in the campaigns this fall.

Mr. President, I say that there has been a naked confession of political game playing, as I think of it. I hope that my colleagues will give this political game playing the treatment that it deserves. Perhaps it is possible to write a balanced budget amendment that avoids, as Professor Dellinger said, unbalancing the Constitution. Perhaps we can have a constitutionally fixed fiscal policy without court-ordered budgeting.

But I for one cannot be sure about that. But of one thing I am sure, the

amendment that is being proposed today averts none of these pitfalls. If this amendment that they are proposing should be passed as they are proposing it, we certainly are unbalancing the Constitution.

This separation of powers that was so carefully worked out by those masters of political thought, those political philosophers, those enormously educated human beings who brought into being the Constitution of the United States, they thought long and hard about the balance of powers between the legislative, on one side, composed of the Congress, two Houses—the House of Representatives and the Senate—the second branch, the executive; the third branch, the Federal courts, the judiciary.

They thought long and hard about that. I submit, Mr. President, they got it right. They got it right because we have not changed that fundamental balance in over 200 years.

I submit that if the amendment they are urging on this body were to pass as they have written it, this fundamental balance would then be fundamentally out of balance and there would be an enormous shift of power out of the legislative branch of Government and to the Chief Executive Officer and to the judiciary. I do not think we want to do that. I know this Senator does not.

So I think the surest course to disaster is to play political games with the Constitution of the United States. I submit, Mr. President, that is what we have been witnessing today, political games played with the Constitution of the United States, a political game that you play between two other pieces of legislation, something you try to do quickly and simply get people on record with no thought to what might be the later repercussions.

So, Mr. President, I suspect I will have more to say on this issue as the debate develops, and I suspect that the debate on this may go on for some time because I feel very strongly that we should not go through a process of trying to pass an amendment to the Constitution of the United States, particularly an amendment that so fundamentally alters the balance of power between the three branches of Government in a short period of time. It should not be done without lengthy and thoughtful debate. It should not be done, in my judgment, without consultation with experts in the field of the Constitution. So I suspect this debate will be lengthy, and I will have more to say as the debate progresses.

Mr. President, I yield the floor and suggest the absence of a quorum.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. First, Mr. President, I commend the chairman of the Appropriations Committee and the President pro tempore of the Senate for the very powerful statement he has made on the floor this afternoon with respect to this matter. No one knows the Senate or its history or its purpose within our constitutional framework better than the very able and distinguished Senator from West Virginia. I was able to be present part of the time to hear him and watched him on television a good part of the rest of the time back in the office, and I thank him for the very eloquent and forceful statement which he made on this issue.

I also commend my colleague, the chairman of the Budget Committee, the distinguished Senator from Tennessee, for his very strong statement which has just been delivered.

Mr. BYRD. Mr. President, I thank my friend from Maryland, the senior Senator [Mr. SARBANES] for his gracious remarks.

Mr. SARBANES. Mr. President, I very strongly believe that adding a balanced budget amendment to the U.S. Constitution is both economically impractical and constitutionally irresponsible.

I agree with my colleague from Tennessee who has just observed that a political game is being played. This matter was considered in the House of Representatives and rejected. Even the sponsor, the prime sponsor of this proposal in the Senate, said at that time that the House vote finished the matter for this year. Yet we have certain Members of the Senate who are bound and determined to try to bring it before us to use up valuable time to hold up other important and needed legislation.

Mr. President, there is nothing in the Constitution which currently prevents the President from submitting or the Congress from passing a balanced budget. And yet no President since President Jimmy Carter has presented such a proposal to the Congress. All the budgets that Ronald Reagan presented, all the budgets that George Bush presented were unbalanced, and, in fact, the imbalance has grown in the Bush years. It is now at record figures. The President's response is to try to wave this magic wand and pass this balanced budget amendment, which would then put the issue off until 1998.

I ask the chairman of the Budget Committee: is that not correct, under this proposal?

Mr. SASSER. Yes.

Mr. SARBANES. Until 1998. This is really a device to put off hard decisions until some unspecified point in the future.

Tampering with the Constitution is no way to restore a sense of fiscal responsibility to our system. This is the Constitution about which we are talking. It is what we take an oath to uphold. It is the basic charter of our system of free self-government. It has been admired by people around the world through the centuries. Gladstone, the great British Prime Minister, regarded the Founding Fathers who framed the Constitution as the greatest assemblage of statesmen who had ever come together to address public issues.

The Constitution has stood the test of time. It is, by any judgment, an extraordinary document. People should think long and hard before they start playing fast and loose with the Constitution.

This proposed amendment to our basic charter has a waiver provision on the basis of a extraordinary majority of 60 votes in the Senate and in the House of Representatives. Now, what kind of fundamental principle is it that you put into the Constitution and you can then waive? None of the other principles embodied in the Constitution can be waived.

Second, what it really does, by requiring this extraordinary majority of 60, is it places power in the hands of the minority within each House. It is hard enough to get a bare majority around her to deal with controversial issue. It would be substantially more difficult to require 60 votes in order to deal with controversial issues.

Now, some argue for the balanced budget amendment on the claim that States run balanced budgets and therefore the Federal Government ought to be subject to the same constraint. This argument is just wrong factually. If States kept their budgets on the same basis on which the Federal Government keeps its budget, most would show deficits in part, this is because most States have capital budgets which they fund through borrowing and operating budgets which they seek to balance.

The Federal Government makes no such distinction between an operating and a capital budget. So the State analogy, upon the most limited of examination, proves not to be an appropriate analogy. Most States maintain these capital budgets, which are not subject to the balancing requirement, and which instead are financed by borrowing.

Second, the Federal Government has a responsibility to maintain a countercyclical policy. In other words, when the economy goes into a recession, the Federal Government seeks to offset that. Throughout the industrialized world, this type of countercyclical policy is the responsibility of national governments.

No national government in the industrialized world has a constitutional requirement requiring a balanced budget. They all recognize that in a downturn, the deficit grows automatically because of the loss of revenue and the increase in support. Trying to balance a budget in a downturn, will turn a mild

recession into a deep recession, and a deep recession into a depression. That is exactly what happened when the Nation went into the Great Depression.

It would have the perverse effect of requiring the deepest spending cuts or tax increases in recessions, and thereby contribute to a further downward pressure on the economy.

The other thing this proposal for a balanced budget amendment fails to do is to allow for important distinctions between different types of spending. In this version of the amendment, all outlays are lumped into a single aggregate. Doing this fails to recognize that different types of spending have different effects on the economy, and they ought to be treated differently.

Let me give just two examples: Social Security and unemployment compensation. Both programs, run up surpluses in advance of anticipated needs for spending. Social Security is building up surpluses to provide for the retirement of the baby-boom generation, and unemployment insurance builds up surpluses during good economic times in order to pay the benefits during recessions.

Under this proposed amendment, you could build up those surpluses in anticipation of the future needs, but you could not use them when the time arose because then your outlays would be exceeding your receipts.

When the baby boomers retire, or when the next recession hits, any excess of outlays over revenues in Social Security and unemployment insurance would have to be offset by tax increases or spending cuts.

Obviously, such a requirement fundamentally undermines the economic prudence that is associated with anticipatory budgets. It undermines the very fiscal prudence that is connected with building up these trust funds in good times in order to be able to use them in bad times.

Perhaps even more serious than this in terms of the consequences of a balanced budget amendment is its failure to separate investment spending from spending for current consumption. It is clear that running deficits to finance current consumption in expansionary periods is unwise, for it shifts onto future generations the task of funding today's spending.

But capital investment is a different proposition. Today's capital investment increases the rate of growth in the economy in the future, thereby yielding a larger stream of future income. Because of this possibility of enlarged future income, income from these capital investments, it makes economic sense to finance some portion of today's capital investment with borrowed funds.

In other words, this is what anyone does. This is what individuals do; this is what private businesses do; this is what State governments do; this is what the Federal Government does, although it is not clearly manifested because we do not have a capital budget.

What most households and governments do is borrow in order to invest, thereby enhancing future income, and paying for the investment over time. This proposed balanced budget amendment does not recognize this important economic distinction between consumption and investment spending. And it would require all investments to be fully funded with tax revenues in each fiscal year.

If a household were to follow such a budget strategy, and limit outlays in any one year to no more than their revenues in that year, only a tiny number of American families would be able to buy a home, an automobile, or major appliance. Just stop and think about that.

For most people when they buy a home, in the year that they buy it, their outlays far exceed their receipts, and they cover it with a mortgage. They go out and they borrow. They take out a mortgage in order to buy their home. And then they pay for their home in future years. They amortize it out over a period of time.

Most people do the same thing with an automobile. And it makes sense to do so. They calculate it out. They purchase the automobile; they borrow; and then they make the payments over a period of time in order to draw down that debt.

Businesses follow the same strategy. Most businesses borrow in order to finance new capital investment. It improves their economic position. They get an enhanced income stream in the future as a consequence, and they are then able to pay off that debt in future years.

Our country has been lagging with respect to the national effort on investment, and our poor record of growth in productivity and income reflects this. A balanced budget amendment that does not distinguished between capital spending and current consumption would make it much harder for the National Government to play its essential role in accelerating the pace of investment.

In fact, it is almost certain that investment spending by the Government would bear much of the burden of trying to move toward a balanced budget, if in fact the amendment were to be implemented.

Let me just emphasize again in this context that most State governments exempt capital spending from balanced budget requirements, in part from a recognition that borrowing to finance capital investment is prudent economic policy.

It is not clear, in any event, how this amendment would be enforced. Would we have to stop paying benefits to Social Security recipients or abrogate contracts if revenues fell short of expectations?

What is clear, I think, in looking at the amendment, is that its lack of clarity would almost certainly lead to court involvement in both defining and implementing economic policy. Although no one can state with certainty what role the courts will play in interpreting the amendment, it is reasonable to expect ample opportunity for litigation and court interpretation of such terms as "outlays," "revenues," and "budget."

In addition to a shifting of the debate on fiscal policy from the Executive and legislature to the courts, this proposal raises the real possibility that the courts would eventually be required to take over the management of fiscal policy, as they have, on occasion, taken over the management of school districts or of prisons. Managing fiscal policy is not an appropriate job for the courts. Yet, passage of the amendment would move us in this direction. Even the proponents of this proposal seem to say, "Well, we want it, but we want to be careful, and we want to be able to waive it."

I indicated before what I think about waivable constitutional principles. If it is waivable, it ought not to be in the Constitution. I ought to be addressed in some other fashion. But this so-called "three-fifths suspension" raises a number of important questions. Actually, it is really a statement that the proposal is not so fundamental that it should be in the Constitution. No other constitutional principle—free speech, individual rights, equal protection, and on and on—can be waived by a three-fifths vote of both Houses. That proposal of the three-fifths waiver would permanently shift the balance of power from majorities to minorities in our society, violating the democratic principles upon which our Government is based. It effectively gives control over fiscal policy to a minority in either House.

The Washington Post wrote a very perceptive editorial on this issue—let me just quote briefly from it—in which they said:

> The balanced budget amendments to the Constitution on which Congress may soon vote are not balanced budgets amendments at all. They are abandonments of majority rule and responsibility, whose effect would be a further elevation of congressional minorities, the very splinter groups whose singlemindedness and log-rolling influence are said to be the bane of Congress now. The history of many reforms is that they boomerang, and, in any case, procedural reform is not a substitute for political will.

Mr. President, I ask unanimous consent that the editorials which have appeared in the Washington Post over a period of some weeks on this issue be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. SARBANES. Mr. President, finally, in concluding, I just want to

make these observations. First, writing a balanced budget requirement into the Constitution will undercut economic policy designed to offset the business cycle. People have forgotten that throughout the 19th and much of the 20th century, we experienced major economic recessions, indeed depressions, in this country. In the post-World War II period, by using fiscal policy to help offset the downturn in the business cycle, we have been able to avoid the kinds of deep depressions that have marked the country in the past, the most notable of which, of course, was the Great Depression of the 1930's.

Second, this proposal burdens the Constitution and the courts with issues which should properly be decided by the President and the Congress. The very able President pro tempore has spoken to this issue at length earlier this afternoon.

Finally, it shifts the principles of our democracy from majority to minority rule. The Constitution is a brief general statement defining the political and civil liberties of our citizens. It does not establish any specific domestic policy, any specific foreign policy, any specific economic policy. Those are left to be decided by the elected representatives of the people; namely, the President and the Congress.

Because of its focus on universal principles, the Constitution has endured for over two centuries. As I said earlier, it has really been the envy of the world, and we should think carefully, long, and hard about amending it, and we should proceed with great caution.

Some who want to do this actually end up justifying it as a sort of a concession to frustration. They say, "we have this deficit problem, and it has not been solved; therefore, we are going to just enact this constitutional amendment." They think that somehow, by magic, that is going to solve the problem. Actually, it is a promise to do something in the future. This amendment is talking about 1998, supposedly masquerading as a tough choice today. We do not need any more masquerades, and we do not need any more promises. We need the President to come to the Congress and present a proposal now, here and now, to try to address this deficit problem, a proposal to enact real measures to restrain spending and raise revenues in order to close the deficit gap.

Mr. President, I close with this observation. Much of today's alienation of voters from the Government comes from the practice of passing hollow laws: Laws which purport to change things but which through loopholes and waivers end up resulting in nothing really happening.

Mr. President, if hollowing out the law creates political cynicism and alienation, imagine, imagine what hollowing out the Constitution would do.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Washington Post, June 8, 1992]

PATRIOT GAMES

President Bush devoted his news conference the other day to support of a balanced budget amendment to the Constitution. He'd do better to find a more congenial subject. This one puts him in the weak and awkward position of urging that his own pattern of behavior be constitutionally proscribed—but not until safely after the next election.

The president already has all the power he needs to send Congress a balanced budget—or one that makes a genuine move in that neglected direction—and then to veto any bill that deviates from his proposals. It would take two-thirds of both houses of Congress to overcome such determination; that's more than the three-fifths that any of the constitutional amendments would require. Mr. Bush has done none of this; the record that he is deploring is largely his own. The problem is the same for him as it is for Congress—not a lack of constitutional power, but of political courage, imagination and will.

The amendments are a way once again of deferring action while appearing to act, a reflection not of conviction but of the lack of it. In hopes of restoring the lost ability to govern, a group of middle-road senators from both parties proposes that the presidential candidates each submit to an hour's serious questioning on national television about their plans to reduce the deficit. Bill Clinton, whose own proposals for balancing the budget have seemed to us to still need work, quickly said that he'd be glad to appear on such a program. Ross Perot, who has said even now he is still creating his position, did not immediately respond. The initial response from the White House was that the president already has "put his budget out there," and so he has. The problem is that the projected deficits remain in the $200 billion range as far as the eye can see.

That comes close to $1 trillion of added debt per presidency; the country can't afford it. The administration continues to say that a balanced budget can be achieved without a major tax increase or cut in the cost of Social Security, which constitutes close to a fourth of spending for other than interest on the debt. All that is needed is a rate of economic growth about double that of recent years and a cap on entitlement spending except for Social Security. But where have you heard before—how many trillions of dollars of debt ago?—that the country could grow its way out of the deficit? And which entitlements does the administration propose to cut, at whose expense? It would mainly have to be Medicare and Medicaid—they are the largest remaining programs and greatest offenders—but how does the president propose to curb health care costs? He doesn't say.

Those Democrats who are working for the amendment are no better. Paul Simon, sponsor of the leading balanced budget amendment in the Senate, says that he's "not about to spell out precisely" how he would achieve the balance nor to stop advocating what he thinks are necessary spending increases in the interim. His Democratic counterparts in the House say that of course they want to begin reducing the deficit right away, but not in the same vote in which they adopt the amendment. Later will be time enough for the specifics; you've heard that before, too. To siphon votes away from the leading amendment, the House Democratic leadership is meanwhile also proposing that Social Security be left out of the deficit calculation as well as any cuts, the idea being to give members cover for saying that much as they wanted to balance the budget, they felt obliged to protect Social Security even more.

It's a game that's being played here on all sides, but the Constitution is the wrong place to play it. It's one thing when the president and the members tie up future revenues to assure their reelection; now they propose to mortgage the form of government as well. By the shifts that they imply from majority to minority rule, these amendments would disturb the systems of checks and balances within and between the branches of government, including the courts, in ways that none of these hasty supporters fully comprehend. The amendments are the ultimate retreat from the responsibility that they pretend to embrace. One way or another, one house or the other needs to defeat them.

[From the Washington Post, June 1, 1992]

MORE ON "CRYING WOLF"

House Budget Committee Chairman Leon Panetta gave a glimpse the other day of the spending cuts and tax increases that a balanced budget amendment to the Constitution would entail. His illustrative lists included everything from Social Security cuts to a possible national sales tax, and the White House accused him of "crying wolf"; the president's spokesman suggested that the goal that the president himself has never even attempted could be achieved with much less pain. But the math of the budget and the lessons of the pain-averse budgeting of the last 12 years are all on Mr. Panetta's side.

A likely effective date for most versions of the balanced budget amendment is 1997. The budget for that year is now projected to be $1.73 trillion, and the deficit, $236 billion. The projections assume that the S&L bailout will be largely over by then, that the country will enjoy steady economic growth with low inflation in the interim, and that no new programs will be added to the budget that are not financed.

Such a combination of good luck and responsible behavior is hardly ensured, but assume it occurs; the math is still brutal. It begins with the clutter of unpaid bills from the past. No matter how well behaved the president and Congress turn out to be in the intervening years, about 15 percent of the 1997 budget will continue to be interest on the debt. The debt, which is the sum of past deficits, quadrupled in the Reagan-Bush years to $4 trillion. The interest has to be paid.

Another 20 percent of the budget will be the cost of Social Security. Mr. Panetta suggested that this would have to be among the items cut, if only indirectly (the best way) by subjecting a larger share of benefits than now to the income tax. That of course is political heresy; the president and (in a proposal last week to undercut and defeat the leading constitutional amendment) the House Democratic leadership have both suggested that Social Security should be kept out of any budget cutting.

But without a cut in Social Security and without the major tax increase that the president is also pledged to avoid, the rest of the budget would have to be cut by more than a sixth below the spending likely under current law to bring it into balance. If defense were also protected against a further

cut, as the president insists for the sake of national security that it should be, then the rest of the budget would have to be reduced by about a fourth.

Even with cuts in Social Security and defense, that rest of the budget—everything from health care and veterans benefits to highway funds and aid to Israel—would have to be plucked somewhat. The alternative would be enormous tax increases. To erase the expected 1997 deficit with taxes alone, receipts would have to be increased by about a seventh.

An amendment lets the president and the chorus in Congress vote for a balanced budget in the abstract. Mr. Panetta would have them vote for one in fact at the same time. They already have the power; name the programs and the taxes now, he says. But they don't want to do it, or most of them don't, not before the election. They want a free vote. It is the ultimate example of buying reelection at the future's expense, only this time it is the Constitution that they are unbalancing. It is Congress's own power that Congress in its weakness now proposes to mortgage; that's where we've come to.

[From the Washington Post, May 20, 1992]

MAJORITIES ARE CHEAPER

The balanced budget amendments to the Constitution on which Congress may soon vote aren't balanced budget amendments at all. They are abandonments of majority rule and responsibility whose effect will be a further elevation of congressional minorities—the very splinter groups whose singlemindedness and log-rolling influence are said to be the bane of Congress now. The history of many reforms is that they boomerang. And in any case, procedural reform is not a substitute for political will. The effect of these efforts to atone for past political failure is as likely to be an increase in the deficit as it is a decline.

These ill-considered proposals are misnamed. They do not mandate that the budget be balanced; they simply require more votes—typically three-fifths of both houses—to unbalance it. Forty percent plus one in either house can hold the entire government hostage; that's the shift to minority rule. The theory is that the holdouts, whoever they may be in a given year, will use their increased power to keep the deficit down. But precedent suggests the opposite outcome, that they will use the power to ratchet the deficit up. To assemble the votes for a budget, even more interest groups than now will have to be satisfied. The price of passage will go up, not down.

In terms of governance, the peril of failing to include a certain group—of cutting instead of increasing its subsidy—will be greater, not less. Majorities are cheaper. Nor will the price exacted always be fiscal; to pass a budget, a rider on an issue having nothing to do with the budget may be required. A limited form of minority rule already exists in the Senate, which tends to pride itself on its accommodative procedures. When have they finally held the deficit down?

It already takes a three-fifths vote in the Senate to break a filibuster. When was the last filibuster against an unbalanced budget? The Constitution already requires a two-thirds vote in both houses to override a presidential veto. When was the last time the veto was used to enforce a balanced budget? If George Bush is so in favor of a balanced budget, why doesn't he submit one? Why didn't Ronald Reagan before him, while also urging passage of an amendment?

These balanced budget amendments have not been thought through. (Among other effects, they would squeeze the states that would be called upon to ratify them, but that's another story.) The budget ought to be put on the path toward balance just now, but the way to do that is to increase taxes or cut spending. The amendments would do neither. They carefully postpone both steps while at the same time providing cover for past postponements. They represent a major change in our constitutional system, whose discipline they are as likely to weaken as to strengthen. The president and Congress alike are using the Constitution for short-term political purposes, as a fig leaf. The country deserves better than that. These amendments are the ultimate expression of the irresponsible governance that they purport to condemn. They ought to be shot down.

[From the Washington Post, May 12, 1992]

TRIVIALIZING THE CONSTITUTION

The balanced budget amendments to the Constitution that Congress is considering are cop-outs that would neither require balanced budgets nor likely help achieve them. Instead, while pretending otherwise, they would again postpone the difficult decisions they imply, encourage further evasions, trivialize the Constitution and almost certainly entangle future fiscal policy in the courts. They represent another effort by the President and Congress to embrace the objective without—God forbid—approving the means of accomplishing it. That will come later, always later. These sloppy, dangerous proposals are the ultimate expression of the weakness and dithering and flight from responsibility that they purport to correct. They are yet another way of letting those who are elected to govern evade accountability for acts of governing—putting the thing on automatic, enabling themselves to say if ever the cutting gets tough and unpopular: Hey, we didn't do it; the amendment did.

It's absolutely so that the budget deficit should be reduced; with the savings and growth rates low and the costly retirement of the baby-boomers not that many years ahead, the government should probably be running a surplus. Instead, the deficit this year will be another $400 billion. The national debt, which took two centuries to get to $1 trillion, has grown to four times that in just the past 12 years. The government borrowing detracts from national savings and props up interest rates. The interest on the debt is now a seventh of the budget and crowds out other spending. The deficit restricts the economy and the ability to govern, both at the same time.

To offset these debilitating tendencies, the amendments would not forbid an unbalanced budget but would make it theoretically harder to pass. Under all the pending versions, and unbalanced budget, as they variously define it, would take a three-fifths vote of the full membership of both houses, as against majorities today. Some versions then go beyond this, to require three-fifths votes as well to increase the debt or raise taxes. The latter versions, while they masquerade as balanced budget amendments, are expressions of a different agenda. They represent at least in part an effort on the part of people opposed to the mildly redistributionist tendencies of the federal government to shrink its size.

The amendments pose huge operational problems. The most popular version pending in the House would require the president and Congress to agree before each fiscal year began on an estimate of that year's revenues, which then could not be exceeded by outlays without a three-fifths vote. But what if they don't agree, as in so many recent years they haven't? Does someone then put them in jail? Does government stop? Does its every action so long as they disagree on this essentially political question become unconstitutional? Then there are all the other questions that recent history suggests, like what are revenues and outlays, which are the government's and which are not, when are outlays calculated, and what constitutes the fiscal year? The courts will become the final keepers of the government's accounts. What also of the government's countercyclical role, as an offset to the business cycle? Is it really in the national interest to make it constitutionally harder for the government to bring the economy out of recessions?

It's not that hard to balance the budget—not intellectually anyway. You have to vote to increase taxes and/or cut spending. That's what the president and members are already in such disrepute for refusing to do. These amendments are nothing more than attempts to give them cover for refusing to do it a few years longer. Let the next administration and Congress do it. Always the next. If they're going to vote to reduce the deficit, as well they should, it's fair to ask them to tell us how, and not just procedurally as they have so often done before. Which programs? Which taxes? The Constitution should not become the permanent monument to a temporary failure of political will.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, I rise in the first instance to congratulate my friend, the learned and implacable senior Senator from Maryland, for having set this debate in the terms in which it must be addressed by the Senate of the United States.

This is not a convention, it is not a rally, this is the Senate. These are sacred precincts and we dealing with a sacred document, the Constitution of the United States. The Senator from Maryland has spoken of the gravity of the issue before us and the folly of the proposal and the path we are asked to take. I want to thank him for that.

Mr. SARBANES. Mr. President, if the Senator will yield, I very much appreciate the Senator's comments, particularly coming from one of the Members of the Senate who is most sensitive and understanding of the meaning of the Constitution and the significance of our political system.

Mr. MOYNIHAN. Mr. President, I might take a somewhat separate subject now, to ask ourselves how did we reach this moment of folly and debased rhetoric?

We are told that there is something inherent in the democratic system that makes us unable to control expenditures in a way that is necessary to good governance and, therefore, we have to amend the Constitution to do it for us. To do what obviously, as the Senator from Maryland has said, we can do at any given time. Any President may send a balanced budget to us. President Carter did. None has done since. But obviously that is something we can do. We are now told no, you cannot do it; that we are out of con-

trol; and that this has to do with the nature of democracy and of our institutions.

I would like to suggest to you that this is not true. It is an enormous untruth and that needs to be clarified.

If I could just go for a moment to the statistics, the numbers, which is what we are talking about. How incapable have we been in this century. The economic report of the President has a table B–74 and the title is Government Finance, and it tells you, it gives you the Federal debt as a percentage of gross domestic product each year starting from 1929.

Back in 1929, at the end of the very prosperous 1920's, the Federal debt as a percentage of gross domestic product was 54.8 percent. It stayed about that through the 1930's in the time of the New Deal, which was said to have been a time of great Federal spending. The debt actually declined as a percentage of the gross domestic product. Not a great deal, but it went down. There you are, the Senator from Maryland has a table. I would hope the cameras might show that, and how it went down.

Mr. SARBANES. If the Senator will yield for just a moment, it is a very important point the Senator is making. Now this chart begins in 1952. We should have had it earlier, but to go back to the Second World War—and it shows the debt of the Federal Government as a share of the gross national product. What happened of course is in World War II we ran up a large debt, because we had to mount a war effort.

Mr. MOYNIHAN. Exactly.

Mr. SARBANES. And we had to deal with a crisis. We ran up a large debt. And so here we were up to about 62 percent. The debt is as a share of GNP. And as you can see, Mr. President, it worked its way down over the years. This is 1973 here. We move up a bit in the late 1970's when there was nothing significant, and then beginning in 1981 it takes off.

Mr. MOYNIHAN. Exactly.

Mr. SARBANES. As a percent of the share of the GNP.

In other words, the debt was growing faster than the national income was growing, instead of slower. If it grows slower, its burden on you is diminishing, because your gross national product is growing faster than your debt and, therefore, your debt becomes less and less of a problem as we see right here.

In fact we had it down to about 30 percent at this point and it took off in the 1980's and rose this way, which only underlines the point that the distinguished Senator from New York is making, that there is not something inherent in the system, our constitutional system, that prevents us from dealing with this problem. In fact it is something that has happened in the 1980's that has created this problem, which the Senator is in the course of developing.

Mr. MOYNIHAN. And I mean to say, and—thanking the Senator from Maryland—will say to the Senate what I said before. I say it again. What happened was a deliberate policy of creating deficits as a social policy designed to affect public policy.

Take the numbers in 1945, at the end of World War II, with all that effort, the debt as a percentage of GNP had reached 127.6 percent. It proceeded to go down and down and down. At 1959 it was 60 percent; 1969, it was 39.5 percent. Then in President Carter's last year in that decade it was 34 percent. All of a sudden, it proceeded to rise, rise, rise. Next year, it will be 72.9 percent.

It has doubled since the Republican administration took office. Why did it? May I go back to a time—it seems a distant time now, the early years of the Democratic administration of John F. Kennedy. At that time, the economists who were in of the Council of Economic Advisers, headed by the most distinguished and able man, Walter Heller, with such luminaries as Nobel Laureate James Tobin and others. They were of the view that we had a problem of public finance in our country which was that the Congress was not disposed to spend enough money toward the peak of the business cycle. The result was that we never reached full employment. In those days full employment was seen at 4 percent or, as the Department of Labor insisted in one of the economic reports, an interim goal of 4 percent, 3 percent being more reasonable.

This problem was described as fiscal drag. It was said that our institutions—including this very same institution we are in—just would not spend money. We were not disposed to do that. We are reluctant to do that. And when revenues rose, because the economy was rising, you would begin to find that the stimulus began to be suppressed by our unwillingness to move out the funds that we had. Our problem was we would not spend money.

Walter Heller had an idea. Revenue sharing. We will pass the Federal revenues on to the States and they will be able to keep the economy going and we will not go through that up and down cycle, the business cycle as it had been called. There will be some cycle. But we will reach full employment. And if we go down, we will not go down very far, we will go back rather promptly.

President Nixon proposed revenue sharing in 1969.

The idea for a full employment budget was that we needed stimulus, not a very great deal perhaps, but our problem was—if we had a systemic problem—a disinclination to spend.

Now, when did this disinclination turn out to be an uncontrollable urge? The truth of the matter is, it never did become that and it is not that. What has happened is a deficit was created for the purpose of making the Federal Government cut outlays even more.

It was never stated better than by President Reagan 16 days into his first term, in which he stated: "There were always those who told us that taxes couldn't be cut until spending was reduced. Well, you know we can lecture our children about extravagance until we run out of voice and breath. Or we can cut their extravagance by simply reducing their allowance."

There you have in place a policy of creating a deficit to prevent the Congress from spending money on social programs. A number of things happened of which the most important was that same administration continued and increased a pattern of more spending on defense than had begun under President Carter. So while they look for cuts in domestic spending, they look for increases in defense spending, while they had in fact cut their revenue base in the tax cut of 1981.

A week or so ago, our most able, I know our revered, and I dare to say our precious President pro tempore, came on the floor addressing this subject. He quoted a passage from Haynes Johnson's wonderful history of the 1980's, called "Sleepwalking through History, America in the Reagan Years." He having done that, I will take the liberty of repeating what he says even though it does involve the Senator from New York.

He said:

> Moynihan was the first to charge that the Reagan administration "consciously and deliberately brought about" higher deficits to force Congressional domestic cuts. Moynihan was denounced and then proven correct—except that cuts to achieve balanced budgets were never made, and deficits ballooned ever higher.

Now this is from one of the most able and respected journalists of our time, Haynes Johnson of the Washington Post, not a partisan, in this case an historian, saying when you first said this you were denounced as saying something that was unbelievable. It turned out you were right, but then it was too late.

Let me just go through a little bit of the history here, and in particular the history as it was finally revealed by Mr. Reagan's first Budget Director, Mr. David Stockman.

Mr. Stockman, in his book, "The Triumph of Politics; Why the Reagan Revolution Failed," describes this policy, this conscious policy of creating deficits, which, in the White House and in the Office of Management and Budget at the time there was a term for it, it was called starve the beast. We were the beast; the Federal Government was the beast. It had to be starved.

And what did the President say? He said: What do you do with a child that will not behave? You can talk until you are out of voice or you can end the extravagance by cutting his allowance. Starve the beast.

Mr. Stockman, in his book about these times describes that at its 1980

convention the Republican Party had endorsed both a 30-percent tax cut and a radical reduction in business taxes. And here are the passages from again "The Triumph of Politics: Why the Reagan Revolution Failed," published in 1986.

He says that coming back from the convention and having in mind a prospect that he would be the Director of the Office of Management and Budget, he began to work out the effects of the Kemp-Roth tax cut that had been endorsed. It was called supply-side economics. And the proposition—and, this is key—the proposition was that the tax cuts would pay for themselves because they would generate so much more business activity that total revenues would rise even though tax rates had been cut.

"Oops," said Mr. Stockman, as he did his figures one more time. "My heavens, that is not going to happen." I quote him:

> I discovered that to balance the budget we would need huge spending cuts too—more than $100 billion per year. The fabled revenue feedback of the Laffer curve had thus slid into the grave of fiscal mythology forty days after the supply-side banner had been hoisted at the GOP convention.

Now this is David Stockman, a member of the Cabinet, Director of the Office of Management and Budget.

He goes on:

> These dramatic changes in both my comprehension of budget estimating and the true fiscal math of the supply-side budget program occurred almost overnight. That should have been a cause for second thoughts and reassessment of the whole proposition.

But it did not happen that way.

Mr. Stockman then had the idea for a real revolution. He says:

> The success of the Reagan revolution depended upon the willingness of the politicians to turn against their own handiwork—the bloated budget of the American welfare state. Why would they do this? Because they had to.

You could just see him jumping up.

He said:

> In the final analysis, I had made fiscal necessity the mother of political invention.

I am happy to know we can say that no member of the Philadelphia Convention was around to read the idea that you gamble with history, and you gamble with our society's stability.

And so, he went on to make that gamble in a Senate now controlled by a Republican majority. And then he began to see it was not working out.

There is a wonderful passage, Mr. President, on why. He began to see that while Mr. Reagan would talk about big budget cuts, he only wanted budget cuts from a line item which we can assume was called "waste, fraud, and abuse." In the real world, he did not mind the programs that we had.

George Will, that most luminous commentator, a close personal friend and a staunch defender of Mr. Reagan, even so would tell audiences something similar at that time. I recall speaking to a business group here in Washington one morning and finding I had concluded my remarks and he, George Will, came in to speak next. There was nothing going on up here. It was early. So I stayed and listened to Mr. Will. And he had this wonderful, droll remark. And he can be droll, as no one of his time.

He said:

> I have a toaster, which I am offering to any member of the audience who can tell me of one program that President Reagan proposed to abolish during his campaign for the Presidency.

The business executives—you could see each of them sort of saying hmmm, and then looking around—surely, some hand must be up—and finding all their associates in the same, sort of hmmhmm mode—just not able to think of it now.

Whereupon, Mr. Will said it is all right, do not feel badly. You cannot remember any program Mr. Reagan as a candidate proposed to abolish because there was none. He said, I have been offering this toaster all over Washington for a year now, and every time I do, I take it home in the box. There was none.

A corollary, if you like. Mr. Stockman describes in his book that in 1982 this was getting clear—the plot was not working. The conspiracy was not working out. Fiscal necessity was not becoming the mother of political invention.

Mr. Stockman describes how he used to make up a little quiz for the President every afternoon. He would not overdo it. It would be about six programs. He said this is the program, it supports—section 8 housing, shall we say? Or soy beans? Or veterans hospitals? Or the Public Health Service?

He would describe what it did and he would describe how much money was in the next budget. He would give the President three choices: Abolish it? Keep it as is? Trim it a little?

Invariably the President would say keep it as is or trim it a little. Because these programs—they are not all to be defended, I certainly do not defend them all—but they came into being for a reason. They serve a purpose. Maybe you cannot afford them. Maybe there are higher priorities. And Mr. Reagan was not a hard-hearted man. He did not want to cut out women's, infants and children's nutrition programs. He did not want to cut out food stamps. He might say cut it down a little, but do not get rid of it. There are hungry people out there, there are sick children, or farmers who need assistance, or people who need help.

After a while Mr. Stockman realized he was in a hell of a lot of trouble and the country with him. He would then write—he wrote in 1986 that, the Reagan administration's refusal to accept the need for new revenues when the need became obvious—Mr. President, I ask the Senate to listen to this—that refusal to get new revenues when the need became obvious "was a willful act of ignorance and grotesque irresponsibility."

"A willful act of ignorance and grotesque irresponsibility."

He concludes, "In the entire twentieth-century history of the Nation, there has been nothing to rival it."

Those are strong words, sir. And you saw it on the chart that the Senator from Maryland just showed us in the Senate.

I am claiming no special insight into this. Simply, I was a member of the Finance Committee and had been here long enough to have some sense of the same numbers Mr. Stockman was looking at. I had served in the Cabinet of the two preceding Republican administrations. In September 13, 1981, just after we had passed that massive tax bill—and let us be clear, there was a bidding war in the House, a bidding war n the Senate, it went further, even, than the administration had proposed—I went before the Business Council of New York State speaking at Kiamesha Lake.

I said,

> Do we really want a decade in which the issue of public disclosure over and over and over will be how big must the budget cuts be in order to prevent the deficit from becoming even bigger? Surely larger, more noble purposes ought to engage us.

But there was no sense in the Nation—none in my audience—that that might happen; that it might go on and on and on happening until we ended up proposing to amend the Constitution until the President who was then Vice President would say, "Help; we have to change the basic law of the land to keep me from doing what we did."

Stockman by 1982 had realized it. If I can say, 4 weeks after the 1981 tax bill so had I. Let me make clear, I voted for that tax bill. Then we went into our August recess, and I went up to the farm in New York and I began doing the numbers, much as Mr. Stockman had done. I said, oh, my God, we cannot handle this. This will define our decade. I never dreamed we would end up proposing to amend the Constitution just because we got a little wild in passing out tax cuts. And because Mr. Stockman had a conspiracy of his own. But that is what happened.

In 1983 I wrote in the New Republic an article which said—a lot was going on—a lot was going on, 1983, now—"there was a hidden agenda." The agenda was designed to force the Congress to behave, with respect to domestic social programs, in a way that it otherwise would not do. And which it did not do. Not this body, this Republican-controlled body, nor the democratically controlled House, nor is there any inclination on Mr. Reagan's part to do it either, as we learned from tests given those afternoons.

In 1984 I spoke at the Commonwealth Club in California and said: Help. Do we not see what is going on? Walter Mondale, in a few days would make a speech and say we need new taxes to fit together outlays and income.

This is a passage from that address I made at a luncheon.

As no political generation in history, ours may turn out to be one that squandered the Nation's past, and paralyzed its future, and never noticed either.

We were at the San Francisco Convention. To say again,

As no political generation in history, ours may turn to be one that squandered the Nation's past and paralyzed the Nation's future and never noticed either.

We have heard today an exemplary, learned forceful statement from the President pro tempore saying this constitutional amendment would paralyze this Government. You can do that. Social stability is hard to come by. Instability can come overnight. And it looks like it may be doing.

It never sunk in in the White House. I think we all know in this body that most distinguished Nobel laureate, the Viennese, Austrian economist Friedrich von Hayek. Von Hayek's 1946 book, "The Road to Serfdom," was one of the most prophetic arguments against central government planning, one in favor of three markets that was ever written. For that work, and others, he won a Nobel prize and he won the great admiration of the succession of American Presidents. He called on President Kennedy. I can remember reading about the occasion at the time. He was told by the President how much he, the President, enjoyed von Hayek's books. Von Hayek left the White House saying, "That man has never read a line I have written," but it was an obligatory statement. On the other hand, Ronald Reagan had read and did approve, did comprehend, and Margaret Thatcher did.

There was this wonderful article in a Viennese publication called "Profile," in 1985. If I recall the title, it was called "Ronnie Und Maggie." President Reagan and Prime Minister Thatcher. The heads of the two great English-speaking nations, both committed to von Hayek's economic theories, and he described in this interview having called at the White House—1985 it was written—and he did say, well, you are doing well but you have these deficits, they keep coming along. Deficits will get you in trouble. In the end you will monetize the debt, which would produce a vast inflation. Viennese knew something about that. All Europeans did in the 1930's. And he said, watch that; you get a big, big debt and the next thing you know you will get a big inflation or you will do something you wish you had not done.

Then this, Mr. President, is what Frederic von Hayek says. This was not written by him, this was an interview. He said:

One of Reagan's advisors told me why the President has permitted that to happen, which makes the matter partly excusable: Reagan thinks it is impossible to persuade Congress that expenditures must be reduced, unless one creates deficits so large that absolutely everyone becomes convinced that no more money can be spent.

I do not know if there is a more powerful witness to what happened. We can certainly take Mr. Stockman at his word. And yet of necessity he was a participant. Those of us who write our own histories rarely overemphasize our own mistakes. But here is von Hayek, absolutely disinterested talking to a Reagan adviser in 1985. He is just recounting this to an interviewer in Vienna and he told, "Reagan thinks it is impossible to persuade Congress that expenditures must be reduced, unless one creates deficits so large that absolutely everyone becomes convinced that no more money can be spent."

That is von Hayek, Mr. President. And did you hear that operative verb, "creates" deficits? These deficits do not come out of an institutional inability to handle our affairs. Earlier on I described how our debt as a percentage of GDP has been declining steadily since a necessary peak at the end of World War II, a world war that was brought on by the kind of financial instability we are dealing with in this country right now. We can do that. Fine. We had Presidents very moderate in their views: President Eisenhower, President Kennedy. We had Presidents rather extravagant in their views: President Johnson. We had President Nixon who wanted to create a guaranteed income for everybody. We had President Carter, not so clear. President Ford, a man of the House, moderate. We had expansive Presidents and more subdued ones. The debt as a proportion of GDP kept going down, down, down.

Then came into office a group of people—still in office, Mr. President. Principal advisers in OMB are still there. The Vice President is still there, now President. Saying you cannot get discipline by this body unless you create a deficit. Now these very same people are saying deficits are an innate weakness of the American constitutional system and we must change the Constitution.

I do not want to get political but would it not be better to change the people who did this? Would it not be better to say to them, all right, we will give you credit for good intentions, you created a crisis and it got out of control. But there are consequences for that, you know. We have elections in this country. Still, we have not amended the Constitution on that, yet. And perhaps 12 years is enough, because you gambled with the stability of the American Republic. You gambled and you lost and now you are trying to cover up. Not, Mr. President, very admirable behavior.

Let me conclude by saying that I know that much of what I said will be heard with great skepticism. I know from that experience, Haynes Johnson said, when I first said it I was denounced. You say no, nobody behaves like that. It is a terrible thing to say. And when Mr. Stockman wrote it all out, nobody paid that much heed to that portion of his book. Most of his book was about that. If I recall the reviews, they tended to be about his relations with the First Lady. Because it is hard to understand this. Von Hayek could understand it. Von Hayek could understand an awful lot of things beyond the reach of certainly this Senator. He did not entirely approve of it either, but he followed the idea.

My experience, was that on this floor, and elsewhere, people did not follow. I think the youth have a term from their computer terminals. They say, "You can't access that file." I recall myself going around at one point saying Lenin was not a problem solver. Lenin created crises. Such is the stability of our Republic the Lord has given us that people say: What do you mean create a crisis; why would you do that? No, no, people do not do that. Well, it was done, and it may be that we will have to rise to levels of understanding that have not been necessary in the past. It may be we are going to have to understand, yes, you can create a crisis, people are capable of thinking that way and concealing it until it is too late and they are out of Government and writing their memoirs.

This is going to require a feat of understanding on our part, not just the political courage to stand up and say, I am not going to debase the Constitution because we had three terms of Government that debased the public finances.

The reason this measure is on the floor now, the Senator from Maryland made the point, I am sure the distinguished chairman of the Budget Committee did the same, that this amendment has been defeated in the House and it is not going to happen in this Congress, but the effort has been made to bring it up here on a bill that has nothing to do with it in order to make Senators on this side vote against the amendment and presumably they will have difficulties in their elections.

I can understand that. All I can ask is that we go beyond just the measures of individual courage involved, political courage involved, to say that sometimes there is something harder than courage.

What William James recalled, when he spoke of civic courage, he meant the courage to understand. When it is easier to avoid truth, even so, to confront it.

I deeply hope this debate will continue in the mode in which it has begun so ably by the President pro tempore. I hope I have added just some insights. I will speak again, if anyone wishes.

I ask unanimous consent, Mr. President, that the economic report with the percentages of debt as a portion of GDP be printed in the RECORD, along with an article of mine from the New Republic.

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

[From the Economic Report of the President, February 1992]

GOVERNMENT FINANCE

TABLE B–74.—FEDERAL RECEIPTS, OUTLAYS, SURPLUS OR DEFICIT, AND DEBT, SELECTED FISCAL YEARS, 1929–93

[In billions of dollars; fiscal years]

Fiscal year or period	Total			On-budget			Off-budget			Gross Federal debt (end of period)		Addendum: Gross domestic product	Federal debt as percent of GDP
	Receipts	Outlays	Surplus or deficit (−)	Receipts	Outlays	Surplus or deficit (−)	Receipts	Outlays	Surplus or deficit (−)	Total	Held by the public		
1929	3.9	3.1	0.7							[1] 16.9			
1933	2.0	4.6	−2.6							[1] 22.5			
1939	6.3	9.1	−2.8	5.8	9.2	−3.4	0.5	−0.0	0.5	48.2	41.4	87.9	54.8
1940	6.5	9.5	−2.9	6.0	9.5	−3.5	.6	−.0	.6	50.7	42.9	95.5	53.1
1941	8.7	13.7	−4.9	8.0	13.6	−5.6	.7	.0	.7	57.5	48.2	112.5	51.1
1942	14.6	35.1	−20.5	13.7	35.1	−21.3	.9	.1	.8	79.2	67.8	141.7	55.9
1943	24.0	78.6	−54.6	22.9	78.5	−55.6	1.1	.1	1.0	142.6	127.8	175.4	81.3
1944	43.7	91.3	−47.6	42.5	91.2	−48.7	1.3	.1	1.2	204.1	184.8	201.6	101.2
1945	45.2	92.7	−47.6	43.8	92.6	−48.7	1.3	.1	1.2	260.1	235.2	211.9	122.7
1946	39.3	55.2	−15.9	38.1	55.0	−17.0	1.2	.2	1.0	271.0	241.9	212.3	127.6
1947	38.5	34.5	4.0	37.1	34.2	2.9	1.5	.3	1.2	257.1	224.3	222.6	115.5
1948	41.6	29.8	11.8	39.9	29.4	10.5	1.6	.4	1.2	252.0	216.3	246.5	102.2
1949	39.4	38.8	.6	37.7	38.4	−.7	1.7	.4	1.3	252.6	214.3	262.4	96.3
1950	39.4	42.6	−3.1	37.3	42.0	−4.7	2.1	.5	1.6	256.9	219.0	265.5	96.8
1951	51.6	45.5	6.1	48.5	44.2	4.3	3.1	1.3	1.8	255.3	214.3	313.2	81.5
1952	66.2	67.7	−1.5	62.6	66.0	−3.4	3.6	1.7	1.9	259.1	214.8	340.3	76.1
1953	69.6	76.1	−6.5	65.5	73.8	−8.3	4.1	2.3	1.8	266.0	218.4	363.4	73.2
1954	69.7	70.9	−1.2	65.1	67.9	−2.8	4.6	2.9	1.7	270.8	224.5	367.4	73.7
1955	65.5	68.4	−3.0	60.4	64.5	−4.1	5.1	4.0	1.1	274.4	226.6	383.9	71.5
1956	74.6	70.6	3.9	68.2	65.7	2.5	6.4	5.0	1.5	272.7	222.2	415.2	65.7
1957	80.0	76.6	3.4	73.2	70.6	2.6	6.8	6.0	.8	272.3	219.3	437.2	62.3
1958	79.6	82.4	−2.8	71.6	74.9	−3.3	8.0	7.5	.5	279.7	226.3	447.1	62.6
1959	79.2	92.1	−12.8	71.0	83.1	−12.1	8.3	9.0	−.7	287.5	234.7	478.7	60.1
1960	92.5	92.2	.3	81.9	81.3	.5	10.6	10.9	−.2	290.5	236.8	505.9	57.4
1961	94.4	97.7	−3.3	82.3	86.0	−3.8	12.1	11.7	.4	292.6	238.4	516.9	56.6
1962	99.7	106.8	−7.1	87.4	93.3	−5.9	12.3	13.5	−1.3	302.9	248.0	554.3	54.6
1963	106.6	111.3	−4.8	92.4	96.4	−4.0	14.2	15.0	−.8	310.3	254.0	585.0	53.0
1964	112.6	118.5	−5.9	96.2	102.9	−6.5	16.4	15.7	.6	316.1	256.3	626.5	50.5
1965	116.8	118.2	−1.4	100.1	101.7	−1.6	16.7	16.5	.2	322.3	260.8	671.4	48.0
1966	130.8	134.5	−3.7	111.7	114.8	−3.1	19.1	19.7	−.6	328.5	263.7	738.6	44.5
1967	148.8	157.5	−8.6	124.4	137.0	−12.6	24.4	20.4	4.0	340.4	266.6	791.3	43.0
1968	153.0	178.1	−25.2	128.1	155.8	−27.7	24.9	22.3	2.5	368.7	289.5	849.8	43.4
1969	186.9	183.6	3.2	157.9	158.4	−.5	29.0	25.2	3.7	365.8	278.1	925.6	39.5
1970	192.3	195.6	−2.8	159.3	168.0	−8.7	33.5	27.6	5.9	380.9	283.2	985.6	38.6
1971	187.1	210.2	−23.0	151.3	177.3	−26.1	35.8	32.8	3.0	408.2	303.0	1,051.6	38.8
1972	207.3	230.7	−23.4	167.4	193.8	−26.4	39.9	36.9	3.1	435.9	322.4	1,145.8	38.0
1973	230.8	245.7	−14.9	184.7	200.1	−15.4	46.1	45.6	.5	466.3	340.9	1,278.0	36.5
1974	263.2	269.4	−6.1	209.3	217.3	−8.0	53.9	52.1	1.8	483.9	343.7	1,403.3	34.5
1975	279.1	332.3	−53.2	216.6	271.9	−55.3	62.5	60.4	2.0	541.9	394.7	1,511.0	35.9
1976	298.1	371.8	−73.7	231.7	302.2	−70.5	66.4	69.6	−3.2	629.0	477.4	1,685.1	37.3
Transition quarter	81.2	96.0	−14.7	63.2	76.6	−13.3	18.0	19.4	−1.4	643.6	495.5	444.9	144.7
1977	355.6	409.2	−53.7	278.7	328.5	−49.8	76.8	80.7	−3.9	706.4	549.1	1,919.7	36.8
1978	399.6	458.7	−59.2	314.2	369.1	−54.9	85.4	89.7	−4.3	776.6	607.1	2,156.4	36.0
1979	463.3	503.5	−40.2	365.3	403.5	−38.2	98.0	100.0	−2.0	828.9	639.8	2,431.9	34.1
1980	517.1	590.9	−73.8	403.9	476.6	−72.7	113.2	114.3	−1.1	908.5	709.3	2,644.5	34.4
1981	599.3	678.2	−79.0	469.1	543.1	−74.0	130.2	135.2	−5.0	994.3	784.8	2,964.7	33.5
1982	617.8	745.8	−128.0	474.3	594.4	−120.1	143.5	151.4	−7.9	1,136.8	919.2	3,124.9	36.4
1983	600.6	808.4	−207.8	453.2	661.3	−208.0	147.3	147.1	.2	1,371.2	1,131.0	3,317.0	41.3
1984	666.5	851.8	−185.4	500.4	686.0	−185.7	166.1	165.8	.3	1,564.1	1,300.0	3,696.7	42.3
1985	734.1	946.4	−212.3	547.9	769.6	−221.7	186.2	176.8	9.4	1,817.0	1,499.4	3,970.9	45.8
1986	769.1	990.3	−221.2	568.9	806.8	−238.0	200.2	183.5	16.7	2,120.1	1,736.2	4,219.6	50.2
1987	854.1	1,003.9	−149.8	640.7	810.1	−169.3	213.4	193.8	19.6	2,345.6	1,888.1	4,453.3	52.7
1988	909.0	1,064.1	−155.2	667.5	861.4	−194.0	241.5	202.7	38.8	2,600.8	2,050.3	4,810.0	54.1
1989	990.7	1,144.2	−153.5	727.0	933.3	−206.2	263.7	210.9	52.8	2,867.5	2,190.3	5,170.1	55.5
1990	1,031.3	1,251.8	−220.5	749.7	1,026.7	−277.1	281.7	225.1	56.6	3,206.3	2,410.4	5,459.5	58.7
1991	1,054.3	1,323.0	−268.7	760.4	1,081.3	−320.9	293.9	241.7	52.2	3,599.0	2,687.2	5,626.6	64.0
1992 [2]	1,075.7	1,441.0	−365.2	774.8	1,189.4	−414.6	300.9	251.5	49.4	4,078.8	3,078.3	3,865.0	69.5
1993 [2]	1,164.8	1,497.5	−332.7	839.0	1,233.5	−394.5	325.8	264.0	61.8	4,544.3	3,430.9	6,231.6	72.9

[1] Not strictly comparable with later data.
[2] Estimates.

Note—Through fiscal year 1976, the fiscal year was on a July 1-June 30 basis; beginning October 1976 (fiscal year 1977), the fiscal year is on an October 1-September 30 basis. The 3-month period from July 1, 1976 through Sept. 30, 1976 is a separate fiscal period known as the transition quarter. Refunds of receipts are excluded from receipts and outlays. See "Budget of the United States Government, Fiscal Year 1993" for additional information.

Sources: Department of Commerce (Bureau of Economic Analysis), Department of the Treasury, and Office of Management and Budget.

[From the New Republic, Dec. 31, 1983]

THE BIGGEST SPENDER OF THEM ALL: REAGAN'S BANKRUPT BUDGET

(By Daniel Patrick Moynihan)

In his first thousand days in office Ronald Reagan increased the national debt of the United States by half. If he should serve a second term, and the debt continues to mount as currently forecast by the Congressional Budget Office, the Reagan Administration will have nearly tripled the national debt. In eight years, one Republican Administration will have done *twice*, you might say, what it took 192 years and thirty-eight Federalist, Democratic, Whig, and Republican predecessors to do once. The numbers are so large they defy any ordinary effort at comprehension (a billion minutes ago St. Peter was fourteen years dead), but for the record they are as follows. On President Reagan's inauguration day, January 20, 1981, the national debt stood at $940.5 billion. In the next thirty-two months, $457 billion was added. The projected eight-year growth is $1.64 trillion, bringing us to a total debt, by 1989, of $2.58 trillion.

Debt service, which is to say interest on the debt, will rise accordingly. It came to $75 billion in fiscal year 1980. By the end of this fiscal year, it will be something like $148.5 billion. And so it might also be said that the Reagan Administration will have doubled the *cost* of the debt in four years.

A law of opposites frequently influences the American Presidency. Once in office, Presidents are seen to do things least expected of them, often things they had explicitly promised not to do. Previous commitments or perceived inclinations act as a kind of insurance that protects against any great loss if a President behaves contrary to expectation. He is given the benefit of the doubt. He can't have wanted to do this or that; he must have *had* to do it. President Eisenhower made peace, President Kennedy went to war; President Nixon went to China.

Something of this indulgence is now being granted President Reagan. Consider the extraordinary deficits, $200 billion a year, and continuing, in David Stockman's phrase, as far as the eye can see. This accumulation of a serious debt—the kind that leads the Inter-

national Monetary Fund to take over a third world country's economic affairs (or in olden times would lead us to send in the Marines to collect customs duties)—is all happening without any great public protest, or apparent political cost.

As such, this need be no great cause for concern. If Ronald Reagan is lucky, good for him. There is little enough luck in the business. But, unfortunately, something much larger is at issue. If nothing is done, the debt and the deficit will virtually paralyze American national government for the rest of the decade. The first thing to be done, to use that old Marxist terminology, is to demystify the Reagan deficit.

If I may say so, what I now write, I know. That is not and should not be enough for the reader. I will ask to be judged, then, by whether the proposition to be presented is coherent, and whether any other proposition makes more sense.

The proposition is that the deficits were purposeful, that is to say, the deficits for the President's initial budgets. They were thereafter expected to disappear. That they have not, and will not, is the result of a massive misunderstanding of American government. This is not understood in either party. Democrats feel uneasy with the subject, one on which we have been attacked since the New Deal. Republicans are simply uncomprehending, or, as Senator John Danforth of Missouri said in a speech on the debt ceiling in November (referring to the whole Senate, but permit me an inference), "catatonic."

Start with the campaign. Although we may be forgiven if we remember otherwise, as a candidate, Mr. Reagan did not propose to reduce federal spending. Waste, yes, that would be eliminated, but name a program, at least one of any significance, that was to go. To the contrary, defense spending was to be considerably increased. That was the one program issue of his campaign. It was the peculiar genius of that campaign that it proposed to increase defense expenditures while cutting taxes. This was the Kemp-Roth proposal, based on Arthur Laffer's celebrated curve. As a candidate, Mr. Reagan went so far as to assert that this particular tax cut would actually increase revenues.

What follows is crucial: no one believed this. Obviously a tax can be so high that it discourages the taxed activity and reduces revenue. This is called price elasticity and is a principle that applies to pretty much everything from the price of the New Republic to the price Justice Holmes said we pay for civilization. But any massive reduction in something as fundamental as the income tax was going to bring about a massive loss of revenue. And this was intended.

There was a hidden agenda. It came out in a television speech sixteen days after President Reagan's inauguration, when he stated, "There were always those who told us that taxes couldn't be cut until spending was reduced. Well, you know we can lecture our children about extravagance until we run out of voice and breath. Or we can cut their extravagance by simply reducing their allowance." The President genuinely wanted to reduce the size of the federal government. He genuinely thought it was riddled with "waste, fraud, and abuse," with things that needn't or shouldn't be done. He was astute enough to know there are constituencies for such activities, and he thought it pointless to try to argue them out of existence one by one. He would instead create a fiscal crisis in which, willy-nilly, they would be driven out of existence.

If his understanding of the government had been right, his strategy for reducing its size would have been sound. But his understanding was desperately flawed. There is waste in the federal budget, but it is of the kind generic to large and long-established enterprises. Thus we have an Army, a Navy, and an Air Force. They compete, they overlap, they duplicate. Well, yes. But they also fight, in no small measure because these uniforms mean something to those men and women, and have, in the case of the Army and Navy (and of course the Marine Corps, which is part of the Navy) for more than two centuries. A management consultant might merge them, I sure as hell would't, except perhaps way at the top. For the rest, well, there is the F.B.I. at $1 billion; the Coast Guard (equally long established) at $2.5 billion, and so on. Welfare? In the sense of welfare mothers? The Aid to Families with Dependent Children program comes in at about 1 percent of the whole budget. (*The Washington Post* has half-seriously proposed that it be abolished altogether so that people will stop talking about it.) There are areas in the budget where expenditure is indeed growing at enormous rates, principally that of medical care. But for the most part, and especially in the case of medical care, expenditure is growing at similar rates in both the private and public sectors. Large social forces are at work, not simply a peculiarly pathological tendency of government.

A notable area of miscalculation, or rather misinformation, among the Reaganities was that of foreign affairs. President Reagan has acted much as his predecessors have done in foreign affairs, and for the elemental reason that he is faced with much the same situations. Invariably, this has meant spending money. This fall the President had to plead with Congress to increase appropriations for the International Monetary Fund, something he cannot have expected ever to be doing, but there you are. As I write, the Kissinger Commission on Central America is no doubt drawing up a massive "Marshall Plan" for the area. Is there any doubt that in the next session the President will be pleading with Congress to increase this particular form of foreign aid? (Just as, had his supporters in the Senate been successful in blocking the Panama Canal treaties in the Carter years, he would be pleading today with the Senate to consent to their ratification.)

President Reagan's tax cut—the largest tax reduction in history—became law in August 1981. Critics, if they are members of Congress, typically must begin by explaining why they voted for the tax cut. I am one. (There were only eleven Senators who voted no.) I have an explanation, but no excuse.

After years of intense inflation and the accompanying "bracket creep" in the income tax, we did need to reduce personal tax rates. A year earlier, the Senate Finance Committee, controlled by the Democratic majority, had reported out just such a bill, but Mr. Carter's White House would not hear of it. This helped lose the Senate for the Democrats, but the lesson was not lost.

The great recession of 1981-82 made it painfully clear that the tax cut was too small for the first year, when a neo-Keynesian stimulus was in order. At the time, however, a bidding war broke out in the House, sending the parties into senseless competition to offer loopholes to special interests. The result was a tax cut much too large for the later years. Thus the $200 billion annual deficit. Again, no excuses from this quarter, but in the Democratic response to the President's televised speech of July 27, 1981, I did say "In the last few days something like an auction of the Treasury has been going on . . . what this is doing is taking a tax cut we could afford and transforming it into a great barbecue that we can't afford. I would say to the President that some victories come too dear."

Enter the Federal Reserve Board which looked at the huge tax cuts in the midst of high inflation and decided to create an economic downturn. Of all the structural anomalies of American government, the arrangements for setting macroeconomic policy are the most perverse. Although fiscal policy (the amounts of money the government spends, receives, and borrows) is made through a painfully elaborate public process by an elected President and an elected Congress, monetary policy (the total amount of money in the economy and the cost of borrowing it) is made in secret by appointed officials. The Reserve Board tightened the growth of the money supply so strenuously that it actually declined in the third quarter of 1981. Real interest rates reached the highest levels in our nation's history, and the economy fell off the cliff. At the end of September 1981, the steel industry was operating at 74.5 percent of capacity; by the end of 1982, it was operating at 29.8 percent of capacity.

To be sure, the Fed does not control the precise money supply and cannot precisely determine interest rates. But it can set the direction and range for both, and this it did. Anyone who tried to dissent was soundly rapped. Its two dozen or so central bankers decided to bust the economy, and bust it they did. In a White House appearance in October 1982, Nobel Economist George Stigler used the term "depression" to describe the economy.

There is a tendency for any government to live beyond its income. The Reagan Administration transformed this temptation from a vice into an opportunity. Put plainly, under Ronald Reagan, big government became a bargain. For seventy-five cents worth of taxes, you got one dollar's worth of return. Washington came to resemble a giant discount house. If no tax would balance the budget, and no outlay would make it any worse, why try?

A boom psychology moved through government. Defense came first, from space wars to battleships—the latest defense appropriation reactivates the World War II-vintage *U.S.S. Missouri*. Hog wild is the only way to describe the farm program. Jimmy Carter left behind a $4 billion enterprise, somewhat overpriced at that and the object of incessant right-wing criticism. Whereupon the fundamentalists and their political brethren took over. Within thirty-six months they increased the annual cost of the farm program more than fourfold. Their most recent enthusiasm, signed into law by President Reagan, is a program paying dairy farmers not to milk their cows.

What is to be done? The economy is at stake. The country can bankrupt itself. According to the latest budget projections, prepared by the Congressional Budget Office under the impeccably conservative new director, Rudolph G. Penner (formerly of the American Enterprise Institute), the deficit for the six years 1984 to 1989 will come to approximately $1,339,000,000,000. In order to support and service this debt, the government will have to absorb more and more of the capital that is coming available in the nation's credit markets. Direct federal borrowing for the deficit and federally guaranteed loans absorbed 62 percent of all credit raised on the nation's financial markets this year,

compared to an average absorption rate of 8.3 percent in the 1960s and 15.3 percent in the 1970s. This "crowding out" was not much felt, because few others were borrowing to invest. But when the day comes that business, consumers, and government all compete for the same funds, interest rates will go up, with predictable consequences.

Under these circumstances, the only thing a Republican Administration and a Republican Senate will be able to consider doing will be to revert to their original agenda: use the budget deficit to force massive reductions in social programs. This time they will be able to cite not mere illusions but necessity. Even if interest on the debt climbs to $200 billion a year, as now seems likely, presumably there will still be an Army, an F.B.I., and some kind of customs service and border control. What then will be left to cut?

Entitlements, or more precisely, Social Security.

The word is already the rage. There is scarcely a Republican member of the Senate who does not know that entitlements must be cut, and cut deeply. Many Democrats agree; almost none dissent. Remember, at least twenty Senators are millionaires, living at considerable social distance from those who would be most affected. It will be much the same in the House. The budget deficit in the year ahead will threaten any sustained recovery. The members of the House, as a rule, are not millionaires, but they know their street corners. The street corners will say, "Cut. Something must be done."

Cut back Social Security in desperation, and you abandon a solemn promise of the Democratic Party and of American society. This promise, once broken, will fracture a little bit of society. (Moveover, cutting Social Security will not improve the deficit problem. As Martin Feldstein, chairman of the Council of Economic Advisers, has noted, Social Security is funded by separate payroll taxes and contributes not a cent to the deficit.)

There is an alternative. There is the possibility of a historic compromise that can bring the now dominant branch of the Republican Party to grips with reality, while shaking the now dominant branch of the Democratic Party from its illusion that no one will listen to Republicans for very long. Such a compromise cannot await a change in the political culture. It must be negotiated. We need a structure, a forum in which negotiations can take place. A Presidential commission might be such a structure.

The National Commission on Social Security Reform—on which I served—would provide a model. It was established by President Reagan in December 1981, after Congress rejected his original plan to sharply reduce Social Security benefits. One point in particular is crucial. Alan Greenspan, who chaired the commission, adopted a simple rule: each member was entitled to his own opinion but not his own facts. Within a year Mr. Greenspan had established the facts, which showed that the problem was neither trivial nor hopeless. The commission as such could reach no agreement. But with the facts established, we put together a bipartisan legislative package last January in exactly twelve days.

The budget crisis presents a harder problem, but it can be approached in the same way. Martin Feldstein made a good beginning in a speech to the Southern Economic Association on November 21. He agreed with the Congressional Budget Office that by 1988 the deficit will absorb 5.1 percent of the nation's G.N.P. Of this Feldstein noted 2.4 percent will come from increased defense spending, 1.7 percent from the tax cut, and the remaining 1 percent from higher interest payments. The facts about the structural deficit flow readily from such quantification.

The members of the budget commission—representatives from the Administration, Congress, the Federal Reserve, and the Administration, Congress, the Federal Reserve, and the Congressional Budget Office—would determine the actual effects of deficits on employment, real interest rates, capital formation, investment, and the prospects for vigorous economic growth. Then they would propose the steps to reduce the deficit, making certain that the burden of these reductions did not fall disproportionately on any economic or social group. Delaying tax indexing, reforming corporate tax law deductions and credits, cutting defense spending, and reducing farm price supports, among other proposals, would have to be considered. Medicare, secure in the short term, will be in deep trouble before the end of this decade. The deficit commission must face up to this problem. Democrats should agree to do so in return for assurances that the Social Security agreement will be respected and that the Social Security trust fund will not be raided (the plain purpose of those who say entitlements are the problem).

Moreover, a solution to the deficit crisis will require more than adjustments in spending and taxation. It will demand change in the way we make fiscal and monetary policy and the way those policies are coordinated. Monetary policy and the operations of the Federal Reserve must be an integral part of any fiscal resolution. Nothing can be achieved without a joint monetary-fiscal effort to promote an expanding economy and an approach to full employment—a one percentage point drop in unemployment alone reduces the budget deficit by $30 billion.

But let's stop here. I have my own thoughts. The reader will have his or hers. On the final day of the last session of Congress, I introduced legislation to establish the National Commission on Deficit Reduction. Now, can we get the President to join?

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

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Georgia is recognized.

Mr. FOWLER. Mr. President, I am one of the fortunate ones to have been able to hear the clear voice of reason of the distinguished Senator from New York, that warned us in unmistakable terms 10 years ago the path on which this Nation was headed. Like so many prophets of the past, that voice was not heard. And now we see that not only has history proven him correct, but we and our children and grandchildren will bear the burdens of these planned deficits that have created almost a constitutional crisis in our country.

My optimism must reign, that somehow we will now heed those words as we analyze our problems, and act in a way expected by the people of this country to solve this crisis.

But I thank my friend from New York for once again demonstrating not only his sense of history, without which no one can understand the future, but to bring us up to the present, where we have been in the past, and show us the way—would we heed his words—out of our Nation's debt as we move toward right policies for our future.

I thank the Senator from New York.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. It is for me to thank the Senator from Georgia, who invariably sets a standards in this body for courtesy, for comprehension, and for the rare grace with which he listens and makes those who speak feel that what has perhaps not been altogether without any success was more successful than they deserve to be.

I thank the Senator.

Mr. President, I see no one on the other side of the aisle seeking to defend this outrageous proposal, and accordingly I yield the floor 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. CRANSTON. 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. CRANSTON. Mr. President, I rise to oppose, in the strongest terms, the proposed balanced budget amendment to the Constitution. I do so, Mr. President, primarily because I have an overriding respect for the Constitution. This great American document has withstood the test of time and should not be soiled by election-year posturing and self-serving politically motivated desires.

To suggest that a constitutional amendment is the way to force Congress to make the tough choices needed to balance the Federal budget is not only unrealistic, but also undermines public appreciation for a sacred document upon which our country depends.

I know that opposition to this amendment will be broadly characterized as fiscally irresponsible and symptomatic of the attitude which caused the deficit. Nothing, nothing could be further from the truth. To the extent that I and my colleagues in opposition to this amendment are categorized as fiscally reckless in opposing this effort, we are in very respectable company. Among the opponents of this amendment are Robert Solow, Novel Laureate in Economics at MIT, Herbert Simon, Nobel Laureate in Economics at Carnegie Mellon University, Kenneth Arrow, Nobel Laureate in Economics at Stanford University, where I happened to have graduated, and dozens of other respected economists throughout the Nation who, while having varying views on national economic policy, are united in their opposition to this amendment. I note that the Chamber of Commerce of America,

which may surprise some, is also opposed to this amendment.

What unites such a very distinguished group of economists and editorial writers and organizations in opposition to this amendment?

I will tell you, Mr. President, it is the combination of what they know to be politically motivated actions and the devastating effect a balanced budget amendment could have if by some mischance it were passed and ratified by the States.

In my home State alone, a study conducted by no less than Wharton Econometrics Forecasting Associates concluded that the radical balancing of the budget required by this amendment would lead to the loss of over 505,000 jobs in California and a 10.8-percent drop in personal income. The study further found that Federal income and Social Security taxes would rise over 20 percent for individuals and 15 percent for businesses. Finally, Wharton concluded that State and local governments would also have to increase taxes drastically as State deficits would triple.

The combined effect of raising taxes so dramatically and cutting Government expenditures would undeniably have a devastating effect on our economy and can throw this Nation into a depression.

Or, Mr. President, the Congress could vote to lay aside the requirements of the balanced budget amendment and it would be business as usual.

Where would we have gotten? What real progress would be made?

I say to my colleagues, that if balancing the budget is the ultimate desire, why wait? Why put off what we can begin to do today? The cold war is over. We can make deep cuts in defense spending. Let us invest in infrastructure improvements and get people back to work. And, yes, if we must and as we may have to, let us have the courage to raise revenue levels to meet some of our pressing needs.

In order to accomplish dealing with the problem in this way, we need leadership from the administration. We need a President who can focus on domestic policy and foreign policy—they are not mutually exclusive.

A balanced budget has not been submitted to the Congress in years, and yet Congress bears the brunt of public criticism.

I oppose this amendment. It is not the panacea proponents would like us to believe that it is. Rather, it is a game which postpones tough choices and would degrade public respect for the Constitution. It is a game that this Senator will not play.

We all know that there are many other reasons to oppose this amendment, not least among them the increased power this would give to the executive branch vis-a-vis the legislative branch, and the vastly increased power that this amendment would give to the judiciary, because they would be dragged into this as it would prove to be difficult to figure out exactly what was being done or not done in accordance with the constitutional amendment that is proposed, and there would be appeals to the courts and the courts would be jammed with all sorts of activity on a new front. Unelected people in the courts would wind up determining whether taxes were in order, and perhaps what taxes, and how high, on what segment of our population.

I do not think that our country wants to get to that new stage of imbalance in the powers of our Government. One of the foundations of our liberty is the separation and division of powers between the executive branch under the President, the Congress, the House and Senate, and the courts. And this amendment would upset that precious balance.

I think the President pro tempore of the Senate, Senator BYRD, has offered a very wise alternative, calling for the President, whoever that may be, to submit a plan to achieve a balanced budget in a relatively short time, 2 or 3 years or something like that, submitting that budget to the Congress next September. That is a plan for action and it specifies various approaches that should be considered in doing that. I support that. I hope that we will adopt that as an alternative to the constitutional amendment.

ORDER OF PROCEDURE

Mr. CRANSTON. Mr. President, I want to turn to a different topic.

I ask unanimous consent that I may be permitted to proceed briefly as if in morning business.

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

The Senator from California is recognized.

Mr. CRANSTON. I thank the Chair.

(The remarks of Mr. CRANSTON pertaining to the submission of Senate Amendment No. 2451 are located in today's RECORD under "Amendments Submitted.")

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

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

FEDERAL HOUSING ENTERPRISES REGULATORY ACT

The Senate continued with the consideration of the bill.

Mr. KERREY. Mr. President, I rise to speak in support of the Byrd substitute to the Nickles amendment. The debate about this constitutional amendment, the need to amend our Constitution to generate a balanced budget, has been an informative debate. It has allowed us to examine our deficit. It has allowed us to open up and see what our problem is. I come this evening, Mr. President, to discuss what I believe is a solution to our deficit.

One of the problems that we have with deficit reduction, Mr. President, is we very often look for someone to blame. In looking for someone to blame, we divide, and then find it difficult to reach a solution. Democrats will rise and blame the President; the President will blame the Congress; Republicans will blame Democrats; and Democrats will blame Republicans. We will issue our press releases. We will all attempt to achieve a majority vote in the next election, satisfying the voters that we, indeed, are not the problem; it is the other person who is the problem.

Mr. President, the case for deficit reduction has been adequately made both by proponents of the balanced budget amendment—and I should declare that I am not one of those proponents—both by proponents of the balanced budget amendment and by opponents of the balanced budget amendment.

It is worthy to note, Mr. President, as the Senator from Missouri [Mr. DANFORTH] did earlier, that the debate does tend to divide into two camps: One camp that wants to talk about balancing the budget and reducing the deficit; and the other, indeed, wants to do something about it. The latter camp is much smaller than the first.

I recall in 1990 when we went through the agonizing process of trying to reduce the deficit and producing the 1990 budget deficit agreement that there was a great deal of consternation. Said rather paradoxically, people themselves say: We want politicians who tell us the truth and who do the right thing, in spite of what they said before.

The President of the United States, reversing himself on a previously held position of not supporting the tax increases, found himself being pounded by public opinion for, in my judgment, doing the right thing, coming to the Congress and saying that we are going to take action.

The 1990 deficit agreement did work, Mr. President, and it worked because we both reduced spending and turned to the tax side and produced the largest reduction in the deficit in the history of this country. It was precisely because we were required to vote for spending cuts and because we were required to go to the American people and say, if you want programs, you are going to have to pay for them.

Mr. President, the problem is not the President. The problem is not the Congress. The problem is that we have not leveled with the American people about what it is that we are doing with

U.S. Government spending. We are going to spend $1.5 trillion this year, Mr. President, and of that $1.5 trillion, we are only going to pay for about $1.1 trillion ourselves. The balance, about $400 billion, we will fund with debt, selling bonds. And for those of you who are, for some reason, watching in your homes today on your television—I do not know why, but if you are watching, you have to consider, when we write those checks, whether it is salaries for the military, civil service, for anything, for Medicare, for Social Security, understand that when you get one of those checks, 25 percent of that check—indeed, if you lay Social Security aside, 30 percent of that check—is provided as a consequence of our willingness to sell bonds.

President Reagan, once in the 1980's, said that, in truth, bond sales and taxes were identical, that there really was not any difference. There is a well-known businessman from Nebraska, Warren Buffett, who said, if that is the case, why not do a bond sale for all of it? Why not sell $1.5 trillion of bonds and eliminate taxes altogether?

Mr. President, we have a contract with the American people which says essentially that we are going to give you $1.5 trillion of spending, but we are only going to require you to pay for $1.1 trillion of it. Mr. President, it is that contract which is causing the economic difficulties that this Nation faces, and it is that contract which has us gridlocked over whether or not to amend our Constitution.

Those who are advocating amendment of the Constitution remind me in many ways of a group of people who say we know what we are doing is wrong; it is bad; we know we ought to stop, but we cannot stop what we are doing so we will pass a law making what we are doing legal. I think anybody who examined our budget, examined our cash flow understands what we need to do, and that is, to begin with, Mr. President, we need to tell the American people the truth.

I come here this evening, Mr. President, to talk about one issue. I believe, if we address one issue, the issue of health care, directly and honestly and apply to the financing of health care the values that every single one of us apply outside of Government, this issue of the deficit will rapidly fade and move behind us. It will not be easy, Mr. President, but I believe it is the right thing to do.

Those who have come here both for and against the balance budget amendment, who have talked about the budget—I have done a fair amount myself—have correctly said deficit reduction would allow us to reduce long-term interest rates, to stimulate economic growth in the American economy, to raise the economic standards of the American people.

The distinguished Senator from Illinois has talked about the diminished standard of living that will occur to Americans in the year 2000 unless we do something with the deficit today. There is no question that the deficit impairs and slows economic growth today, and there is no question, Mr. President, that it impairs our economic growth in the future. We are buying things today, we are issuing IOU's for roughly 30 percent of those expenditures, and we are passing those IOU's, those chits on to the future.

Mr. President, the problem that we face with spending can be seen most dramatically in health care. In the area of health care, most of us are very much like the character played by Richard Dreyfuss in the movie, "Tin Men," where he goes in to the Cadillac salesman, and he sits down with the Cadillac salesman and he says, "I would like to buy a Cadillac." And the salesman said, "What would you like?" He said, "I want a brand new Cadillac, and I want everything on it." And he puts everything on it. He comes up with a price, and he says, "Well, sir, what do you want to pay for it?" And Mr. Dreyfuss in the movie says, "Well, the truth of the matter is I don't want to pay anything for it."

That is the dilemma we face, Mr. President. We do want the Cadillac, but if you ask us how much we want to pay for it, the truth is we probably do not want to pay anything for it. If you ask me about health care, I would like to have the vitality I had at 17, not the way I am at 48. If I have any pain, I would like it to be gone almost immediately. If I am sick, I want to be well tomorrow. If I am in the hospital and I hit the buzzer for a nurse, I want the nurse there in 3 minutes, not 30 minutes. Those are the requirements for me, Mr. President. For my 17-year-old son and my 15-year-old daughter, I have even more serious requirements. Lord help the provider that does not provide the care I want for those two young people.

We find ourselves requiring a great deal, Mr. President, in the area of health care. Regrettably, at times, we find ourselves, not the other guy, not the other person, but ourselves unwilling to pay the bills when the bills come due.

Mr. President, those who have examined the budget—and I would like to reference some statistics here this evening—have made it clear that it is the gross cost of health care in our budget that has created the likelihood that our deficits are going to continue in the $200 billion range for the foreseeable future.

Health entitlements are driving the deficit, Mr. President. Between 1993 and 1997, 85 percent of the growth in entitlement programs is predicted to come from Medicare and Medicaid alone. Health entitlements will soon surpass Social Security as the single largest component of mandatory spending, according to the Office of Management and Budget. In fact, Federal health outlays are growing rapidly by all measures as a percentage of all Federal outlays and as a percentage of all outlays but Social Security and as a percentage, as well, of our gross national product.

According to the Director of the Office of Management and Budget, Mr. Dick Darman, these increases are unsustainable. Mr. Darman is quite correct. Deficit financing of health care, Mr. President, is perhaps one of the hidden secrets of our transaction with the American people.

Of all the things I want to communicate this evening to those who are listening in their homes and those who read this RECORD and those who, for some reason, are in their office and do not have the television on mute, we have a contract where we are deficit financing our current health care expenditures. This year we will sell bonds, we will acquire 69 billion dollars worth of additional debt to pay doctor and hospital bills. Health programs are also, Mr. President, growing faster than other components of the Federal budget. Between 1980 and 1990, Medicare increased at an annual average rate of 12.2 percent. Between 1980 and 1990, Medicaid increased at an average annual rate of 11.4 percent. In 1991, however, Medicaid had an annual increase of 18.8 percent, and it is estimated for 27.8 percent in 1992.

Mr. President, one of the givens of our health care financing is that the Federal Government finances Medicaid differently than the States do. All of us who have been Governors, all of us who have listened and watched, as the distinguished occupant of the chair has been involved with State government, understand what the growing cost of Medicaid is doing to our States.

Again, Mr. President, if we have an increase in Medicaid or Medicare at the Federal level, it is not a serious problem for us. We do not find debates on the floor of the Senate that have us saying we have to cut aid to education, that we have to cut aid for research, that we are going to have to reduce our investment in space, that we are going to have to reduce our military defenses because of rising health care costs. No, Mr. President, there is a wall of silence around the increases in Medicaid and Medicare. We merely sell bonds.

We acquire additional debt, but for a State it is much different. It is no accident that States are on the cutting edge of health care reform. We have 12 States that have come to the Federal Government asking for waivers dealing with Medicaid. States have the option of going to other parts of their budget and cutting—vital investment in education, vital investment in transportation, vital investment in law enforcement, prisons, economic development, and natural resources. States must cut

in other areas as their Medicaid costs increase while we in Congress face no similar situation.

Health care programs as a percentage of the Federal budget, Medicaid, Medicare and other health care programs accounted for 7 percent of the Federal budget in 1970. In 1990 they have grown to 13½ percent and CBO predicts they will reach 22 percent in 4 more years, by 1997; and the year 2000, 28 percent of our entire Federal budget.

Health care costs will continue to increase rapidly on their own because of the aging population, because of advancement in technology, current medical care inflation, and current tax policy which are affecting health care. Health care increases will not slow without substantial reform at the Federal level.

State health care spending also, as I indicated earlier, is showing substantial increase. And there are two big components at the State level that must be paid for in the current year. Not only are there increases for Medicaid, but typically State governments are large employers of people and thus they also face a large increase on a year-to-year basis to fund health insurance premiums for their employees.

Again I say to the people of the U.S. of America, this transaction is an honest one. They have an investment in expenditures for health care. They pay for it in the current year. But we in the Federal Government at the Federal national level have no similar transaction.

Mr. President, I have come here tonight not to argue that health care reform can reduce and eliminate our Federal deficit, but that it will require the American people coming to us in Congress and saying we want it to be done.

First and foremost we must have the American people behind the idea, the principle of a pay-as-you-go system for health care, a system that says essentially if you want a benefit, whether it is for the Veterans Administration, the Army, the Air Force, the Navy, the Marine Corps, the Federal agencies that are set up, the Federal employee health program, Medicare, Medicaid, we must pay for it in the current year. That transaction alone will produce $69 billion worth of deficit reduction; that transaction alone, if we merely say it is morally wrong, and it is, for us to borrow money to pay the doctor, or those bills, with no expectation and anticipation of repaying those bills. We do not expect to repay that debt. We are borrowing it. So we do not have to lay out a lot of money for it.

A second great concern that I have is we have no real cost control at the Federal level. We have a regulatory control cost mechanism, a top down cost-control mechanism. We have rapidly increasing costs at the Federal level for Medicare and Medicaid. Unfortunately that is all we control. We merely reduce a massive cost share over to the private sector that causes premiums to go up.

We have to have a mechanism so that we, as a people, control the rising costs of health care. We know that our gross national product cannot exceed 100 percent. That is a given. Our health care expenditures today are 13.5 percent of the GNP, heading to 18 percent by the end of this decade. And we are extracting larger and larger pieces of our gross national product.

We have an obligation, an economic obligation, for promoting economic growth and prosperity in the other areas of our economy to control the rising cost of health care.

Third, the concern that I have is we have no incentives in our current financial arrangement to try to prevent illness, sickness, and disease, in the first place.

Essentially we say as you get sick we will pay for the bill; as soon as you find yourself needing hospitalization, we will pay the bill; need to get Medicare, we will pay the bill. But if you need to get an immunization, you have to get in a special line to get that bill. If you want to do any preventive care, you have to come and prove somehow that it is going to produce a positive goal.

We are the only industrial Nation that does not provide continuous health care for our children; the only nation on Earth that does not say when a woman gets pregnant, we will make sure she has the kind of education, the kind of advice, nutritional and health assistance that is needed to make sure that baby is not born with low birth weight, and other kinds of problems. We are the only industrial nation that does not have it. It adds not only an enormous cost to our health care burden but it also adds enormous costs as a result of lack of economic capacity.

Mr. President, and again those of you who are watching this evening, I would like to show you something here tonight that I think is not very well understood. That is where we are spending our money. What is the total expenditure? We might hear a lot from people who are not advocates of comprehensive reform of health care, who say we cannot have the Federal Government at all in health care, who say do not have big Government response, or a big tax response.

What I will show this evening will reveal the Federal Government involvement, current involvement, not as a consequence of special interest, but as a consequence of special needs of the American people. This has come as a result of what the American people themselves say they want. I would like to describe this evening the total expenditure for health care, and show the revenues that come in, we are getting in the current year, and how we are financing our health care system so, again, the American people can understand where it is we are coming up short.

Mr. President, in this year, 1992, we will spend $131 billion for Medicare, we will spend $72 billion for Medicaid, and a $20 billion increase, I might point out, again without much debate about how we are going to get money to finance it.

There are 21 billion dollars' worth of expenditures to the National Institutes of Health, the Centers for Disease Control, other Federal agencies, put out for community health sciences, vital community clinics, both Republicans and Democrates as well as executive branch.

We have $14.4 billion in the expenditures being made in the Army, Air Force, Navy, Marine Corps health care system. I, myself took advantage of that.

I went on a trip to Russia with the distinguished Senator from New Jersey [Mr. BRADLEY] and the distinguished Representative from Iowa, Congressman JIM LEACH. Coming back we were in an automobile accident in Vilnius, Lithuania. I received a traumatic cut to my leg, and I went to the hospital. I did not think it was very adequate health care. I was flown to a hospital in Germany, and I found some of my friends who think I am radical in the area of health care say, you did not like that Communist health care system?

I said no, that is not true. I went to a socialist health system in Germany and got my health care through a competent, well-trained Army physician who provided first-class health care.

I am not advocating that we provide health care in that way. I want the American people to understand we have $14.4 billion being spent through our Department of Defense providing high-quality health care for those young men and women who have raised their hands and sworn to uphold the Constitution of the United States of America and go in harm's way if necessary to defend our liberty.

We also spent $10.5 billion in a program called the Federal Employee Health Benefit Program providing health care for you and me and Members of Congress and other Federal employees who retire. There are those now in the ranks of retirement using the Federal Employee Health Benefit Program, a generous, program, comprehensive program, I might point out, that all of us enjoy, which cost $10.5 billion a year.

We also spend $13.7 million in the Veterans' Administration.

Again, I very often am amused when I hear people talk about these top down essentially controlled proposals. It is rare to hear the same individual condemning that kind of proposal, suggesting that we ought to abolish the Veterans' Administration.

In addition there are indirect expenses: $41 billion in tax expenditures

for employees' health benefits, employer-paid health insurance benefit of approximately $24 billion. We expend on behalf of the American people—the American people receive through their Federal Government—$328 billion of medical care expenditures.

So you say, Mr. President, are we paying for it? Are we asking the American people to come up with $328 billion so we can say we are current? And the answer is, regrettably, no, we are not.

Again, I say the problem is not that somebody in the Republican Party or somebody in the Democratic Party or somebody in the White House or somebody in the Congress is at fault. We have a contract with the American people; we are giving the American people something for nothing.

Mr. President, with 328 billion dollars' worth of benefits, we are taking in only $105 billion of tax premiums through the Medicare system. The balance of that, $223 billion, if you assume with Social Security now off budget, that we are financing 31 percent of the balance of our expenditures with bonds, with debt; we are only paying for $154 billion in the current year. The balance is $69 billion we are giving to the American people, and we are not telling them that we are financing it with that.

Again, for emphasis, I know the issue of comprehensive health care reform is very controversial and complicated, and we are all concerned about the quality and potential deterioration of quality. Perhaps we cannot get reform this year. If we cannot, Mr. President, at the very least, we should stop this kind of financing transaction and say to the American people that we will pay-as-you-go, as we do our retirement programs for Social Security. A pay-as-you-go system just for health care would reduce our fiscal deficit by $69 billion.

Mr. President, this next little visual aid here shows how these expenditures are distributed. I indicated earlier I wanted to make sure the American people could see that roughly half is going for Medicare, and a quarter for Medicaid. We have a quarter of this, an awful lot of money, which typically is not thought of, going to the Federal Employee Health Benefit Program, VA, Department of Defense, and other Federal agencies.

The Federal Government is putting out $323 billion, Mr. President, of an $800 billion bill. $136 billion is going out to State and local government. Between the two, we have over $460 billion, with $200 billion out of pocket. Mr. President, most of these expenditures right now are being funneled through our taxpayer system. For those who say we do not want to have a big Government response, we have that now. It is incoherent, inconsistent, and it is grounded on the immoral principle that says we are not going to pay for what we receive.

Mr. President, this represents visually the financing transaction, and I am leaning into this as hard as I can, not only for my colleagues, but for my good citizens of the State of Nebraska who wonder how we end up with the deficit that we have right now. We are trying to figure out what we can do about it. They have heard a lot of debate, but, Mr. President, that is the biggest part of the problem. That little black slice is $69 billion—$69 billion, Mr. President. I have heard people come to the floor and say what are we going to do about this? Can we maybe set aside the B-2 bomber, or not fund SDI, or shut down a few agencies of Government? This is a $69 billion slice. If we will only say, as I think we should, that on the issue of health care we will bring in the various items that we budget for health care—we do not need to consolidate the agencies—and we will just have a single budget for health care. If it is 323, then we ought to go to the American people and get the revenue. If you say I do not want to get $69 billion from additional taxes, let us reduce the expenditures and close the gap and say we are only going to have those things we pay for in the current year.

It is dishonest to say to the American people that somehow you are getting the health care that you deserve, because we are getting today from our Federal Government 69 billion dollars' worth of health care that our kids are paying for. I figure it ought to be the other way around. I am supposed to pay for the health care of my children. They are indeed paying for my health care, Mr. President. I think that is wrong.

These charts have been brought to the floor by other people that have shown the deficit and what is going to happen to it. The most relevant problem we are going to have is we are going to get a little fool's gold here with the deficit that is going to reduce in the next few years. The pressure will be off, because it will go down. It ought to be big enough to satisfy anybody's need for developing the required requisite sense of urgency to go to the American people and say we have to do something. It is going to go down over the next few years, and then it is going to be right back up again. There is urgency to act today.

The baseline for health care expenditures is $830 billion today. The sooner we act, the cheaper the solution is going to be.

All of us have been watching the events in Eastern Europe and trying to give advice and trying to figure out what we ought to do to help the Russians, the people of the Ukraine and of Czechoslovakia. An article in the New York Times said Sunday that a group of people in from the United States decided they would go to the investment bankers and people that have been involved in doing leveraged buyouts and other transactions here in the United States and go to Czechoslovakia, and they have been providing financial services and advice to the people of Czechoslovakia. The finance minister, Vaclav Klaus, correctly says that, "Whatever you do, do it quickly, because the longer you delay, the more expensive the problem is going to get." In no other area do we find that case being made better, as with health care. Every single year, we wait, and this problem gets worse.

Mr. President, this is what happens to our deficit, if we convert to a pay-as-you-go system. Again, I understand that there is great debate and differences of opinion about what ought to occur with comprehensive health care reform. I am going to show what would happen if we budgeted health care, in addition to a pay-as-you-go system. Say we cannot reach agreement—which is likely, that we will reach an impasse and fail to get an agreement—we should agree again for emphasis—and I say to the American people watching tonight, particularly those of you in Nebraska, make sure you say that we are going to have a pay-as-you-go system, because if we did that, one single item—the deficit—would go down in a rather dramatic fashion.

I do not consider $130 billion in 1996 to be terribly acceptable, but it is a dramatic reduction in the deficit, Mr. President. And it must be done. No defense cuts are going to get the job done. No cuts in the Federal programs are going to get the job done. It is the entitlement programs, Medicare and Medicaid, that are driving this deficit, and unless we come and say that we are going to pay for it in the current year, we are not going to get it done.

So I appeal to the American people, I appeal to those of us who understand that we have an obligation to our children, to say that on this line item, on these expenditures, we will pay for it on a current basis.

Mr. President, the distinguished occupant of the chair has a health care proposal that he and the Senator from South Dakota [Mr. DASCHLE] introduced that is very similar to mine, so I am preaching in many ways to the choir when I say that the second big piece we have to face is the need to put in place in this country some mechanism to control costs, and there is debate on what it ought to be. It may be that we have something entirely different than the one I have introduced. I suspect it is going to be somewhat different. I notice there is not enough enthusiasm, partly because I have been very specific on how I pay for it, but partly because there are genuine philosophical differences. One thing I believe is that we must have the capacity to honestly control costs and to feel confidence that those costs will be controlled.

Mr. President, the growth in health care expenditures is in excess of 11 percent this year, and if it continues at a double digit pace, Mr. President, in 1995 we will be spending over $1 trillion for health care. We will be pulling almost 2 percent of our GNP just on the increased cost of health care.

It is like an animal, like a cow or cattle which is penned up. If they break down the fence, as health care has, it begins to graze in other pastures and eat other things. That is what health care is doing, squeezing out other investment, not only on the private side, but on the public side as well, and we must have a mechanism to control costs. The proposal I have introduced allows health care expenditures to grow at 8½ percent a year, which is a fair amount, Mr. President.

I correct myself. Allowing yourself inflation of 8.2 percent will reduce the deficit in year 2000 to $66 billion. I would agree to reduce it even further than that; 8.2 inflation is a rather substantial number. It is double the cost-of-living increase. Were we to control it at a rate of 5 percent we would be in balance by the year 1997.

We do not have to have the kind of rationing and bitter sort of choices that very often is advertised whenever proponents of budgeted health care reform come to the floor; 8.2 percent inflation growth is more than practically any other line of our budget. That is a lot of money—I am willing to put it in—that will reduce the budget deficit to $66 billion and continue the deficit going down in the outyears.

We must do health care cost containment if we are serious about deficit reduction. I say this not just to my colleagues in the Senate. I say this again to the American people who are trying to figure out what ought to be done. We are the problem.

I cited earlier our desire to have a Cadillac and wish not to pay anything for it. We have to pay for it. And unless we do health care cost containment, I believe it is going to be difficult for us and I believe it would be impossible for us to reduce our deficit and restore the kind of economic growth not only the American people want but I believe every Member of this Senate and Congress and the President himself would like to get.

It will not be easy, Mr. President. Asking the people to pay the full price for something is never easy. They have gotten use to getting 30 percent of it free. They have gotten use to getting 30 percent of health care expenditures from the Federal Government, essentially asking their kids to pay for it.

It is going to perhaps come as a rude surprise and shock to learn that we have a hole that size. I hope that the people of the United States of America say that we will accept responsibility and plug in that hole and we are prepared to do it, either by tax increases or spending cuts. Let us have a debate how we are going to do it, but let us do it in order to restore the confidence of the American people and to move the Nation in the direction of economic prosperity.

Mr. President, I would like to cite some additional things that I believe are connected to reduced cost of health care, comprehensive health care reform, that will accrue as a benefit if we reform and provide comprehensive health care to all of our people, particularly if we break the link between employment and eligibility, particularly if we get our costs under control.

Corporation after corporation after corporation, small and large, will tell you that one of the problems they have with increasing the number of people who are working for the company is the imbedded cost of each employee. Imbedded cost sounds like a horrible thing to have. They are principally health care costs and retirement costs. Those two costs are providing restrictions for our companies to expand their work force base. We find ourselves essentially with 5 percent more of our GNP than Germany. We find ourselves essentially 5 percent in the area of employment care on growth.

We believe imbedded cost with employment and employment health care cost reform will enable us to create economic opportunity to getting that cost under control.

I indicated earlier the devastating nature of not being able at the State level to essentially cover the increases through bond sales as we do at the Federal level. We are seeing State after State cut vital growing-oriented investment as a result of increased cost of their own employees and increased cost of Medicaid.

All experienced people in our States described the terrifying nature of getting locked into a job, not being able to move from that job if they lose the employment or if they consider that they need to increase their training and increase their skill. The marketplace is brutal, Mr. President. If you do not have the skills that you need to earn the living that you desire, estimates by the U.S. Department of Labor indicate that 40 million Americans in our workplace are undertrained for the income that they would like to have. If you lose your health care when you leave your job it is a barrier to do the right thing, a barrier to get that education and job training.

We are the only industrialized Nation that has health care for its people and every job training we put in place, whether public or private, must deal with this barrier or otherwise I think they will struggle to be successful.

There are 31 million Americans next year who will go to a welfare office to prove that they are poor enough to be eligible to have their health care benefits paid through the Medicaid system. There are 15 million Americans who work full time and earn less than $10,200 a year, who typically find themselves without health care benefits.

When health care costs were $3 a month as they were in 1970 it was not a big problem, but in 1992 where the average cost of health care for a family of four can be $500 a month—and in New York State it is almost $11,000 for Blue Cross/Blue Shield for a family—you have to wonder how an individual with average means stays in the workplace.

We have an incentive today in a Nation that talks about free enterprise and the marketplace. We have incentive in place, because of the way we finance health care, people quit work to go on welfare, Mr. President. It is a terrible thing to have in place. I tell you if we do not do anything other, we need to reform the system to take the Medicaid system and change it so it does not become a place where Americans have to go in order to get their health care.

Finally, Mr. President, I have to say that the more I look at health care the more I see it as an idea that is much larger than just health care itself. The truth is I do not think we really want health care. Most of us want health. We prefer not to need health care. Health care need comes only as a consequence of being unhealthy. We prefer to stay healthy.

The idea of health care is connected to many other things. The distinguished Senator from Rhode Island came to the floor and gave a brilliant, articulate speech talking about the price of handguns. He had a controversial amendment that confiscated handguns as a proposal. I support the solution he is an advocate of. He is correct saying it is $4 billion in health care expenditures, because of the trauma resulting in handgun injuries.

Mr. President, as to most of those unreimbursable expenditures, most people going in emergency rooms get the expenditure.

We have $60 billion, Mr. President, of direct health care expenditures in the United States of America that are there, because people smoke cigarettes. I say smoke them if you have them. I do not want to subsidize the behavior.

We have $15 billion worth of expenditures directly attributable to the fact of alcohol abuse.

Health care expenditures that come as a consequence of trauma on our highways, health care expenditures coming as a result of damage to the individuals themselves, with alcohol abuse, we do not have a financing system that allows us to make sure that we take political action that will provide an environment where people have incentive to take care of themselves.

The idea of health care is connected to the quality of our homes. Housing is a health care issue. Transportation is a health care issue. It is $15 million esti-

mated worth of expenditure in southern California simply as a consequence of the quality of their air.

Mr. President, health care is much bigger than just a hospital and the doctor.

I believe as we look to reform our health care financing system, not only do we need to be honest in the way we finance it and say that if we have Medicare, Medicaid, VA, and Federal employees health benefits at least we in Congress ought to be able to say if we are going to get health care benefits, we are going to pay for it all. We do not, Mr. President. We finance 30 percent of it with bond sales.

It is immoral and irresponsible. Not only do we need to change the way we finance health care we need to do it so that we can deal with the growing problem of our deficit, directly and straightforwardly.

Mr. President, we have to reform our financing system of health care so we can begin again to think about how do we create health in this country. We have one of the highest infant mortality rates in the world. If you live in Harlem and happen to be black in Harlem and live to the ripe old age of 48 that is your life expectancy. Health care is much bigger than just how am I going to get taken care of when I get sick.

Mr. President, I intend, as we roll through this deficit reduction debate, to say over and over and over that there is a way, a simple way, for us to deal with the deficit. It is at least simple mathematics; it is not easy in the details. You cannot get something for nothing and we are giving the American people, I say to every person who is watching tonight, we are giving you something for nothing and we have to stop it.

And unless we have a contract with the American people that says that we are going to change that we will never solve the rest of it. No constitutional amendment will get the job done. No statutory change will get the job done. We have to step to the line and say we are Americans and we are going to pay our bills. We ask every nation on Earth to whom we give credit to pay us back. We have to pay our bills, too, Mr. President. The American people must pay the bills, or this deficit of ours will not disappear.

Mr. President, I thank my colleagues for their indulgence, and I yield the floor.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I thank the Chair.

SENATE REPUBLICAN TASK FORCE ON ADJUSTING THE DEFENSE BASE

Mr. RUDMAN. Mr. President, I am today presenting to the Senate the report of the Senate Republican Task Force on Adjusting the Defense Base.

The formation of the task force was announced on April 16, 1992 by Senate Republican Leader ROBERT DOLE. In addition to myself, the task force included Senator BROWN, Senator COHEN, Senator DANFORTH, Senator DOMENICI, Senator HATCH, Senator KASSEBAUM, Senator LOTT, Senator LUGAR, Senator MCCAIN, Senator SEYMOUR, Senator STEVENS, and Senator WARNER. Every member of the task force has worked hard on this report, and I thank all of them for their contribution.

Mr. President, the collapse of the Soviet-controlled Communist empire has been the most dramatic and far-reaching development in the world in over 40 years. None of us will ever forget the pictures of Germans tearing down the Berlin Wall, or the Russian people facing down the Soviet army and the Communist old guard last August.

One benefit from this change is the ability to reduce the human energy and financial resources that we as a nation must devote to ensuring an adequate national defense. Every economist I know of agrees that, in the long run, this will benefit the American people by strengthening our country's economy.

However, defense budget cuts of the kinds now being undertaken and proposed for future years will impose transitional costs on the many Americans, and their families, who lose jobs, communities impacted by closing bases and plants, and companies losing defense business. Patriotic Americans who have devoted their careers to serving the country will be affected by these cuts, and the government has an obligation to provide some assistance to facilitate their transfer into the commercial economy.

In addition, serious concerns have been raised about the impact of the defense procurement cuts on key sectors of our industrial base. These sectors are critical both for the economy's overall health and to our ability to gear up defense production, should that need regrettably arise again.

Over the last 2 months, members of the task force and their staffs have met with administration officials, representatives of the private sector, and many others to review the ramifications of the defense budget cuts and develop an appropriate response.

The task force report addresses the problems associated with the downsizing of America's defense system on three levels: helping individual workers, assisting impacted communities, and retaining and diversifying the defense industrial base. I believe the report we are issuing today contains recommendations that will help deal with the many transitional problems associated with the defense build-down and help maintain a vibrant industrial base.

Mr. President, I ask unanimous consent that the summary of the task force recommendations—which are substantial in nature and fairly lengthy, but I believe of importance to this entire body and those who read the RECORD—and the text of the task force report printed in the RECORD.

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

SUMMARY OF RECOMMENDATIONS OF THE SENATE REPUBLICAN TASK FORCE ON ADJUSTING THE DEFENSE BASE, JUNE 25, 1992

The formation of the Senate Republican Task Force on Adjusting the Defense Base was announced on April 16, 1992 by Senate Republican leader Robert Dole. Senator Warren Rudman was named as Chairman of the Task Force. Other members appointed to the Task Force were Senator Hank Brown, Senator William Cohen, Senator John Danforth, Senator Pete Domenici, Senator Orrin Hatch, Senator Nancy Kassebaum, Senator Trent Lott, Senator Richard Lugar, Senator John McCain, Senator John Seymour, Senator Ted Stevens, and Senator John Warner.

The Task Force has addressed the problems associated with the downsizing of America's defense system on three levels: helping individual workers, assisting impacted communities, and retaining and diversifying the defense industrial base.

In developing these recommendations, the Task Force reached a number of important conclusions.

A sound economy and sustained economic growth is the only force that can ensure that defense reductions can be undertaken with a minimum of dislocation. Even the best defense conversion package will be a poor substitute for efforts that bring the federal deficit under control, for tax policies which spur investment and technological development, and for controlling government spending.

Clearly, ongoing and future defense budget reductions are necessary and desirable in light of the collapse of the Soviet Union and the new international scene. These cuts, however, must be undertaken in a phased and measured fashion. Precipitous, rapid cuts risk repetition of the mistakes made following the Vietnam War which led to the hollow military of the 1970's, and will cause needless disruption and harm to millions of Americans.

The argument made in some circles, that the defense cuts make possible a peace dividend to be used for domestic programs, ignores budgetary reality. The fact is that current and project increases in domestic spending far exceed the savings flowing from any defense spending plan proposed in Congress to date, or likely to be proposed in the future. In short, the substantial peace dividend already realized and coming in the next few years has already been taken, and spent.

The cost of programs directly responding to problems resulting from the declining defense budget—e.g., transitional assistance and job training for military personnel being separated—should be paid for out of the defense budget. Beyond this, the defense budget should only be used to fund programs which have a defense application and enhance our defense capability. Programs whose primary purpose is to strengthen the economy should be counted against the domestic budget.

HELPING INDIVIDUALS WHO LOSE DEFENSE-RELATED JOBS

A. Military Personnel

Benefits for Departing Servicemen and Women

Supports the Voluntary Separation Incentive (VSI) and Special Separation Benefit (SSB), which are designed to encourage voluntary separations and address the differing needs of departing servicemen.

Recommends legislation to authorize DOD to conduct Selective Early Retirement Boards (SERB) as a balanced approach to the officer force reductions for those with at least 15 but less than 20 years of eligible service. Officers who would be eligible for this SERB would be those in the 15 to 20 year window of service who have not yet been selected for at least the paygrade of 0-5 (i.e., Lt. Colonel, Navy Commander).

With respect to reservists, the Task Force recommends the enactment of legislation to provide a transitional safety net of benefits to those who are forced to leave the Selected Reserve if the down-sizing recommended by DOD is approved by Congress.

Finding Productive Work for Departing Servicemen and Women

Recommends that Congress adopt legislation to encourage states to adopt alternative teacher certification programs for separated and retiring servicemen whose college education enables them to become qualified teachers.

Supports an expansion of the DOD program to pay for coursework to departing servicemen which meet reasonable state certification requirements. The Department of Education should identify those states with acceptable alternative certification programs, and assist in the replication of university/school district partnerships which have been successful in recruiting minority teachers for needy urban school districts.

Recommends the development of programs which enable veterans to apply their experience and military discipline training to community related services, such as establishing training centers, military style boot camps, or summer educational programs for disadvantaged youth. These programs could be operated with support from the business community and out of federal job programs and funds.

The Task Force believes that two temporary steps should be taken to improve the value of the current G.I. Bill during the down-sizing of the Armed Forces.

First, for the next three years, servicemen separating voluntarily should be authorized to purchase eligibility for G.I. Bill education benefits. This would permit voluntary separatees to purchase $12,600 in benefits (based on a $300 monthly benefit) for $1,200.

Second, the monthly G.I. Bill education benefit should be increased for servicemen departing during this down-sizing to $500 per month from the regularly authorized level of $300. (Benefit levels are now temporarily at $350 per month, with the funds coming from the Gulf War account.)

Recommends that funding levels for the highly successful Transition Assistance Program be increased through 1995 to ensure that all members of the Armed Forces have the opportunity to receive counseling and private sector employment skills.

B. Civilian Defense employees

Supports making funds available to fund the transition benefits available to federal civilian employees forced to leave federal service, including severance pay, lump sum payment for unused annual leave (or use of such leave to establish retirement eligibility), right to purchase additional health coverage, and the right to convert life insurance to an individual policy.

Supports job swap programs and new initiatives to pay relocation costs of DOD civilian employees obtaining another federal job in a different location.

Strongly supports the President's May 26, 1992 decision to authorize early retirement for eligible DOD civilian employees. The Task Force believes that early retirement waivers should be liberally granted for DOD civilians in selected locations and occupations.

Supports extending the one day period granted to an eligible DOD civilian employee to decide whether to accept a job offered under the Priority Placement Program to a period of three days.

C. Private sector workers and job training program improvements

Pursuant to the Defense Conversion Act (DCA), Congress appropriated $150 million in FY 1990 funds (available through the end of FY 1993) to be used by the Department of Labor for Job and Worker Adjustment Assistance (EDWAA) for workers losing defense-related employment. Because of delays in the Labor Department's receipt of the $150 million, only $17 million of this amount has been spent as of mid-April. However, the Labor Department also spent $38 million of its discretionary funds on assisting defense-dislocated workers, bringing the total amount spent to $55 million.

Recommends legislation to extend the availability of the remaining FY 1990 DCA funds through FY 1997.

Recommends that the Appropriations Committee closely monitor the Labor Department's progress in disbursing these funds, and make any necessary additional funds available on a timely basis.

Recommends that DCA funds be used to reimburse states for rapid response services if the states have depleted the funds available for this purpose.

Recommends that the Department of Defense be required to provide the Labor Department and affected states with information regarding upcoming contract and program terminations which will result in layoffs. Similarly, state job training program managers should be required to seek similar information from defense contractors.

Urges DOD to take steps to immediately comply with existing legislation calling for improved reporting on the defense industrial base, to assist in the development of appropriate policies for worker assistance and maintaining our industrial base.

Recommends that the Labor Department use the authorized 10 percent set-aside from DCA funds to make demonstration project grants. In particular, the Labor Department should give favorable consideration to applications for in-house re-training by defense firms who are seeking to diversify into the commercial market.

Calls upon the state and local program managers, as well as the responsible Labor Department officials, to review the adequacy of the services being provided to defense-dislocated workers and make such adjustments as are necessary.

Supports legislation to permit job training and placement assistance to be extended to workers at closing military installations up to six months prior to their closing, rather than only 60 days prior to closing.

ASSISTING IMPACTED COMMUNITIES

Redevelopment Planning

The closing of a military base or major defense plant(s) can be a serious blow for the affected community or region, especially for those localities which are heavily dependent on the base or plant in question. The Task Force strongly believes that redevelopment planning is best accomplished if the process is driven by the affected communities, and their state or local governments.

Supports the efforts of DOD's Office of Economic Adjustment (OEA) to assist state and local governments in planning for redevelopment by providing planning grants and technical assistance to the duly constituted redevelopment authority, as determined by state and local law.

Believes that, as the pace of base and plant closings accelerates in the next few years, an increase in funding for OEA will be necessary, and supports such an increase with the exact amount to be determined through the regular, annual appropriations process.

Economic Development Grants

The federal government can also assist affected communities by providing them with economic development grants. To this end, Congress provided $50 million in FY 1990 (available through the end of FY 1993) to be distributed on a grant application basis by the Economic Development Administration (EDA) of the Department of Commerce. Unfortunately, delays in transferring the funds to EDA and issuing regulations governing their use have meant that only three grants were awarded as of mid-April.

Recommends legislation to extend the availability of these funds through FY 1997.

Supports providing additional funds for EDA grants for defense-impacted communities at the time such additional funds are needed.

Recommends legislation or administrative action to require that EDA take steps to expedite the excessively long grant approval process, which now takes an average of nine months.

Hazardous Waste on Closing Military Bases and Installations

The Task Force believes that cleaning up hazardous waste sites is a high priority, especially at closing installations where they interfere with redevelopment, and supports the appropriation of such funds as are necessary to achieve this end.

Identifying the precise nature of and resolving the hazardous waste problem at a given installation can, however, take years. Redevelopment cannot be delayed while this process is underway. Congress can take three steps to facilitate redevelopment:

Recommends that federal law be amended to clarify that DOD has the authority to parcel bases and transfer uncontaminated tracts on an expeditious base.

Supports legislation to authorize DOD to convey contaminated parcels to willing parties where there is minimal risk to public health and DOD agrees to fulfill its statutory responsibility to complete the clean-up, and DOD is legally guaranteed the access it requires for remedial activities.

Recommends legislation to authorize DOD to indemnify the parties to whom land is transferred, either by lease or title conveyance, for the future costs arising from DOD-generated hazardous waste. Clearly, however, decisions to indemnify must be made on a case-by-case basis and be contingent on the parties agreeing not to take actions which would increase federal clean-up costs.

Impact Aid for Education

Supports funding of the Impact Aid section 3(e) program which authorizes transitional assistance to local school systems affected by a major decline in student population due

to a closing military base or other reduction in the federal presence in an area.

Federal Re-Use of a Closing Military Base

Endorses the creative re-use of closing military bases by the federal government. For example, some Members have proposed locating prisons or military-style boot camps at closing bases.

Urges that federal agencies which must relocate a facility be required to examine the closing bases to determine their suitability to host that facility, and give preference to locating the facility at the closing base.

Recommends that DOE, as a general practice, refuse to transfer a closing base or portions thereof to another federal agency for use where such transfer is opposed by the affected state and local communities.

Recommends amending the Base Closure Act to provide for low and no-cost transfer of surplus base land to the state or local community even where the property in question will be used for commercial purposes. This will assist the states in attracting new businesses and other users to the base.

Health Care for Retired Servicemen

Currently, retired military personnel are eligible to receive health care coverage through the CHAMPUS program and at existing military hospitals and health care facilities. As many retired personnel live near bases that are closing, their access to health care is going to be negatively impacted.

Recommends that DOD reform the military medical system so as to ensure continued military medical readiness and access to care for all who are currently eligible for care. The Task Force believes that such reform can be undertaken in a cost-effective manner which does not add to the cost of the program.

Recommends that DOD and the Veterans' Administration should examine, with respect to each DOD health care facility slated for closure, whether such facility should be turned over to the VA to be operated for the benefit of both military retirees and veterans eligible for VA health care. Under such an arrangement, the VA would be reimbursed for the cost of care provided to military retirees.

INDUSTRIAL CONVERSION/RETAINING AN INDUSTRIAL BASE

A. Diversifying our defense production base

There are several affordable and cost-effective measures Congress and the President can take which will help retain needed elements of the defense production base.

DOD Recoupment Policy

Supports the elimination of the DOD recoupment policy in cases, primarily relating to commercial products, where it is not required by statute. In light of the Administration's recent request for repeal of the Arms Export Control Act provision requiring recoupment for foreign military sales of major defense equipment, the Task Force urges the congressional committees with jurisdiction to work with the Administration for a mutually agreeable legislative resolution of this policy.

Procurement Reform

Existing DOD procurement policies, many of which have been mandated by Congress, were adopted with the goal of establishing public confidence in the acquisition process by ensuring that weapons systems met necessary performance criteria, ensuring fair competition in bidding for contractors, and protecting against fraud by defense contractors. One result has been to force companies to segregate their defense and non-defense operations, making it more difficult for the defense divisions to now move into commercial markets. In addition, some companies have refused to participate in the defense market or to make privately-developed technological breakthroughs available to DOD.

These myriad rules, regulations, and specifications have become so detailed that their cost effectiveness is in serious doubt, particularly in the upcoming era of smaller defense procurement budgets. Accordingly, a total rethinking of existing DOD procurement policies are now in order.

The Task Force believes that a number of steps must be given serious consideration for future defense procurement to be possible with a reasonable level of efficiency.

DOD needs to seriously emphasize off-the-shelf procurement for its purchases. Many of the goods purchased by DOD have widespread commercial uses and are readily available.

Where military specification for products are necessary, DOD should demand performance standards and permit potential contractors flexibility in determining how to meet those standards.

DOD standards in accounting and record keeping should be revised so as to permit contractors to integrate their cost accounting systems with the systems employed in the commercial world. Legislative changes will be necessary to fully accomplish this.

The Task Force believes that defense procurement reform should be a high priority for Congress and the Administration in 1993. In addition, DOD must be much more rigorous in streamlining those administrative and regulatory requirements that are not driven by statute.

Stabilizing the Procurement Market

Congress should place greater emphasis on multi-year procurement decisions in order to stabilize the production of particular weapons systems, thereby permitting more efficient recourse allocation with resultant savings to the taxpayers.

Both Congress and the Administration need to change their focus on new programs away from initial costs towards life-cycle costs, make realistic decisions, and stick with them. No multi-year procurement emphasis can be successful unless this change in mind-set to addressing weapons development and procurement is successful.

Dual-Use Technology Research and Development

Believes that increased funds should be devoted to the development of so-called dual-use technologies—i.e., technologies that have applications both for defense and commercial markets—by entering into partnerships with the private sector. In order for these projects to be effective, there should be a requirement that half the funding be provided by non-federal participants.

DOD and DOE Laboratories

By permitting the national laboratories to engage in more dual-use efforts and cooperating more closely with the private sector, immediate contributions can be made to our economic prowess in a variety of areas. In 1990, the Congress provided a structure for such joint research and the transfer of commercially useful technologies from the labs to the private sector.

Supports the Administration proposal to provide additional funds to the DOE laboratories to expand commercial use of dual-use technologies developed in these labs, and believes that similar steps should be undertaken with respect to the DOD laboratories.

Foreign Military Sales

Recommends that loan guarantees for government-to-government and commercial sales of defense products should be provided to our closest allies. Hampered by a lack of guarantees, U.S. defense products—even though renowned for their technological superiority—are becoming increasingly less competitive on the international market. Our NATO allies, Japan, Australia, and Israel should be among the countries considered for such a program.

Urges the U.S. to begin to give special consideration to approving an overseas arms sales when there is foreign competition for provision of the types of weapons in question. Special consideration should also be given to a sale which would extend the operation of a product line, particularly when that extension bridges a gap until either the U.S. or another ally requires such arms.

B. Retaining our industrial base

Retaining and improving the competitiveness of the American industrial and manufacturing base must be a critical goal of both public and private policy over the next few years. While many American companies have improved their productivity and competitiveness in recent years, and while the export of American goods has increased, the importance of manufacturing industries in the economy has continued to decline.

The full range of policies that the U.S. government can adopt to strengthen our manufacturing base is beyond the scope of this Task Force's jurisdiction, and the recommendations listed below are not intended to be all-inclusive. Instead, the Task Force has confined itself to particular domestic policy proposals that will help our industrial base and at the same time be of some assistance to the individuals and companies that have been producing defense products.

Small Business Innovation and Research (SBIR)

To facilitate the role of small businesses in job creation and technology development, Congress in 1982 enacted SBIR, requiring that 1.25 percent of the research budgets of the largest federal research agencies be awarded in grants to businesses with fewer than 500 employees.

Recommends legislation to reauthorize the SBIR program and increase the set-aside from 1.25 percent to 2.5 percent. In addition, consideration should be given to increasing the maximum amount of the Phase I and II awards.

Aerospace Programs

The Task Force believes that the important programs of the National Aeronautics and Space Administration (NASA) need to be adequately funded. Four programs, for which President Bush has recommended significant increases, deserve particular mention.

Space Station Freedom.

NASA's Aeronautics Research and Technology programs.

NASA's Commercial Programs, including increased funding for the 16 Centers for the Commercial Development of Space.

NASA's space technology programs.

R&E Tax Credit/Educational Assistance Tax Deduction

The R&E tax credit provides a tax credit to businesses for their research and experimentation expenditures. This tax credit has been critical to maintaining the worldwide lead of American industry in advanced technologies. The Employer-provided Educational Assistance tax deduction permits companies to deduct from their income educational assistance provided to their employees for upgrading their skills and training.

Recommends that both of these provisions be made a permanent part of the tax code or,

at the very least, be extended for a period of five years to encompass the period of the defense build-down. A permanent or lengthy extension is desirable since it would bring some stability to this area of the tax code and facilitate long-range planning by businesses.

NIST Programs

Supports two programs of the National Institute of Standard and Technology (NIST) as important to the effort to promote technology transfer to allow defense industries to convert to civilian activities. These programs are the Manufacturing Technology Program (MTC) and the Advanced Technology Program (ATP). President Bush requested budget increases in both of these programs for FY 1993.

Manufacturing Technology Programs

Supports increasing funding for the manufacturing technology (MANTECH) programs in DOD above the $138 million requested for FY 1993. As the new acquisition strategy places greater emphasis on research and development at the expense of production, defense firms can be expected to invest less in technologies to improve their manufacturing process. For such an investment to be effective, MANTECH funds should be expended on projects selected competitively on the basis of merit.

Manufacturing Education

The Task Force supports a continuation of the program authorizing $25 million to fully fund DOD participation in ten existing or new university programs for manufacturing engineering education because it is an effective means of significantly increasing the number of well-trained, fully-qualified engineers, managers, and teachers entering and supporting the manufacturing workforce. The benefits will accrue to the defense as well as the commercial industrial base.

Environmental Research and Education

The Task Force recommends that legislation be enacted that will establish programs at universities in the United States in the environmental sciences for men and women with prior training in hazardous waste management and radioactive materials through the Departments of Energy and Defense to create a cadre of environmental scientists, technicians, and engineers. This will not only provide additional, needed professionals in this area, but will help provide productive employment for those individuals now working on the U.S. nuclear weapons programs.

REPORT OF THE SENATE REPUBLICAN TASK FORCE ON ADJUSTING THE DEFENSE BASE, JUNE 25, 1992

I. INTRODUCTION

The formation of the Senate Republican Task Force on Adjusting the Defense Base was announced on April 26, 1992, by Senate Republican Leader Robert Dole. Senator Warren Rudman was named as Chairman of the Task Force. Other members appointed to the Task Force were Senator Hank Brown, Senator William Cohen, Senator John Danforth, Senator Pete Domenici, Senator Orrin Hatch, Senator Nancy Kassebaum, Senator Trent Lott, Senator Richard Lugar, Senator John McCain, Senator John Seymour, Senator Ted Stevens, and Senator John Warner.

The Task Force was charged in the responsibility of helping to develop responsible policies to deal with the build down and restructuring of America's defense system in the wake of our nation's Cold War victory and the collapse of the Soviet Union. It focused on policies to facilities a productive shifting of our human and technological resources while maintaining a viable defense base.

Fulfilling this mandate and developing responsible and cost-effective policies for adjusting the defense base cuts across the jurisdiction of a number of Senate committees. Accordingly, the Task Force membership includes Senators from the Armed Services, Appropriations, Budget, Commerce, Finance, Foreign Relations, Governmental Affairs, and Labor and Human Resources Committees.

This report includes recommendations that, if followed, will facilitate a transition to a post-Cold War economy in a manner that minimizes human dislocation, strengthens America's economy, and does not overburden the American taxpayer. It is important to understand that a sound economy and sustained economic growth is the only force that can ensure jobs and high living standards for those who must leave the military, defense jobs in government, and the defense industry. The most important step that Congress can take is to pursue policies which will strengthen the overall economy and provide productive jobs for all Americans. Even the best defense conversion package will be a poor substitute for efforts that bring the federal deficit under control, for tax policies which spur investment and technological development, and for controlling government spending.

It is the view of every Member of this Task Force that no mix of defense adjustment policies can succeed in the face of government policies which weaken the American economy by continuing to sanction out-of-control federal deficit spending.

II. OVERVIEW

A. Defense spending in recent years

Beginning with the last year of his Administration, President Carter and the Congress embarked on a policy of rebuilding our national defense. This policy was initiated in response to a massive defense build-up by the Soviet Union and an increasingly aggressive and interventionist foreign policy by that nation, most notably the 1979 invasion of Afghanistan.

President Reagan, upon taking office in 1981, continued and accelerated this policy. Contrary to the perceptions of many Americans, however, the defense build-up did not continue unabated through the eight years of his presidency. The last time real (i.e. after adjusting for inflation) defense budget authority increased was in fiscal year 1985, a budget which was adopted prior to President Reagan's reelection to a second term. Excluding costs associated with Operation Desert Storm, real defense budget authority fell 23.7 percent between FY 1985 and FY 1992, and dropped by 12 percent between FY 1990 and FY 1992. This is a cut in defense spending in constant FE 1992 dollars from $350 billion to $278 billion, and is equivalent to a peace dividend of $62 billion in the current fiscal year alone.

In nominal terms (i.e., without adjusting for inflation), the budget grew slightly. However, this growth was largely attributable to inflation-based increases for personnel and operation and maintenance accounts. Budget authority for defense procurement (the authority to order new weapons systems and related hardware), however, has fallen dramatically. Between FY 1985 and 1992, budget authority for defense procurement fell from $96.8 billion to $60.5 billion, a nominal decrease of 37 percent and a real decline of 53 percent.

Although these procurement cuts are very real, the fact that they have occurred has been largely obscured by spend-out rates and the Persian Gulf War. There is normally a significant gap between the time new weapons systems are ordered and when they are actually built and paid for. Similarly, when procurement reductions are imposed, there is a delay from cuts in new orders to termination of production and cuts in the flow of actual dollars to industry. Thus, in terms of the federal budget, defense procurement outlays held steady through fiscal 1991. Overall defense outlays did not decline in real terms until fiscal 1990 and, after a two year decline, grew again in fiscal 1992 due to the Gulf War.[1]

The delay in the actual spending of procurement dollars has also, to date, minimized the effect of the previously agreed to cuts on defense industry jobs. According to the Defense Budget Project, private sector defense industry employment[2] stood at 3.1 million in fiscal 1991. This was the same number the defense industry employed in fiscal 1985, but 265,000 below the peak number of workers employed in fiscal 1987. Thus, although the cuts have had significant impacts on particular defense-dependent plants and communities, the overall effect of cuts in defense procurement has been relatively limited to date. This will change rapidly in the next few years.

B. Defense spending in the 1990's

1. President Bush's Budget

Defense spending will continue to drop during the 1990's. The inherent contradictions and weaknesses of the communist system of government, coupled with the steadfast policy of the United States and its allies against Soviet expansionism, led to the collapse of the Warsaw Pact in 1990 and the Soviet Union in 1991. As a result, the United States can afford to reduce the size of its military forces and defense spending will be cut over the next several years.

President Bush this year proposed additional defense budget authority reductions, beyond those previously agreed to by the Administration, of 15 percent in real terms through fiscal 1997. This will allow us to reduce the burden of defense spending from a post-World War II high of 14.5 percent of Gross Domestic Product (GDP), a high of 6.3 percent during the Reagan build-up, and 4.9 percent today, to 3.6 percent of GDP by FY 1997. Similarly, defense spending will drop from 28 percent of the federal budget during the height of the Reagan build-up, and 21 percent today, to about 17 percent in FY 1977.

To put these trends in perspective, discretionary domestic spending remained relatively constant at 16–17 percent of the federal budget between FY 1985 and FY 1992, and is likely to remain at this percentage through FY 1997. Non-discretionary federal domestic spending—so-called "entitlement" expenditures—has risen from 46 percent of the budget in FY 1985 to about 52 percent today. It will rise to at least 61 percent by FY 1997 under current spending projections.

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[1] Because of the Gulf War, both defense budget authority and off-setting receipts (the contributions made by our allies) surged in fiscal 1991. However, many of the outlays associated with that budget authority were not incurred until fiscal 1992. Thus, ironically, although combat in the Gulf ended in March, 1991, outlays were lower in fiscal 1991 and are higher in fiscal 1992 than they would have been had there been no war.

[2] Estimates of defense-dependent private sector employment are woefully deficient because there are no good data on the work force employed by subtier contractors or in jobs which are indirectly defense dependent. These estimates reflect only direct contractor and subcontractor employment.

These trends mean that the major peace dividend which would be produced under the Bush budget will sustain a massive restructuring of federal spending on domestic programs. While defense spending was double the amount the federal government spent on payments to individuals at the time the Berlin Wall was erected in 1961, it will be only one-third the amount we spend on payments to individuals in 1996.

This peace dividend, however, also means further reductions in defense-related employment, with most of the new cuts in jobs occurring between FY 1992 and FY 1995. The Office of Technology Assessment estimates such losses[3] as follows:

(1) 396,000 active duty military, 13 percent of the current total;

(2) 104,000 DOD civilian, 10 percent of the current total; and

(3) between 530,000 and 620,000 defense industry positions, 18-21 percent of the current total.

The loss of defense industry jobs is difficult to estimate. The Defense Budget Project estimates larger private sector losses at 745,000 by FY 1995 and 906,000 through FY 1997, provided that Congress does not cut the present Bush defense spending plan. This estimate is higher than the OTA estimate, but may well be correct.

It is also important to note that the Defense Budget Project estimates that 19 percent of all the defense industry jobs that will be lost during FY 1991-97 will have been lost by the end of FY 1992, that 31 percent will be lost in FY 1993, and 22 percent will be lost in FY 1994. This means that 72 percent of all the changes taking place in defense industry employment as a result of the current defense build-down will have been completed within the next three years.

Job losses of this magnitude are manageable from a macroeconomic standpoint if the American economy performs well. In contrast to the 1 to 1.25 million jobs that will be lost as a result of this defense build-down, the number of defense related positions eliminated totalled 2.5 million in the three years following the Korean War and 3.05 million between 1968 and 1974 as the United States disengaged from Vietnam. The job losses resulting from U.S. disengagement in Vietnam were absorbed by an economy that created 20.1 million new jobs in the 1970's and 18.1 million in the 1980's. Similar job growth can be expected in the next decade with steady economic growth.

The importance of strong generic economic growth to offset the defense reductions is magnified by the current fiscal situation facing the federal government. The massive deficits of recent years have severely diminished, if not eliminated, the ability to use the federal budget as a tool to stimulate the economy.

Although the aggregate macroeconomic effects of defense budget cuts are manageable (and may even be beneficial in the long run), this spending is not spread evenly through the economy. Some communities are heavily dependent on defense spending and will be especially hard hit by the cuts. In these communities, absent an effective response, the impact of the cuts will spread through the rest of the local economy, affecting construction, real estate, and other industries.

Similarly, some industrial sectors will be hard hit. The ship building and repair capacity of the United States is virtually 100 percent defense-dependent while the missile industry is 90 percent dependent. Examples of other industries more than 40 percent dependent on DOD include radio and television communications equipment manufacturing and aircraft (including engine, parts, and equipment) manufacturing. Helping the individuals employed in these sectors, many of whom are highly skilled, find productive employment will be especially important. These individuals have the ability to work in critical areas of technology development and manufacturing which are essential to the ability of the United States to compete in the global marketplace.

The State of California represents an especially dramatic example of this trend. One out of every nine Americans now lives in California, and the state's economy nurtures a wide variety of technologies, industries, and manufacturing processes that can sustain the competitive edge of the United States.

At the same time, dramatic cuts in the defense and aerospace industries of California threaten to drain the state of some of its most productive human and economic resources. California receives more than 20 percent of total DOD expenditures annually, far more than any other state, and it has lost over 60,000 defense and aerospace jobs since 1986. Independent studies indicate that southern California alone could lose another 210,000 positions within this sector and its supplier network by 1995.

The policies recommended below by this Task Force are designed to minimize the short-term dislocations and transitional problems that will affect individuals in communities and industrial sectors which are affected by the defense cuts.

2. The Prospect for Deeper Defense Cuts

Some have proposed defense cuts much larger than those recommended by President Bush. The Task Force opposes significant cuts beyond those recommended by the President for two reasons.

First, while recognizing that our Armed Forces can and should be cut, the Task force is opposed to repeating the mistakes made following the Vietnam War which led to the hollow military of the late 1970's. An orderly build-down of our military is necessary to maintain the morale, readiness, and technological and materiel capability of our Armed Forces. Although the single greatest military threat to the United States is largely neutralized at present with the collapse of the Warsaw Pact and the election of a democratic government in Russia, a cursory reading of the daily news headlines establishes that the world is still not a peaceful place. The United States must maintain defense forces adequate to cope with such contingencies as could arise.

Second, defense spending reductions at any level need to be undertaken in a phased, steady manner to ensure that the short-term dislocations resulting from defense cuts can be managed in a way that minimizes the harm to affected individuals and communities, and the overall impact on the nation's economy and unemployment. More immediate drastic cuts in defense spending will not only unnecessarily damage our defense capability, but prolong the recession and cause needless disruption and harm to millions of Americans.

C. Paying for defense adjustment policies

Many proposals have been made in the last couple of years to pay for a wide variety of non-defense programs out of the defense budget. Many of these ideas have been proposed as a way to avoid the domestic spending constraints imposed by the Budget Enforcement Act of 1990. Part of that Act imposed separate defense, domestic, and international affairs discretionary spending ceilings, and required that savings in any of these categories be applied to reducing the federal budget deficit. The Act also required that legislation which increases spending on entitlement programs be offset with cuts in other entitlement programs or tax increases.

Earlier this year, Congress rejected legislation to replace the three separate discretionary spending ceilings with one overall ceiling. However, under the Budget Enforcement Act, that change will automatically go into effect in FY 1994 and FY 1995.

The Task Force believes that the cost of programs directly responding to problems resulting from the declining defense budget can and must be paid for in FY 1993 with funds attributed to the defense budget and be scored against the discretionary defense spending cap for FY 1993 in the Budget Enforcement Act. Transitional assistance, job training, and placement services for servicemen clearly fall into this category.

Leaving these programs aside, the Task Force believes the defense budget should only be used to fund programs which have a defense application and enhance our defense capability. The coming cuts in defense spending and the steady rise in domestic spending leave little room to shift defense funds to non-defense purposes. Programs whose primary purpose is to strengthen the economy or sectors thereof should be counted against the domestic budget, even if the need for such programs has become more important because of the defense cuts. Programs to assist our competitiveness in manufacturing and industrial technologies would normally fall into that category.

Some contest this view, arguing that the defense spending cuts made possible by the end of the Cold War represent a "peace dividend," a portion of which should be reinvested. That argument ignores the fact that a peace dividend is already being taken and is already being spent. Whether the peace dividend turns out to be $50, $100, or $150 billion in the next five years, that amount pales by comparison to the $800 billion that entitlement programs are expected to increase, over and above the amount attributable to inflation and population changes, during the same period.[4] The Task Force is not hereby taking a position on entitlement programs. Its point is that any discussion of taking a greater peace dividend ignores budgetary reality. Defense spending is already cut to low levels, and additional cuts simply cannot be big enough to pay for major new domestic programs without being so draconian as to threaten national security.

III. HELPING PEOPLE

A. Military personnel

The size of our active duty Armed Forces will be reduced by almost 400,000 men and women by 1995 to a total of just over 1.6 million. While much of this reduction can be accomplished through retirement and voluntary separation, some involuntary separation is and will be required. The degree to which involuntary separation will be necessary will in large part be determined by

[3]The number of positions lost is larger than the number of workers involuntarily separated through lay-offs. Much of the job reduction will be accomplished through voluntary separation and retirement.

[4]These numbers are based on cumulative annual savings or increases. While this is not necessarily the most useful way of measuring changes in fiscal policy, it is the method that has been most commonly used in this debate.

the extent to which Congress reduces the force structure below the level recommended by the President.

1. Benefits for Departing Servicemen and Women

As we reduce and reshape our forces, our overriding objectives remain the same: to maintain a high state of readiness and to treat people fairly—both those who leave and those who stay. Therefore, Congress established and implemented several policies to ensure we accomplish these objectives and execute the drawdown in a fair, uniform, and consistent manner.

Two programs were authorized by Congress in 1991 to encourage voluntary separations, the Voluntary Separation Incentive (VSI) and Special Separation Benefit (SSB), which are designed to address the differing needs of departing servicemen. The Department of Defense has implemented these programs, and VSI/SSB benefits are not being offered to selected servicemen who fall into categories based on ranks, groups, or skills, when a particular service is, or will be, overstrength. Servicemen with more than 6 years and less than 20 years of active duty are eligible for these programs. The Task Force supports these programs.

On January 16, 1991, the Department of Defense instituted a personnel policy to protect all servicemen with 15 or more years of service until they are retirement eligible. This policy protects career servicemen and prevents the services from intentionally passing people over for promotion to encourage them to separate. In fact, this new policy is in place and personnel passed over who have more than 15 years of military service are continuing to serve.

Due to the fact that the current VSI and SSB exit bonuses—which are in reality aimed at those servicemen with between 6 and 15 years—may not be proving as attractive as DOD had hoped, additional force reduction tools may be necessary. Compounding this equation is the belief that there will be further personnel reductions beyond those currently planned. Because of this, the Task Forces supports a provision which would authorize DOD to conduct Selective Early Retirement Boards (SERB) as a balanced approach to the officer force reductions for those with at least 15 but less than 20 years of eligible service. Officers who would be eligible for this SERB would be those in the 15 to 20 year window of service who have not yet been selected for at least the paygrade of 0-5 (i.e., Lt. Colonel, Navy Commander).

The Secretary of Defense must oversee this 15-year retirement personnel management tool and report his findings on the effectiveness of this force reduction process in meeting mandated end-strength requirements. Additionally, the Secretary should review other options to continue to make the necessary force reductions less painful and examine whether other paygrades or ranks need to be addressed to meet potentially precipitous end-strength reductions.

The Task Force supports legislation that provides transition benefits to the Reserves and National Guard whose status is affected by the ongoing cuts in our forces, if the down-sizing recommended by DOD is approved by Congress. As noted above, the Congress last year provided benefits for active duty service members who lose their jobs due to force structure reductions. This Task Force also believes that we must provide the proper mix of benefits to our National Guardsmen and Reservists.

This Task Force supports the following benefits for the selected Reserve:

protection of Reservists and National Guardsman with more than 15, but less than 20, years of credible service;

separation pay for members of the selected Reserve with more than 6, but less than 15, years of service, whose units are inactivated and who cannot cross-level to another unit;

provide that those who signed up for six years in the selected Reserve in exchange for educational assistance after completion of their six years of service will be protected. They would currently lose those benefits when terminated;

permit individuals who receive separation benefits because they must leave active service, and who then enter service in the selected Reserve, to do so without losing the equivalent of their drill pay by having it deducted from their separation benefits.

This Task Force believes that we need to recognize the immense contribution that the men and women who served in the National Guard and Reserves made to the total force concept, to winning the Cold War, and to winning operation Desert Storm, just as we have recognized the contributions made by those who have served on active duty.

2. Finding Productive Work for Departing Servicemen and Women

Many of the nearly 400,000 men and women leaving the active duty military services in the next five years are leaving in the prime of their professional lives. With a high degree of discipline and outstanding work and moral ethic, their ability to become highly productive members of our civilian society is without question. However, this group, many with families to support, had never planned to leave active duty and are not now in a financial position to return to school to enhance their employment opportunities and increase their value to society. In addition, the high proportion of minorities represented in the military presents an important opportunity to incorporate their leadership skills in the community.

About 95 percent of the officer corps have college degrees and 30 percent have advanced degrees. Many of these degrees are in the sciences, engineering, and language arts where there are shortages in the civilian sector, especially in teaching. In addition, many enlisted personnel also have technical and other skills have can be used productively in the private sector and in public service.

The Task Force recommends that Congress adopt legislation to encourage states to adopt alternative teacher certification programs for separated and retiring servicemen whose college education provides them with the substantive knowledge to enable them to become qualified teachers. Alternative programs are necessary to meet the immediate needs of these talented personnel for part-time, short-term certification procedures. Such certification programs could include a brief period of training servicemen to learn teaching methods, and if necessary, to take final steps to complete a bachelor's degree. Not only will this enable some former military personnel to put their talents to productive use in public service, it will help address the teacher shortage found in some, particularly urban, areas and disciplines.

The Task Force supports an expansion of the DOD program to pay for coursework of departing servicemen which meets reasonable state certification requirements. The department of Education should identify those states with acceptable alternative certification programs, and assist in the replication of university/school district partnerships which have been successful in recruiting minority teachers for needy urban school districts.

The Task Force recognizes that veterans could apply their experience and military discipline training to community related services, such as establishing training centers, military style boot camps, or summer educational programs for disadvantaged youth. These programs could be operated with support from the business community and out of existing Job Corps and Job Training Partnership Act programs and funds.

The original G.I. Bill of post-World War II served a dual purpose by giving released veterans an opportunity to retrain for productive employment while allowing the economy time to absorb them as it transitioned to a peace-time economy. The original G.I. Bill produced a qualified work force that was ready when the private sector needed them and was a primary factor in our nation's economic growth in the last forty years.

The Task Force believes that two temporary steps should be taken to improve the value of the current G.I. Bill during the down-sizing of the Armed Forces, both of which will help reduce the impact of cuts in military personnel on unemployment and the total number of jobs available to all Americans during the next few years.

First, for the next three years, servicemen separating voluntarily should be authorized to purchase eligibility or G.I. Bill education benefits. This opportunity is now being granted to involuntary separatees. This would permit voluntary separatees to purchase $12,600 in benefits (based on a $300 monthly benefit) for $1,200.

Second, the monthly G.I. Bill education benefit should be increased for servicemen departing during this down-sizing to $500 per month from the regularly authorized level of $300. (Benefit levels are now temporarily at $350 per month, with the funds coming from the Gulf War account.)

These steps will help departing servicemen receive education and skills which lead to more productive employment. Moreover, by spreading out the time frame in which the departing servicemen re-enter the workforce, it will give the economy more time to generate the jobs necessary to employ these individuals productively.

The Task Force also recommends that funding levels for the highly successful Transition Assistance Program be increased through 1995 to ensure that all members of the Armed Forces have the opportunity to receive counseling and private sector employment skills before their termination dates from the active duty force structure.

B. Civilian Defense Employees

Under the Administration budget proposal, the number of DOD civilian employees will decline by 104,000 over the next few years. The Task Force supports the benefits available under current law to federal civilian employees who lose their positions. These benefits include:

severance pay equal to as much as one year's salary (1-2 weeks for each year of service);

a lump sum payment for unused annual leave;

and the ability to convert their government-subsidized health insurance to an individual policy without a physical exam.

The Department of Defense, together with the Office of Personnel Management, is also operating the Defense Outplacement Referral System to match employees and their job skills with federal civilian and private sector jobs.

Current law also permits the Administration to authorize early retirement for employees with 25 years of service at any age

and to employees with 20 years of service at age 50. The Task Force strongly supports the President's May 25, 1992 decision to authorize early retirement for eligible DOD civilian employees. The Task Force believes that early retirement waivers should be liberally granted for DOD civilians in selected locations and occupations.

Under the Priority Placement Program, DOD civilian workers who sign up are entitled to vacant positions in the Department for which they are qualified. However, employees have only one day to decide whether to take a job once it is offered to them. While recognizing DOD concerns about delays in filling a position through PPP, the Task Force believes that 24 hours is too short a period in which to ask individuals to make such a critical decision. The one day deadline should be extended to three days.

The Task Force also recommends that the federal government pay for the relocation costs of civilian DOD employees who obtain another federal government job in a different locality.

C. Private sector workers and job training program improvements

The Task Force recognizes that every effort must be made to reduce the total level of unemployment in private industry, and that the government has a responsibility to aid all Americans to find employment. It is clear, however, that defense workers often face special problems in shifting their skills to work in the commercial sector, and that unless the government makes a special effort to help workers leaving the defense industry, it risks delaying or slowing the economic recovery that will shape living standards and job opportunities open to all Americans.

According to a conservative estimate by OTA, employment by private sector defense contractors and sub-contractors has declined by 395,000 in the last two years, and is estimated to drop by 530,000 to 620,000 by 1995 if the President's budget request is approved. As has been noted earlier, the Defense Budget Project's estimates are substantially higher.

Sharp additional job losses will occur if Congress cuts the defense budget more deeply. Even if no additional cuts take place, some industries and localities will be especially hard hit by currently planned cuts, making it even more difficult for some individuals to find other employment.

Pursuant to the Defense Conversion Act (DCA), Congress appropriated $150 million in FY 1990 funds (available through the end of FY 1993) to be used by the Department of Labor for job training and placement assistance under Economic Dislocation and Worker Adjustment Assistance (EDWAA) for workers losing defense-related employment. These funds are transferred to state and local job training programs on receipt and approval of a grant application.

Because of delays in the Labor Department's receipt of the $150 million, only $17 million of this amount has been spent as of mid-April. However, the Labor Department also spent $38 million of its discretionary funds on assisting defense-dislocated workers, bringing the total amount spent to $55 million.

The Task Force supports appropriating the amount necessary to ensure that job training and placement assistance is available to those individuals requiring assistance. However, in light of the fact that $133 million remains from the FY 1990 appropriation, the Labor Department has indicated it will require no additional funds at least until FY 1994.

The Task Force recommends extending the availability of the current appropriation through FY 1997. In addition, the Appropriations Committee should closely monitor the Labor Department's progress in disbursing these funds, and make any necessary additional funds available on a timely basis.

States should be encouraged to use the discretionary funds they receive from the federal government to provide "rapid response" services to displaced defense workers. To assist in this, the Task Force recommends that DCA funds be used to reimburse states for such services, provided the states have depleted the funds available for this purpose.

The Task Force also recommends that the Department of Defense be required to provide the Labor Department and affected states with information regarding upcoming contract and program terminations which will result in layoffs. Similarly, state job training program managers should be required to seek such information from defense contractors. Such information, provided on a more timely basis than is now the case, will permit workers to get more advanced warning regarding the possibility of job loss and will assist in making the necessary preparations for rapid assistance to dislocated workers.

In addition, the Task Force notes that availability of information regarding the impact of defense cuts on employment by subtier contractors and on jobs which are indirectly defense-dependent is woefully deficient. The Task Force recommends that DOD take steps to immediately comply with existing legislation calling for improved reporting on the defense industrial base, so appropriate worker assistance responses can be developed.

The Task Force has received reports that some state and local programs are not providing the proper mix of services suitable for defense-dislocated workers. In particular, concern has been expressed that some of the state and local job training programs for displaced defense-related workers may not be adequately taking into account the differences between these workers and the populations normally served by such programs.

Many of the displaced defense-related workers are managers, engineers, scientists, and skilled technicians who may need more emphasis on job placement, technical skill upgrade courses, and training in the differences between the defense procurement and commercial markets. The Task Force calls upon the state and local program managers, as well as the responsible Labor Department officials, to review the adequacy of the services being provided and make such adjustments as are necessary.

The Labor Department should also use the authorized 10 percent set-aside from DCA funds to make demonstration project grants. In particular, the Labor Department should give favorable consideration to applications for in-house retraining by defense firms who are seeking to diversify into the commercial market.

Finally, the Task Force supports legislation to permit job training and placement assistance to be extended to workers at closing military installations up to six months prior to their closing, rather than only 60 days prior to closing. Individual job losses can be forecast with much greater precision at closing bases, making possible earlier response with less risk of wasting resources on individuals who do not require assistance.

IV. ASSISTING IMPACTED COMMUNITIES.

A. Redevelopment planning

The closing of a military base or major defense plant(s) can be a serious blow for the affected community or region, especially for those localities which are heavily dependent on the base or plant in question. Adjusting to such a change in a way that minimizes the short-term dislocation and ultimately strengthens the community can be a difficult task which requires careful planning.

The Task Force strongly believes that redevelopment planning is best accomplished if the process is driven by the affected communities, and their state or local governments. The federal government can assist in that process, and DOD's Office of Economic Adjustment (OEA) is in charge of the federal effort. OEA, which has a budget of $7 million in the current fiscal year, provides planning grants and technical assistance to the duly constituted redevelopment authority, as determined by state or local law. By all accounts, OEA has done an excellent job and their efforts are to be commended.

The Task Force believes that, as the pace of base and plant closings accelerates in the next few years, it is incumbent upon Congress to provide OEA with the resources it needs to accomplish its mission. An increase in funding for OEA will be necessary, with the exact amount to be determined through the regular, annual appropriations process.

B. Economic development grants

The federal government can also assist affected communities by providing them with economic development grants. To this end, Congress provided $50 million in FY 1990 (available through the end of FY 1993) to be distributed on a grant application basis by the Economic Development Administration (EDA) of the Department of Commerce. Unfortunately, delays in transferring the funds to EDA and issuing regulations governing their use have meant that only three grants were awarded as of mid-April.

The Task Force, at this time, believes that the nearly $50 million which remains available will be sufficient to fund worthy economic development grants for displaced communities through FY 1993. This estimate should be reviewed in September, prior to final action on the FY 1993 budget.

To ensure that the authority to spend the $50 million does not expire at end of FY 1993, the Task Force recommends extending its availability through FY 1997. The Task Force supports providing additional funds for EDA grants for defense-impacted communities at the time such additional funds are needed.

The Task Force is concerned that the EDA grant process takes too long, an estimated nine months from receipt of the application to approval. EDA should be required to take steps to expedite this process, and to provide regular semi-annual reports on the timeliness and effectiveness of its grants.

C. Hazardous waste on closing military bases and installations

One problem that has already emerged related to the presence of hazardous waste sites on many military installations. The problem is so severe that a number of closing installations have been placed on the Superfund National Priority List for cleanup. Cleanup costs will be in the billions of dollars over the next decade, but solid estimates do not exist because of uncertainty about the extent of the problem and the remedial efforts required.

The Task Force believes that cleaning up the hazardous waste sites is a high priority, especially at closing installations where they interfere with redevelopment, and supports the appropriation of such funds as are necessary to achieve this end. Federal law makes DOD responsible for this operation.

Identifying the precise nature of and resolving the hazardous waste problem at a given installation can, however, take years. Redevelopment cannot be delayed while this process is underway. Congress can take two steps to facilitate redevelopment.

First, federal law should be amended to clarify that DOD has the authority to parcel bases and transfer uncontaminated tracts on an expeditious basis. While the Task Force believes that DOD already has this authority, an explicit statement in federal law to this effect will be helpful. In addition, DOD should be authorized to convey contaminated parcels to willing parties where there is minimal risk to public health and DOD agrees to fulfill its statutory responsibility to complete the clean-up, and the Department is legally guaranteed the access it requires for remedial activities.

Second, legislation should be enacted to authorize DOD to indemnify the parties to whom land is transferred, either by lease or title conveyance, for the future costs arising from DOD-generated hazardous waste. Congress passed such legislation for Pease Air Force Base, New Hampshire in 1990; it should be extended to cover all closing installations. Such legislation is necessary because the Superfund Act makes all subsequent occupants of contaminated land equally liable for cleanup costs in the first instance. Many businesses and governments, not to mention lenders, are unwilling to incur such a risk. Clearly, however, decisions to indemnify must be made on a case-by-case basis and be contingent on the parties agreeing not to take actions which would increase federal clean-up costs.

D. Impact aid for education

The federal Impact Aid program provides assistance to local school systems for the cost of educating children who live on or whose parents work on federal property. The closing of a military base, especially in smaller communities, will significantly reduce the student population, forcing the local school system to undertake a major and costly retrenchment. To help address this problem, section 3(e) of the Impact Aid statute authorizes transitional Impact Aid payments to affected school systems for a four year period. The Task Force supports funding of this program.

E. Federal re-use of a closing military base

Closing military bases, or portions thereof, are and should be prime candidates for being used by other federal agencies to locate their facilities or operate programs. For example, some Members have proposed locating prisons or military-style boot camps at closing bases. Current law gives federal agencies a prior claim to a closing base over any nonfederal party.

The Task Force endorses the creative reuse of closing military bases by the federal government. In addition, the Task Force believes that federal agencies which must relocate a facility should be required to examine the closing bases to determine their suitability to host that facility, and give preference to locating the facility at the closing base.

However, the desires of the affected state and local communities must be given equal or greater consideration when contemplating federal re-use of a closing base. The Task Force recommends that DOD, as a general practice, refuse to transfer a closing base, or portions thereof, to another federal agency for use where such transfer is opposed by the affected state and local communities. Other federal agencies should refrain from requesting such use.

The Task Force also recommends amending the Base Closure Act to provide for low and no-cost transfer of surplus base land to the state or local community even where the property in question will be used for commercial purposes. This will assist the states in attracting new businesses and other users to the base. Under current policy, DOD will transfer excess property as little or no cost if such property is to be used for public purposes. However, if the land is intended for commercial development, DOD intends to sell the land at the market price.

F. Health care for retired servicemen

Currently, retired military personnel are eligible to receive health care coverage through the CHAMPUS program and at existing military hospitals and health care facilities. As many retired personnel live near bases that are closing, their access to health care is going to be negatively impacted.

It is worth noting that the cost to DOD providing treatment through CHAMPUS for an individual retiree and his or her family is higher than the net cost of care at an otherwise justified military hospital and treatment facility. The retiree also incurs higher out-of-pocket costs for such care. We should, therefore, be exploring options that will better manage the costs of providing care.

The Task Force recommends that DOD reform the military medical system so as to ensure continued military medical readiness and access to care for all who are currently eligible for care. The Task Force believes that such reform can be undertaken in a cost-effective manner which does not add to the cost of the program. For example, development of a mail-order pharmacy service to serve members of the military community could reduce the cost of care, and the claims processing and billing process for the military medical system should be fully standardized and automated.

The Task Force also recommends that DOD and the Veterans' Administration should examine, with respect to each DOD health care facility slated for closure, whether such facility should be turned over to the VA to be operated for the benefit of both military retirees and veterans eligible for VA health care. Under such an arrangement, the VA would be reimbursed for the cost of care provided to military retirees. In addition, DOD should examine the possibility of contracting out such facilities to private health care providers to deliver care to retirees and their families. The Task Force believes that in some areas this could be a cost-effective option.

V. INDUSTRIAL CONVERSION/RETAINING AN INDUSTRIAL BASE.

A. Diversifying our defense production base

There are several affordable and cost-effective measures that Congress and the President can take which will help retain needed elements of the defense production base. These primarily involve steps to permit defense research and production facilities to diversity into commercial activity and to maintain defense production lines in a more efficient manner.

1. DOD Recoupment Policy

When a defense contractor successfully finds a commercial use for a new technology developed by DOD research and development funds, DOD attempts to recover some or all of the R&D funds paid to the contractor. This policy has the effect of discouraging commercial use of DOD-funded technology developments, thus discouraging contractors to diversify their business. By contrast, federal law grants universities, as well as medium and small businesses, the patent rights for inventions financed with research grants made by other federal agencies such as the National Institutes of Health.

Recoupment for major defense equipment in the case of foreign military sales is required by the Arms Export Control Act (Public Law 94-329). In other cases, primarily involving commercial products, recoupment is required by DOD regulation, not by statute.

On June 19, 1992, the Administration proposed elimination of the existing recoupment policy, including legislation to repeal the statutory requirement for recoupment. The Task Force supports the elimination of recoupment in cases where it is not required by statute. In addition, the Task Force believes that the congressional committees with jurisdiction should work with the Administration for a mutually agreeable legislative resolution of the policy relating to foreign military sales.

2. Procurement Reform

Existing DOD procurement policies, many of which have been mandated by Congress, were adopted with the goal of establishing public confidence in the acquisition process by ensuring that weapons systems met necessary performance criteria, ensuring fair competition in bidding for contractors, and protecting against fraud by defense contractors. One result has been to force companies to segregate their defense and non-defense operations, making it more difficult for the defense divisions to now move into commercial markets. In addition, some companies have refused to participate in the defense market or to make privately-developed technological breakthroughs available to DOD.

These myriad rules, regulations, and specifications have become so detailed that their cost effectiveness is in serious doubt, particularly in the upcoming era of smaller defense procurement budgets. In such an environment, facilities producing goods for the Armed Forces may need to be active in the commercial market in order to survive. Accordingly, a total rethinking of existing DOD procurement policies are now in order.

The Task Force believes that a number of steps must be given serious consideration for future defense procurement to be possible with a reasonable level of efficiency.

First, DOD needs to seriously emphasize off-the-shelf procurement for its purchases. Many of the goods purchased by DOD have widespread commercial uses and are readily available. It is entirely unnecessary for DOD to issue its own detailed specifications for such products, the result often being higher costs to the taxpayers and an unwillingness of many companies to compete for the business. The recent proposed change to the Federal Acquisition Regulation (FAR) placing the highest priority on the use of non-government or commercial standards in purchase descriptions should be implemented without delay.

Second, where military specifications for products are necessary, DOD should demand performance standards and permit potential contractors flexibility in determining how to meet those standards. At present, DOD writes specifications governing every detail of the proposed product, with the result also being fewer competitors and higher costs. An increased reliance on performance standards rather than detailed product specifications would not only save money, but enable DOD to take advantage of certain technological breakthroughs developed in the commercial sector. The proposed FAR change, if properly implemented, could help solve this problem.

Third, the accounting and record-keeping requirements demanded of defense contrac-

tor need to be reviewed. To the maximum extend possible, DOD standards in this area should be revised so as to permit contractors to integrate their cost accounting systems with the systems employed in the commercial world. Legislative changes will be necessary to fully accomplish this. The Task Force believes that fraud in the defense industry may be more effectively combatted by aggressive enforcement of criminal and civil statutes rather than by burying defense contractors in a blizzard of paperwork which prevents those contractors from using their defense-related assets in commercial endeavors.

The Task Force notes that in 1990 Congress established a government-industry commission to examine these issues and to report in December. This commission will ensure that acquisition reform will be addressed in a comprehensive rather than piecemeal fashion. In light of that, and given that the House has already passed the FY 1993 defense authorization bill while the Senate Armed Services Committee will act next month, it is necessary that the majority of the legislative initiatives in this area will have to be addressed next year. However, the Task Force believes that defense procurement reform should be a high priority for Congress and the Administration in 1993. In addition, DOD must be much more rigorous in streamlining those administrative and regulatory requirements that are not driven by statute.

3. Stabilizing the Procurement Market

Congress should place greater emphasis on multi-year procurement decisions in order to stabilize the production of particular weapons systems, thereby permitting more efficient resource allocation with resultant savings to the taxpayers. At present, the current process in which Congress routinely revisits major weapons purchases on an annual basis forces DOD and the contractors to constantly revise and redeploy resources, and the taxpayers pay the price.

Along with this, Congress and the Administration need to depart from "camel's nose-under-the tent" mentality in making procurement decisions. One contributor to the annual vagaries in the budget process is the repeated, and often successful, effort to slide a potentially controversial and expensive programs into the budget by focussing on the limited first-year costs while ignoring the significant out-year costs. Both Congress and the administration need to change their focus on new programs away from initial costs towards life-cycle costs, make realistic decisions, and stick with them. No multi-year procurement emphasis can be successful unless this change in mind-set of addressing weapons development and procurement is successful.

4. Dual-Use Technology Research and Development

The Task Force believes that increased funds should be devoted to the development of so-called dual-use technolgoies—i.e., technologies that have applications both for defense and commercial markets—by entering into partnerships with the private sector. Dual-use technologies will be increasingly important to ensure efficient use of defense procurement resources, and advances in this area will have the added benefit of strengthening the U.S. commercial sector. Congress provided $60 million for competitive awards to such partnerships in FY 1992, and the funds devoted to this purpose should be increased in FY 1993. In order for these projects to be effective, there should be a requirement that half the funding be provided by non-federal participants.

5. DOD and DOE Laboratories

Over the last fifty years, the DOD and DOE laboratories have developed technologies critical to our national security. The ever-changing nature of the threats faced by the United States require that some of these capabilities be maintained in the future.

Technology leadership is not only vital to our national security but to our economic development as well. Many of the technologies developed by these laboratories have had commercial applications—for example in computing and materials processing. By permitting the national laboratories to engage in more dual-use efforts and cooperating more closely with the private sector, immediate contributions can be made to our economic prowess in a variety of areas. In 1990, the Congress provided a structure for such joint research and the transfer of commercially useful technologies from the labs to the private sector.

A second critical area requiring the technological leadership of our national laboratories is the education of our citizenry. Recent dramatic changes within our country have strained the educational system to its limits. These challenges demand national leadership and solutions to carry the educational system into the 21st century. Through joint research and development projects, the nation can effectively utilize the unique strengths of its laboratories in numerous areas such as computer information systems, computer-based instruction, and distant learning.

The Task Force supports providing increased funds to expand commercial use of dual-use technologies developed in these labs. The Administration has proposed providing additional funds to the DOE laboratories for this purpose by expanding joint research and development projects with private sector partners. The Task Force supports this initiative and believes that similar steps should be undertaken with respect to the DOD laboratories. There may also be a need to further streamline existing laws and regulations to facilitate greater cooperation between the laboratories and the private sector.

We also support expanded civilian research at the DOE labs where large, challenging projects require government involvement, such as certain energy, environmental, and pre-competitive generic science and technology development efforts.

6. Foreign Military Sales

The Task Force believes that decisions to sell U.S. defense products abroad must be made carefully and judiciously. In many instances, sales of weaponry to allies can be an important component of foreign policy and serve the additional function of helping to maintain the defense industrial base. However, as regional conflicts continue to grow in importance, the U.S. must take particular care to maintain its lead in ensuring that arms from the world's arms supplying nations do not counteract efforts to promote stability and the development of lasting, peaceful solutions to these tensions.

The task Force believes that loan guarantees for government-to-government and commercial sales of defense products should be provided to our closest allies. Virtually every other defense manufacturing country in the world today provides credit backing to its contractors to ensure commercially-financed sales are concluded at the lowest possible interest rates. Hampered by a lack of guarantees, U.S. defense products—even though renowned for their technological superiority—are becoming increasingly less competitive on the international market. Our NATO allies, Japan, Australia, and Israel should be among the countries considered for such a program.

The U.S. should also begin to give special consideration to approving overseas arms sales when there is foreign competition for provision of the types of weapons in question. It is clearly important for the U.S. to consider whether the number of weapons and types of technology in the proposed sale could generate regional arms races or heighten regional tensions. But, in many instances, making such a sale can directly benefit U.S. foreign policy and national security objectives by giving the U.S. the ability to exert influence over the recipient of the arms, while supporting its defense contractors and their employees. Special consideration should also be given to a sale which would extend the operation of a product line, particularly when that extension bridges a gap until either the U.S. or another ally requires such arms.

B. Retaining our industrial base

Retaining and improving the competitiveness of the American industrial and manufacturing base must be a critical goal of both public and private policy over the next few years. While many American companies have improved their productivity and competitiveness in recent years and while the export of American goods has increased, the importance of manufacturing industries in the economy has continued to decline.

The full range of policies that the U.S. government can adopt to strengthen our manufacturing base is beyond the scope of this Task Force's jurisdiction, and the recommendations listed below are not intended to be all-inclusive. Instead, the Task has confined itself to particular domestic policy proposals that will help our industrial base and at the same time be of some assistance to the individuals and companies that have been producing defense products.

1. Small Business Innovation and Research

Small businesses have been the leader in job creation and technology development in this country for many years. To facilitate the role of small businesses in this area, Congress in 1982 enacted legislation requiring that 1.25 percent of the research budgets of the largest federal research agencies be awarded in grants to businesses with fewer than 500 employees. Research projects are initially awarded a Phase I grant of up to $50,000. A project is eligible for a Phase II grant of up to $500,000 following a review of its potential. The SBIR program will end in 1992 if not extended by Congress.

This legislation has proven to be a tremendous success. As of 1990, almost one in four SBIR participants reported successful commercialization of projects six years after receiving Phase II funding. Seventy percent of the participants were businesses with fewer than 30 employees at the time of their Phase I award.

The Task Force recommends reauthorizing the SBIR program and increasing the set-aside from 1.25 percent to 2.5 percent. In addition, consideration should be given to increasing the maximum amount of the Phase I and II awards.

2. Aerospace Programs

The Task Force believes that the important programs of the National Aeronautics and Space Administration (NASA) need to be adequately funded. Four programs, for which President Bush has recommended significant increases within the non-defense discretionary spending caps, deserve particular mention.

Space Station Freedom stands as one of the most promising examples of a federal program that cultivates dual-use technologies. The Space Station already offers the valuable opportunity for us to discover how and why human beings can live in space over long periods of time. It also has the potential to uncover unknown atmospheric impacts on weather patterns and soil quality, give doctors and technicians new insights into how medicine might cope with deadly diseases, and provide access to lighter and stronger components for manufacturing activity.

NASA's Aeronautics Research and Technology programs provide support for key technologies such as aerodynamics, high speed propulsion materials, and high performance computing. The President recommended a $73 million (13 percent) increase in this program for FY 1993.

The President also recommended a $24 million (16 percent) increase for NASA's Commercial Programs, including increased funding of the 16 Centers for the Commercial Development of Space. Finally, a $18 million (7 percent) increase was proposed for NASA's space technology programs, including increases for communications technology and Earth-to-orbit transportation.

3. R&E Tax Credit/Educational Assistance Tax Deduction

The R&E tax credit provides a tax credit to businesses for their research and experimentation expenditures. This tax credit has been critical to maintaining the worldwide lead of American industry in advanced technologies.

The Employer-provided Educational Assistance tax exclusion permits individuals to exclude from their taxable income employer-provided educational assistance for upgrading their skills and training. This decision could be of particular utility to employees of a defense contractor which needs to retrain its workers as part of an effort to diversify or expand into commercial markets.

Both the tax credit and the exclusion have received repeated temporary extensions to prevent them from expiring. The latest extension of six months expires on June 30, 1992. The Task Force recommends that both of these provisions be made a permanent part of the tax code or, at the very least, be extended for a period of five years to encompass the period of the defense build-down. A permanent or lengthy extension is desirable since it would bring some stability to this area of the tax code and facilitate long-range planning by businesses.

4. NIST Programs

The Task Force endorses two programs of the National Institute of Standards and Technology (NIST) as important to the effort to promote technology transfer to allow defense industries to convert to civilian activities. These programs are the Manufacturing Technology Program (MTC) and the Advanced Technology Program (ATP).

During FY 1992, $15 million is available for the MTCs, and the President has requested $17.8 million for FY 1993. MTCs are designed to enhance American manufacturing competitiveness by improving the level of technology used by small and medium sized companies. They serve as regional centers of information for these firms and also assist in workforce training to allow for the adoption of advanced manufacturing technology.

The ATP is funded at a level of $49.9 million in FY 1992, and the President requested $67.9 million for FY 1993. This program provides grants to industry for the development of pre-competitive generic technologies. Current projects include research and development in such areas as data storage, X-ray lithography, lasers, superconductivity, machine tool control, and flat panel display manufacturing.

5. Manufacturing Technology Programs

The Task Force supports increased funding for the manufacturing technology (MANTECH) programs in DOD. History has shown that MANTECH programs often return the value of the initial investment many times over through lowered production costs or improved equipment performance. As the new acquisition strategy places greater emphasis on research and development at the expense of production, defense firms can be expected to invest less in technologies to improve their manufacturing process. Over time, this lack of investment could provide a significant barrier to the application of new technologies in weapons programs. Therefore, substantial increases in DOD investment in MANTECH will be necessary over the next five years. Additional funds should be provided above the $138 million requested by DOD for FY 1993. The Task Force believes that, for such an investment to be effective, MANTECH funds should be expended on projects that are selected competitively on the basis of merit.

6. Manufacturing Extension Programs

In section 824 of the FY 1992 Defense Authorization Act, Congress provided authority to the Secretary of Defense to support regional, state, local, and other efforts aimed at providing manufacturing technology services to small businesses. $50 million was authorized, but no funds were appropriated. The Task Force also notes that there are ongoing efforts to create such programs in other federal agencies; for example, $1.3 million was appropriated to the Department of Commerce in FY 1992 for state technology extension programs. The Task Force recommends that any DOD role in this area should be limited to the support role envisioned by section 824 to reduce duplication among programs conducted by state and local governments and federal agencies.

7. Advanced Manufacturing Technology Transfer

The Task Force recommends use of the existing network of DOD maintenance depots (including shipyards) as sites to develop, test, evaluate, validate, and certify advanced manufacturing technologies for direct application to current manufacturing functions at the facility. Existing MANTECH procedures should be used in the identification, selection, and procurement of such technologies, to include emphasis on their dual-use features. The maintenance depots could seek to bring the technologies to the stage where they can be applied to existing manufacturing problems, creating an incentive for private sector investment in relatively risk-free, high-productivity equipment. The depots should observe MANTECH practices in encouraging industrial participation in the transfer of such technology from the laboratory to the factory floor.

8. Manufacturing Education

One of the key limitations to building a competitive manufacturing base has been the lack of education programs emphasizing manufacturing and production process engineering. To date, a few models have been developed by universities working with local manufacturing firms to structure integrated multidisciplinary programs involving a significant work-experience component.

In other to foster a greater number of such programs, the FY 1992 Defense Authorization Act authorized $25 million to fully fund DOD participation in ten existing or new university programs for manufacturing engineering education. A condition for an award is that at least 50 percent of funding be provided by non-federal participants in the program and that the program have the prospect of being fully funded by non-federal sources within three years. The Task Force supports a continuation of this program as an effective means of significantly increasing the number of well-trained, fully-qualified engineers, managers, and teachers entering and supporting the manufacturing workforce. The benefits will accrue to the defense as well as the commercial industrial base.

9. Environmental Research and Education

The Task Force is aware that a major obstacle in the process of site environmental clean-up is that there are not enough trained professionals in the environmental sciences. The Task Force therefore recommends that legislation be enacted that will establish programs at universities in the United States in the environmental sciences for men and women with prior training in hazardous waste management and radioactive materials through the Department of Energy and Defense to create a cadre of environmental scientists, technicians, and engineers. This will not only provide additional, needed professionals in this area, but will help provide productive employment for those individuals now working on the U.S. nuclear weapons programs.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I want to congratulate my distinguished colleagues on the Senate Republican Task Force on the Defense Base Conversion for their hard work and timely release of the report, and I want to especially acknowledge the efforts of the chairman, Senator WARREN RUDMAN. On a short timetable, with mountains of data from the administration and private industry, Senator RUDMAN and my Republican colleagues have produced a comprehensive report that gives the Senate an overview of the problems and solid recommendations on what can be done about them. Senator RUDMAN, with Senators STEVENS, WARNER, LUGAR, DOMENICI, COHEN, KASSEBAUM, DANFORTH, HATCH, BROWN, MCCAIN, LOTT, and SEYMOUR have all contributed to this effort, and I congratulate them all on a job well done.

There are many differing views in the public and private sectors on how to transition our defense industrial base to meet the challenges facing our Nation. From the large corporations to small businesses, the defense transition will affect our economy. It will affect our rural towns and our largest metropolitan centers. It will affect millions of our fellow citizens whether active duty military, civil service, or defense plant employee. The task force report offers alternatives for dealing with these challenges and opportunities for the many Americans who have served the Nation while enhancing the economic future of the United States.

The men and women in our Nation's armed services and defense industries

are some of the most disciplined, and technologically advanced work force any nation has ever had. A priority is to ensure that they can change with the times and redirect their expertise to new areas. The task force report puts forward several recommendations to do just that.

Many communities that will be losing their military bases or defense plants will need help in comprehensive planning for their transition to new industries. The task force report recommendations address how that can be accomplished.

Our Nation must maintain the ability to respond to crisis. And we must never again field a hollow force. The task force report has recommendations on what can be done to transition the defense industry to the realities of lower defense spending.

The Senate Republican task force had to address a wide variety of issues that reach to every strata of our society. The economic transition of our defense industrial base demanded experts in defense, international relations, and human resources. Senator WARREN RUDMAN, and the leading Republican Senators from the Armed Services, Appropriations, Budget, Foreign Relations, and Labor Committees, have in my view, accomplished that mandate. I also think that it is appropriate to acknowledge Tom Polgar and Kimberly Spaulding on Senator RUDMAN's staff for their long hours and hard work at producing this report.

Through the efforts of all involved in this Senate Republican task force, we now have a comprehensive guide with fiscally feasible recommendations to move the Nation toward the future. To my distinguished colleagues, I say again—well done.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I want to join the minority leader in expressing my praise for the Senator from New Hampshire. He and his staff have devoted a considerable amount of time and effort to producing a document which, while appearing to be lengthy, is really but a summary of the kind of issues that we are going to be confronted with in this defense conversion effort.

I might point out that initially, it strikes entirely the appropriate not in that it refers to phased and measured reductions. For too long there have been Members who have taken the Senate floor to call for drastic and radical reductions in the defense budget, only to cry in horror when some of the bases in their States are proposed to be scheduled for closure, or to oppose the elimination of certain weapons systems, or to oppose the reduction in their Guard and Reserve units. "Cut the defense budget, but do not touch my State."

I think we have to remind the American people that as we are, in fact, downsizing, cutting back on our defense effort, we have to do so in a responsible fashion, and that responsible fashion includes not only the men and women in the military services but also the communities who are hit hardest by these reductions.

I would like to indicate also that even though this task force report is now being submitted for the RECORD, it does not mean that every member agreed with every recommendation.

I would point out, for example, that on page 9 of the summary, we encourage the United States to engage in foreign military sales so that U.S. companies are not put at a disadvantage with other countries who are actively seeking out international markets.

I only add a note of caution here that just as we do not want to see American manufacturers put at a handicap in competing against our allies, we also want to place equal emphasis on trying to slow down the sale of weapons to those areas of the world which are less than stable and that we not simply get into a feeding frenzy or sales frenzy and try to compete weapon-for-weapon with those other countries and thereby only increase the potential for conflict in the future.

There is also reference to aerospace. Some of us might disagree that all of the aerospace programs that the administration strongly supports should receive the maximum amount of funding or what the report refers to as adequate levels of funding.

With respect to hazardous waste on closed bases, we have a situation in Maine—I know the Sentor from New Hampshire has a similar situation, although not of the same magnitude as Loring Air Force Base in the State of Maine.

We have significant hazardous waste problems associated with that base. Yet, the Air Force has not spent a single penny for hazardous waste cleanup. That means we are, essentially, if the decision of the President to close Loring Air Force Base goes forward—it is now in litigation in the Federal court, but if it goes forward to completion—then we are faced with a prospect of being unable to do anything with that base as a result of the hazardous waste on it. That condition simply cannot be allowed to remain.

With respect to the reference on environmental research, we do have to spend a good deal of effect in educating our people in the environmental sciences and I would add the field of environmental conservation. We need to do a much better job in educating our people in energy conservation.

I could point to example after example of the excessive consumption engaged in by the Department of Defense. I can point to some of our finest commissaries, which employ the most contemporary design, yet use heating and cooling facilities the size of a football field when in fact there are commercial alternatives available that would be a tenth the size of those particular cooling and heating devices and yet are totally ignored by the Department of Defense.

So we have to do a great deal more on energy conservation, as well as environmental science.

Mr. President, I in no way want to diminish may support for this task force report. I strongly endorse it.

I particularly want to again remind my colleagues of the tremendous work my friend from New Hampshire has engaged in producing the report.

I yield the floor.

DEPARTMENT OF DEFENSE RECOUPMENT POLICY

Mr. DANFORTH. Would the Senator from New Hampshire yield for a question?

Mr. RUDMAN. I would be happy to yield to the Senator from Missouri.

Mr. DANFORTH. Last Friday, President Bush released a few important recommendations to change defense procurement policy in order to help American companies adjust to the post-cold war era. One of the recommendations is to eliminate a provision of the Arms Export Control Act which requires the Defense Department to recoup nonrecurring costs for sales of major defense equipment through the Foreign Military Sales Program. What is the view of the Senate Republican Task Force on Adjusting the Defense Base on this very important issue?

Mr. RUDMAN. The task force recommends that the relevant congressional committees with jurisdiction should work with the administration for a mutually agreeable legislative resolution of the policy. I would tell the Senator from Missouri that I support the President's recommended policy change to eliminate recoupment charges for sales of major defense equipment. I feel that it is unfair for American defense companies, many of which are now struggling, to have to pay a recoupment fee to the Pentagon when their competitors in other countries do not have to pay such a fee. The vast majority of the task force supports the elimination of recoupment charges for sales of major defense equipment. I will be a strong advocate of that position when I represent the task force in discussions with members of the Senate Armed Services Committee and the Democratic Task Force.

Mr. DANFORTH. I thank my distinguished colleague from New Hampshire. With the demise of the Soviet Union and Communist Eastern Europe, the United States has been able, over the past several years, to scale back its production of defense equipment significantly. This is very good news. However, the cutbacks have had, and will continue to have, a very detrimen-

tal effect on certain communities in which there are heavy concentrations of defense businesses. The biggest employer in my State, McDonnell Douglas, has laid off over 10,000 Missourians over the last 2 years. In this environment, it is important not to burden our defense industry with significant charges for arms exports when foreign suppliers typically do not pay any recoupment costs at all. I strongly believe that America should be the leader in encouraging world-wide peace and stability. Strengthening allies through arms sales can be an important component of carrying out that mission. I thank the distinguished Senator from New Hampshire for his excellent work in putting this report together, and for his assurance to work to eliminate these recoupment charges.

Mr. SEYMOUR. I fully concur with the remarks of Senator DANFORTH. Like Missouri, my State of California has been dramatically affected by the recent defense cuts. California receives more than 20 percent of total Defense Department expenditures annually, far more than any other State, and it has lost over 60,000 defense and aerospace jobs since 1986. Independent studies indicate that southern California alone could lose another 210,000 positions within this sector and its supplier network by 1995. This policy change would be an important step in making U.S. contractors more competitive world wide without harming our critical efforts to control the sale of offensive weapons to unstable regimes that threaten the security interest of the United States or its allies.

Mr. DOLE. I agree with the views of my colleagues, and I will work with them to pass legislation that will support the President's proposal.

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I support the efforts that are being made today and yesterday, on the constitutional amendment that requires a balanced budget. Hopefully we will get a good up-or-down vote on the issue.

I am pleased to support the efforts of the Senator from Oklahoma. It should not surprise anyone that this is my view, because I have voted this way since I have been in the Senate, on two occasions. Those 2 years were, first 1982, when the balanced budget amendment passed the Senate by a one-vote margin; the next time was 1986, when the Senate defeated it. We were one vote short of the two-thirds majority necessary in 1986.

I only wish we discussed this issue more often than three times in 12 years. The fact that the budget deficit has gotten so much worse in the last few years, and the national debt has gone up so much, is just the statistical proof necessary to show that we have not dealt with the seriousness of the national debt as we should.

I know a constitutional amendment is not going to make the big budget deficit go away. That is going to take hard decisions on our part in every appropriations bill and every budget resolution that we have to deal with over the next few years. But I very definitely feel, since we are a Government of law rather than a Government of human beings, that, by taking that oath to uphold the law, Congress will be much more committed to fiscal responsibility if a constitutional amendment demands it than we would be otherwise.

The experience of 205 years without such a law, with our fiscal situation deteriorating to $400 billion deficits every year, is massive proof that the present method—that somehow by the good common sense of the people of this body we will have a balanced budget—is an approach that is not going to work.

The experience of balanced budget amendments in State legislatures and in my own State of Iowa, whether the legislature is controlled by liberal Democrats or by conservative Republicans, creates a determination on both sides of the aisle to be more fiscally responsible than anything that I have seen in the Congress of the United States in the years that I have been here.

I think, again, that if our Constitution requires a balanced budget, and as a result Members of Congress take a solemn oath to uphold the Constitution, there will be much more impetus for fiscal responsibility.

The amendment of the Senator from Oklahoma will amend the Constitution to require such a balanced budget. It is that simple. Of course, it is also a simple fact that it is very difficult to obtain the two-thirds votes necessary to initiate this constitutional amendment in this body.

We know the sheer horror of the budgetary numbers that we face. The budget deficit will be $400 billion in fiscal year 1992, and our national debt is now totaling somewhere in the neighborhood of $4 trillion. And I imagine that it may even be a little more than that.

We also know the grave danger of the effects of these numbers. The Nation's poor economic performance and its foreign trade deficits are tied to the continuing failure of the Federal Government to balance its budget. As a result of the spending habits of Congress, next year the Federal Government will spend more on interest payments on the Federal debt than on any other single items in our budget. This is money that will not be able to be used to address the real needs of our country.

Additionally, the excess spending that produces our large budget deficits will increase the size of the accumulated debt, as well as the interest payments on that debt.

Moreover, the debt that we incur now for the current needs of our country will require future generations who do not benefit from our current consumption to pay additional interest costs.

We too often talk in terms of the budget deficit as a matter of simple figure-crunching. Or we might think of it in terms of the Government's influence on economic policy. Somehow, we ignore the budget deficit as something that is just numbers.

Let me tell my colleagues, from my judgment the budget deficit and our increasing national debt are not any longer just a subject of economic or fiscal debate. To me, it has reached the point where this is a moral and ethical question: Whether it is right for people of our generation to live high on the hog, and to leave the bills for the young people of America to pay for our high living.

I think in times of peace and relative prosperity, each generation ought to pay its own way. I think, as the language of the amendment dictates, that the only justification for one generation to push off onto a future generation the costs of a particular period of time is a time of war, when the very survival of our Nation, and our society, is at stake and when the freedom and the liberties we enjoy should be preserved and passed on to our succeeding generations. And when those freedoms are in jeopardy, it may be legitimate to deficit spend and to have a debt. But at other times, when spending is directly related to one generation's level and standard of living, that generation should pay that bill itself.

It is immoral and unethical to leave to these young people—some of them right here on the floor, as employees of the Senate—payment for our higher standard of living.

Our Constitution was entered into in part, and I quote: "to secure the blessings of liberty to ourselves and our posterity." Amending the Constitution to require a balanced budget as a means of securing the blessings of liberty to posterity is a particularly appropriate exercise.

Congress has tried, through statutory means, to produce a balanced budget. I have been a part of this successful effort, but that was for naught in the end.

But in 1978, I worked with Senator Byrd of this body—former Senator Harry F. Byrd of Virginia—on the Byrd-Grassley amendment. That was a simple statutory statement that Congress cannot spend more than the total of the revenues that come into the Federal Treasury.

That was in 1978. At that time, we had proceeded 9 years without a bal-

anced budget. We have now proceeded another 14 years without a balanced budget. The other body, as a predecessor to when its debate of the constitutional amendment we are now debating, debated whether or not there should be a statute requiring a balanced budget. That proposal defeated, I am glad to say, in the other body. But I could have told them, if I were still a Member of that body, that a statute will not get the job done. I spent a whole summer sitting on the floor of the House of Representatives to force a vote on the Byrd amendment when it came over to the House of Representatives, and, by forcing that vote, we did get a very positive, favorable support for that amendment, and it became law.

But what good did it do? None.

I think constitutional amendment, as is part of the basic document, binding succeeding Congresses by the Constitution, rather than by statute, will do the job that a statute will not do. A statute has not worked, so Congress needs the discipline that a balanced budget amendment will impose. Had Congress passed a constitutional amendment to balance the budget 10 years ago, by now we could have avoided many of the economic difficulties that we have experienced in recent years, as well as the increase in interest payments on the national debt.

The amendment proposed by the Senator from Oklahoma is not in any way a straitjacket, as Members of this body who oppose it have tried to portray it. If the judgment of 60 percent of the Congress is to run a deficit in an appropriate circumstance, flexibility of action is maintained. That is not in any way a straitjacket on this Congress. Maybe people listening would think, why should we even have that escape hatch?

Opponents of this amendment have raised a false dilemma that the amendment will either be totally ineffective or will be enforced in a nightmarish fashion by the courts or by the President. The truth is that the amendment will be effective in controlling deficit spending. Congress will take its obligation seriously, the same way we take seriously every other provision of the U.S. Constitution. Enforcement, in my judgment, will be real. Implementing legislation will incorporate State experiences in adhering to balanced budget amendments. Indeed, the Budget Committee heard testimony that offered many different approaches to ensure that a balanced budget amendment is not a dead letter.

Opponents also contend that a balanced budget amendment will enhance Presidential power at the expense of Congress. They say that the process of appropriating funds will be replaced by Presidential impoundment. The amendment requires no such thing. First, so long as Congress passes balanced budgets, the President will not impound. Second, if there is an imbalance, means of enforcement other than impoundment will be created in the implementing legislation.

The hollow ring of this argument is compounded when considered with the frequent claim that the amendment should not be adopted because the President has yet to submit a balanced budget. The opponents cannot have it both ways. If Congress now has the power of the purse, of spending and taxing decisions, then it is Congress and not the President who is responsible for the deficits. Congress is not bound by what the President proposes. He does nothing more than propose.

I think it is fair game for anybody in this Congress to chide the President for not submitting a balanced budget or chide the President for not vetoing bills that lead us to imbalances in our total appropriations, or to find fault with the President for not jawboning Congress to do more. Anyone can do all those things, and, as a political leader, the President ought to be doing more. But let me suggest to you from a strictly legal and constitutional point of view, it is the Congress that is responsible for the bottom line dollars that the Government spends, and that determine whether or not we have a balanced budget or how big our deficits will be. Congress, as a separate and fully independent branch of Government, makes the decisions and has to live with the consequences of those decisions.

The opponents of the amendment often claim to support a balanced budget. It is only a balanced budget amendment that they oppose. These opponents, including just about every special interest group that depends on the flow of Federal funding to its coffers, raise the prospect of draconian cuts in popular spending programs as the inevitable result to any balanced budget amendment. The fact that these special interests are against a balanced budget amendment is almost in itself a reason to support the amendment because it has been the refusal of Congress to vote against these special interests that has led to our massive deficits.

It is true that a balanced budget amendment would require reductions in the rates of increases that we are used to. Some of these reductions would not be popular with everyone. But the arguments of the special interests do not really go to the issue of a balance budget amendment. As Michael Kinsley has noted, they are really arguments against the balanced budget itself.

We cannot balance the budget without making these tough political choices. Those special interests who oppose a balanced budget amendment are more interested in preserving deficit spending that inures to their benefit than they are in balancing the budget, whether or not required by the Constitution.

Mr. President, the American people want us to stand up to all those interest groups, and anyone else whose goals lead us to these terrible deficits that we have built up. The people want us to control this runaway spending. We should not fear those special interests when 70 percent or more of the people in this country in any poll support a balanced budget and the constitutional amendment requirement. Let us pass this constitutional amendment. Let us give the peoples' representatives in the States, in the respective legislatures, a chance to debate and vote on requiring a balanced budget through constitutional amendment.

Mr. President, I yield the floor, and, if no other Member on the floor seeks recognition, 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. NICKLES. 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. NICKLES. Mr. President, I would just like to bring my colleagues up to date where we are on this particular amendment and the debate that has followed.

We have an underlying amendment, Senator SEYMOUR, Senator GRAMM, and myself, a constitutional amendment to balance the budget. That amendment has been amended twice by Senator BYRD. The first-degree amendment is basically directing the President to submit to Congress a method of how he would balance the budget by the year 1998, that needs to be completed by September. But he also has another provision in that amendment that strikes or kills the balanced budget amendment.

The second-degree amendment is basically the GSE bill as amended by the floor action and others, a very significant bill. So his second degree would amend the first degree, but both would basically—or if the second degree is adopted, then the first-degree amendment would kill the balanced budget amendment.

I do not know where the votes are in this body. I have told the majority leader that this Senator is willing to vote on the Byrd amendment. We have had an excellent debate. I am happy to extend that debate. I happen to like this subject. I think it is an important subject. I do not think there is any subject in America that is more important. As a matter of fact, I do not think there is any subject that I have been involved with in the last 12 years that is more important than the need to pass the balanced budget constitu-

tional amendment to make us balance the budget.

I am willing to debate this night, all night if necessary. I am happy to debate tomorrow or Saturday, next week, whatever is necessary. I would like for us to have the vote on the Seymour-Gramm-Nickles amendment. We are, frankly, prepared to stay here for some length of time to do so. We are not trying to obstruct. We are not trying to hold anything up. We would be happy to vote on our amendment tonight. We have had significant debate. We will vote right now. We will vote tomorrow. We will vote next week. We will vote on the Fourth of July. We are happy to vote. We are not obstructing anything or anybody. It is our intention, it is our desire to vote on a constitutional amendment to balance the budget.

The House had a vote. The House lacked 10 votes of passing a constitutional amendment to balance the budget. But the House also passed a resolution that said if the Senate did pass it, it would be their highest priority item.

So some people said, I heard on the floor, that we are playing games. That is not the case. We are serious. We are dead serious. This is an important issue. If we pass it, the House will reconsider it on the highest priority. They only lacked 10 votes. My guess is there are a lot of Members in the House who received a significant amount of contact from their constituents who were quite upset with their vote. Maybe they would reconsider their vote, maybe not. But we should try, we should at least try. We should make that effort.

Now, again the situation is that I would have much preferred to have an up and down vote on our resolution as reported out of the Judiciary Committee. But we have not received that. The majority leader did not call it up. We had 63 Senators on April 9 who voted for a resolution which said Congress shall balance the budget. Sixty-three Senators said they wanted to do it. Well, we are going to have a chance to find out whether or not they really meant it. I hope they were serious. I hope four more will. I hope we can get 67 votes.

I wish we could have had a straight up and down vote. I wish we would have considered the resolution as reported out of the Judiciary Committee. If that would have happened, it would not have been necessary for us to amend the GSE bill. The reason why we amended the GSE bill was because we had to make some provision if the Senate was ever going to vote on a balanced budget amendment.

Senator GRAMM announced last week this was our option, this is what we were going to do. Frankly, Senator SEYMOUR and I were looking at doing this on the striker replacement bill. That was our intention, just to tell everybody, because we could not get the bill that was on the calendar for almost a year called up, and so we started looking for another vehicle. We were going to do it on the striker replacement bill. Then we were going to do it on the bankruptcy bill.

Frankly, we said, well, we are going to do it on the next bill. The next bill happened to be the GSE bill, and there is nothing more important than passing a balanced budget amendment. It is much more important than the GSE bill. And so that is why we are here. That is where we are.

So our colleagues basically are going to have a choice. Senator BYRD has his rights, and I respect him very much. He is opposed to this amendment. He has that right, and he has a right to amend our amendment as he has done. He has tow amendments, a first-degree amendment and a second-degree amendment. Frankly, the second-degree amendment is the GSE bill. I do not care if we adopt that one by a voice vote. The real vote is going to be on the so-called Byrd first-degree amendment which kills the balanced budget amendment.

This Senator is willing to vote on it. And again the call on when to vote on it, that is the decision for the majority leader to make or for Senator BYRD to make. It is not this Senator's decision when to vote. I am happy to vote on it now. I will be happy to vote on Senator BYRD's amendment tonight, or we can vote on it tomorrow; we can vote on it Saturday; we can vote on it next week, Monday, Tuesday; we can vote on it the 4th of July, whenever. The sooner the better.

So I just wanted my colleagues to be aware, I do not want anybody saying, well, those Senators who are pushing a balanced budget amendment are stopping action on the floor. We are not stopping anything. We have no desire to impede anybody's legislation. We are not holding this legislation hostage. What we are doing is saying we want a vote on a balanced budget amendment. We have an amendment pending now, Senator BYRD has two amendments pending, and we are willing to vote on those amendments and have the Senate do its will.

Mr. President, I think it is vitally important that the Senate vote. I hope the Senate will vote with an overwhelming majority to pass a constitutional amendment to balance the budget.

Mr. MACK. Will the Senator yield?

Mr. NICKLES. I will be happy to yield.

Mr. MACK. I would like to pose a question to the Senator.

Why would the adoption of the Byrd amendment kill the balanced budget amendment? Is he not indicating he is trying to get to the same place we are, that he wants the President to submit a balanced budget? If someone voted for the Byrd amendment, why would that individual be voting in essence to kill the balanced budget constitutional amendment?

Mr. NICKLES. I appreciate my colleague's question. The so-called Byrd first-degree amendment strikes our entire language which proposes the constitutional amendment to balance the budget. It eliminates the constitutional amendment to balance the budget and replaces it with language that says the President of the United States should submit to Congress by September language and his method of balancing the budget by the year 1998. It does not describe how; it just says he will come up with his plan.

Frankly, I think that would be a good amendment. The problem with his amendment is that it eliminates the balanced budget amendment.

I do not mind passing the resolution, and say, Mr. President, you have to come up with a plan that balances the budget by x number of years. I think that is fine.

I think Congress should do the same thing. We are an equal branch, equal party. So we should be doing the same thing. But that is fine.

But the problem with the Byrd first-degree amendment is it kills the balanced budget. It says strike the Nickles-Seymour-Gramm amendment. We do not want a balanced budget amendment. We want to tell the President to come up with a plan. I find that to be less than satisfactory.

That is kind of a facade, or cover, or whatever you want to call it, but it does not pass a constitutional amendment. The only way we are going to pass the constitutional amendment to balance the budget this year, quite frankly, is to pass the underlying amendment, the Nickels-Seymour-Gramm amendment. That is the only way we are going to do it.

We will not do it by adopting any of these other amendments that are pending where people are loading the tree. The only way we will adopt it is to adopt the underlying amendment, send it back over to the House, and hopefully pick up a few more votes in the House, and pass the balanced budget amendment.

It will not end our problem. It will mean by the 1998 we will have to have a balanced budget. That will change America, and the way we do business.

I serve on the Budget Committee, and on the Appropriations Committee. Right now the way we are doing business has no regard—I had charts up earlier that showed the rapid increase in entitlements, so-called mandatory programs. Congress elected not to touch those. The 1990 package did not touch them. We did not curtail them. I notice Mr. Clinton's plan did not curtail them.

I think we will have to put some caps, limits. But we have not made those decisions. We will have to make

some tough decisions in the future. Congress refused to do so. We have a credit-card mentality as though there is no limit on the amount of debt we can incur on future generations. We cannot continue doing so, cannot continue doing business as usual, continue piling on debt on our children.

So I hope we would reject the so-called Byrd first-degree amendment, because that kills the balanced budget amendment, and that we would vote up and down on our amendment tonight.

Mr. CRAIG. Mr. President, if the Senator will yield, I think the question that our colleague from Florida has asked is key to what has gone on here today, and certainly what we intend to accomplish by the introduction of a balanced budget amendment.

The Byrd first-degree amendment strikes and kills the balanced budget amendment. But it goes directly to the heart of this argument in almost a reverse way, that the balanced budget amendment that has been proposed on the floor is a way of putting off an immediate decision.

Certainly the Byrd first-degree amendment does not force any decision either. More importantly, it does not even force the Congress itself to begin a process of bringing their budgets and their budgeting methods under control. In fact, it just simply passes it off to the executive in a very political way and says: OK, Mr. President, we cannot do it, you show us how to do it.

I do not really think that is the way this Congress wants to budget. Clearly the executive branch has to be a part of the process. They have been left out of it too long. The amendment that has been debated here on the floor includes the executive branch for the first time directly into the process of budgeting by the Constitution. But it does not exempt the Congress.

So there is a bit of reverse argument going on here that has been made by our leader on this issue, Chairman BYRD, that says Congress cannot do it, we will let the President show us the way. I think that is "passing go." that is obviously passing the buck. That is not the intent of any of us.

It is our responsibility. It always has been the responsibility of Congress. And I think all of us have seen an awful lot of finger pointing over the last good number of years as this body lost its political will to be fiscally responsible.

Passing the balanced budget amendment and sending it out to the people of this country for their consideration and ratification is not avoiding the issue. It will begin a debate across this country in every State capital about budgeting processes of this government in a way that we have never heard before. Interest groups from all over the country will converge on those State capitals either to convince them to ratify an amendment, or to not ratify an amendment, and in that process, the American people will understand more about the budget process of the Congress of the United States and their Government and why it has failed, and why a balanced budget amendment is necessary than they have ever had before.

And I think there are an awful lot of people here in this body that want to avoid that debate. As I mentioned earlier today, 77 percent of the American people by the most recent poll have said we want a balanced budget amendment. Fifty-five percent said they would be less likely to vote for a candidate for election this year if they had openly voted against a balanced budget amendment.

I do not think any of us ought to pass a bill at this time. I think it is now time to vote up or down on these key issues. That is our responsibility. And it certainly is the responsibility that I want to assume.

I think it is a responsibility that a majority of the Members of the U.S. Senate take most sincerely. It is now time that we show the American people that we have the will to force the issue, and more importantly, that we are willing to create the politics that will bring about the fiscal responsibility that has been lacking here for so very long.

Those are the fundamental issues. That is what underlies this entire debate. It can be clouded in all kinds of amendments. It can be confused by pointing fingers in opposite directions. But I do not think it causes the American people to lose focus. It does not cause the American people to fail to understand that the underlying issue here is to build a base from which we can begin a clear and understandable process to bring about the kind of fiscal responsibility that this body has failed to demonstrate for so many years.

I do not make any excuses. I understand that there are times when the structure needs to allow us the backbone that we might not otherwise have by the pressure of special interest groups.

I once served in a legislative body, a State legislative body, that had the balanced budget requirement. And I can tell you that it did build political backbone. There was a way to say "no."

But the average interest group that pressures Congress today recognizes that if you say "no" to their interest, and you use the argument there is no money, that you are probably saying "no" because you are not interested in their program. Because they know that if you really like what they have to offer, or what they propose for the American people, you can do as past Congresses have done. You go out and borrow the money. The credit is still good, interest is still being paid, although it is a horrendous amount of money today, $200 billion-plus. Although the debt is nearly $4 trillion, and although the deficit is nearly $400 billion, those interest groups still know that if we wanted to we can go borrow the money and address their needs.

Well, with a balanced budget amendment, a balanced budget requirement, borrowing that money becomes a very tough proposition. To override a debt ceiling requires a three-fifths vote by this body.

As was mentioned in debate here on the floor this afternoon, that is a tougher vote to make. Only twice in 12 times I believe in the last good number of years has that vote been arrived at in that number.

So this amendment that we have before us truly has safeguards in it. It is not the easy tool that some have argued that makes it a phony amendment. It is not phony. It has been 10 years in development. Constitutional specialists, attorneys, and authorities have looked at this, from across the country, and say it is a real tool.

If the American citizens were to ratify it, it would force this Congress to change a process and a procedure that we are being told by a variety of different arguments that we are unwilling to change.

Well, I am willing to change, and I think, clearly, a supermajority of Members of this body are willing to change, too. The American people deserve to have their Government address this issue about the debt that we generate for them. So let us not pass go, let us not send up clouds or smoke screens; let us vote up or down. Let us vote up or down on the Byrd amendment, and if those amendments pass, they strike the balanced budget amendment. But if they do not, then we move on.

All of us want to see a clear vote. The American people have demanded it. I thought we represented them, instead of special interest groups. Tonight, tomorrow, Monday, or Tuesday, or Wednesday, let us stand up for the American people; let us stand up for what they have been asking for for so long: fiscal responsibility and a balanced budget amendment.

I yield the remainder of my time.

Mr. PRESSLER. Mr. President, I rise today in support of a constitutional amendment to require a balanced Federal budget. I have voted for similar proposals in the past and encourage my colleagues to join me in getting our Government back on track to fiscal responsibility.

I am a cosponsor of Senator KASTEN's balanced budget amendment proposal, which also requires a three-fifths vote to approve tax increases beyond the rate of economic growth, as well as a three-fifths vote to increase our national debt. I feel that these "teeth"

are a necessary part of the development of an effective economic policy for reducing our national debt. Without such provisions, a balanced budget amendment could result in burdensome tax increases if program cuts do not meet debt reduction targets. Our proposal protects the American economy from bearing the brunt of debt reduction efforts.

As most of us are aware, our national debt currently exceeds $3.8 trillion. The President's budget proposal estimates that in fiscal year 1993, interest payments on the debt will amount to $316 billion, making them the largest single expense in the Federal budget. Our children are the ones who will pay the price tomorrow for today's irresponsible spending practices. Under current spending practices, every American child inherits $16,000 of our national debt. All of this has wreaked havoc on our Nation's economy.

I am appalled by the tactics—including the circulation of distorted, nonfactual information—being used by special interest groups to scare older Americans and others into opposing a balanced budget amendment. These groups claim that the amendment will cut Social Security, Medicare, veterans benefits and other programs. That claim is flatly untrue. The bottom line is that the proposed amendment does not specify what steps should be taken to reduce our national debt.

It is true that a balanced budget amendment will force Congress to make some tough decisions. Without a specific plan for debt reduction, a balanced budget amendment is like going on a diet without determining how to lose the weight. Some have written this off as an election-year vote that will not lead to any substantive debt reduction plan. I hope my colleagues and the President will prove them wrong not only by supporting a balanced budget amendment, but also by formulating a long-term proposal to reduce the national debt and reform Federal spending practices. I have asked my constituents for their help in formulating a balanced budget plan. By working together, we can achieve the critical goal of debt reduction.

Mr. DOMENICI. Mr. President, at the Republican Members' request, the Budget Committee held two days of hearings on the proposed balanced budget amendment to the Constitution. During these hearings, Dr. Laurence Tribe, a distinguished Harvard constitutional scholar, made the following statement that best describes why we need to take this extraordinary step:

> Given the centrality in our revolutionary origins of the precept that there should be no taxation without representation, it seems especially fitting in principle that we seek somehow to tie our hands so that we cannot spend our children's legacy.

FAILURE OF CURRENT PROCESS

During our hearings everyone concluded that the deficits and debt pose a serious threat to the country. For those opposed to a constitutional amendment, they said we should just pass legislation to balance the budget, "just do it."

Mr. President, I have been at this for over a decade, first as the chairman and the ranking member of the Budget Committee, and we cannot and will not "just do it." We have lost control over half of the budget, chiefly entitlement spending. The popularity of these entitlement programs and the constituencies and interest groups who support them overwhelm every effort to attempt to rein in their growth.

SPECIAL INTEREST GROUPS AND INABILITY TO BALANCE THE BUDGET

The budget has become so partisan, so divisive that we cannot even address it in its most abstract form. When Senators NUNN, RUDMAN, ROBB, and I proposed a mandatory cap, we were immediately attacked by special interest groups. We were immediately confronted with a vote on whether we wanted to exempt very popular entitlement programs. Now the debate has been taken to even a more abstract level. We are not talking about individual programs, about entitlements, or even about spending. Instead, this proposal makes one simple demand: balance the budget.

Even with this simple proposition, the special interest groups have mobilized their opposition, saying it will devastate their constituencies. I hope their opposition is not against efforts to balance the budget. Because if it is, then they are asking that we simply leave to our children a legacy of deficits and debt.

DANGER TO THE NATION'S CREDIT

Mr. President, we are endangering more than just our children's legacy, we are gambling with one of the foundations or our economic system and that is our credit. It is more important than every program on the books of this government. Our credit is the strongest in the world. If we destroy our credit, we destroy our economy and the welfare of our people. And if we ruin our credit, we will be forced to both balance the budget and reduce our debt, not by a constitutional mandate, but by our creditors.

LEGISLATIVE HISTORY

Mr. President, this amendment is the same text of an amendment offered by Congressman STENHOLM during the other body's consideration of a balanced budget amendment. This amendment was based on a compromise negotiated between Senator SIMON, Congressman STENHOLM, myself and others. This language reflects a number of changes that I have proposed over the years to proposed balance budget amendments. I do not think the final product is perfect, but it represents a compromise among a number of Members in both Houses in Congress.

Specifically, I want to speak to a couple of the individual provisions in the amendment that reflect changes that I and others have gained over the past 10 years. Both in 1982 and 1986, along with Senator Chiles, I argued for and gained adoption of two changes to the proposed amendment. On July 27, 1982, the Senate adopted by a vote of 97–0 a series of changes that I offered (pages S9178–9197). Again, on March 12, 1986, Senator Chiles and I offered two amendments to seek similar changes that were adopted by voice vote (pages S4434–4436).

The first change was to add the word "total" in front of outlays and receipts that appeared in both Congressman STENHOLM's and Senator SIMON's original proposals. My intent has been to make it clear that this amendment applies to all outlays and receipts of the Government; that the amendment could not be circumvented by gimmicks such as putting programs and agencies off-budget.

The second change is crucial to the amendment. Section 6 of this amendment directs Congress to implement and enforce this article of the Constitution. I insisted on this language when the Senate considered the amendment in 1982 and 1986. While this language did not appear in either Congressman STENHOLM's or Senator SIMON's original proposals, during our negotiations, I insisted on this language. While similar language has appeared in earlier amendments that have been incorporated in the Constitution, none of those amendments included a directive that "Congress shall enforce and implement this language by appropriate legislation * * *".

The purpose of this language is to make it clear that no new powers are being granted to the executive judicial branches in this amendment. It is up to Congress to enforce and implement this article by passing appropriate legislation. That new legislation, which becomes law, could grant new powers to the judiciary and the executive. If Congress fails to adopt legislation that implements and enforces the article, then the super-majority requirements for adopting an unbalanced budget and increasing the debt held by public serve as the enforcement mechanism.

Conclusion

The budget deficit and debt are not new problems. We have run unbalanced budgets as a matter of practice for every one of the past 32 years, except one. This problem did not develop just recently and we won't get out of it quickly or by simply passing an amendment. We should reduce the deficit, we should balance the budget, but in the process we should do it in a way that does least damage to the economy. We should balance the budget, the total budget. Those who would ex-

clude certain programs from the balance budget amendment are simply wrong. We should focus on spending, not taxes.

I doubt we will ever be capable of addressing this problem without an extraordinary change—such as a constitutional amendment. I do not embrace this proposal as some simple panacea. Quite the contrary, I support it with anxiety, fully recognizing the difficulties it poses in its implementation and enforcement.

But in the end, Professor Tribe's statement is correct. Our deficit spending and borrowing has violated one of the principles embodied in the Constitution and that is there should not be taxation without representation. For 170 years we abided by that principle by not running sustained budget deficits. For the past 30 years, we have violated that principle and we need to correct it with a constitutional amendment to protect our children from a danger Thomas Jefferson feared and foresaw at the birth of this great Nation. He felt we should protect future generations from excessive debts and suggested that the Constitution be amended to prohibit borrowing.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I have heard the great name of Jefferson invoked time and time again today, and on other days, by those who support a constitutional amendment on the balanced budget. Jefferson was not one of those at the Constitutional Convention. He was a minister to France at that time.

A failure of the Congress under the Articles of Confederation to provide the Nation with the responsible financial system was the principle stimulus to the drafting of our Constitution. That was one of the things that was wrong with the Congress under the Confederation, one of the things that weakened the Continental Congress.

The First Continental Congress met in 1774, and the second began in 1775, and it ran until 1781, and then the Congress, under the Articles of Confederation, operated until 1789. But that was one of the principal reasons why it became clear that the Congress really was an ineffective entity under the Confederation. It had little power. It had to depend upon the States for its moneys. It had to requisition moneys from the States. So it was decided that there would have to be a new form of government, and the Constitution was written.

Jefferson did not help to write the Constitution; Jefferson was not there at the Constitutional Convention. Why invoke his name? This notion that today's populace should not be able, by profligate borrowing, to burden future generations with excessive debt—that was a good idea. But such an amendment was never submitted to the Constitution, never submitted to the people to write into their Constitution.

In theory, it sounded good. That is not to say it should be approved by Congress and sent to the States for ratification. A Constitution is needed because human beings need restraints, and because there is a gap between the ideal and the real in matters of human behavior.

So I think we have to recognize a self-imposed limitation as to what we are willing to include in the Constitution by recognizing that there is a gap between what might be considered a utopian Constitution and what it might contain, and what a Constitution in the real world can achieve.

One should never underestimate the price of making promises that even a Constitution might not be able to deliver.

Thomas Jefferson took no part in the debates, as I said, of the 1787 Convention that produced the Constitution. He was in France. He did not return home until October 1789.

A month earlier, from Paris, he wrote the celebrated "The Earth Belongs to the Living" letter to James Madison. In that letter, he argued that "no generation can contract debts greater than may be paid during the course of its own existence," which Jefferson calculated to be a period of about 19 years. James Madison, though, is generally recognized to be the Father of the Constitution, and he continued to explain that "the improvements made by the dead form a charge against the living who take the benefit of them. * * * Debts may be incurred for purposes which interest the unborn, as well as the living; such are debts for repelling a conquest, the evils of which may descend through many generations."

We should give greater weight to Madison's view that "debts may be incurred principally for the benefit of posterity." Jefferson said, in essence, we should not incur benefits—in other words, we should not pass debts on to our children and grandchildren. But Madison had the view that "debts may be incurred principally for the benefit of posterity."

I think greater weight should be given to that view than to Jefferson's more abstract idea, written from the distant European shores. Particularly compelling is Madison's salient observation of the year of 1790 that "the present debt of the United States * * * far exceeds any burdens which the present generation could well apprehend for itself."

Madison believed in the "descent of obligations" from one generation to another. "All that is indispensable in adjusting the account between the dead and the living," he wrote, "is to see that the debits against the latter do not exceed the advances made by the former."

Jefferson later became President. Why didn't he propose legislation, why didn't he lead the effort to propose a constitutional amendment to carry out his "Earth belongs to the living" theory? He did not do it.

To the contrary, in 1803 Jefferson encountered an unexpected offer from France to purchase the Louisiana Territory. Although he felt that he lacked clear constitutional authority to act, Jefferson accepted the offer and incurred a public debt to pay the required $15 million. Grappling with this contradiction, Jefferson elected in 1810 that the question was "easy of solution in principle, but somewhat embarrassing in practice," and suggested that the "laws of necessity" were sometimes higher than the written laws of government and concluded that it would be absurd to sacrifice the end to the means.

Mr. President, there are those who say they would like to debate this matter longer. That would suit me fine. I am willing to debate it at some length, and I hope that with such debate the American people will be better informed as to just what is involved in a constitutional amendment to balance the budget.

I think that is going to be necessary at some point at least.

I have no doubt that once the American people are better informed, their judgment will be sound. Talleyrand said there is more wisdom in public opinion than in all of the ministers of state present and to come.

It has to be an informed public opinion.

That is why this is a great institution. It is the forum of the States and the forum of minorities. And I happen to believe that the American people are not fully informed as to the ramifications of this snake oil constitutional amendment on the balanced budget.

Madison in Federalist Paper No. 63 said,

> * * * so there are particular moments in public affairs when the people, stimulated by some irregular passion, * * * or misled by the artful misrepresentation of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn.

He was talking about the Senate.

> In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens in order * * * to suspend the blow meditated by the people against themselves until reason, justice and truth can regain their authority over the public mind?

Still Madison talking about the Senate:

> What bitter anguish would not the people of Athens have often escaped if their government had contained so provident a safeguard against the tyranny of their own passions? Popular liberty might then have escaped the

indelible reproach of decreeing to the same citizens the hemlock on one day and statutes on the next.

That was Madison. He was talking about the Senate, referring to it as a body of moderate and respectable citizens who might interfere and suspend the blow meditated by the people against themselves in a time of passion, until reason, justice, and truth can regain their authority over the public mind.

That is why we have the Senate. That is why we are here to debate these issues. And so I join with those who would like to debate this matter longer that the people may be better informed.

We hear it said that if it is not done this year, we will have at it again next year. So a full debate of the issue may help to settle it once and for all.

I respect those Senators who sincerely believe that this is the way to go. And for those who sincerely believe that, I think they should stand on their feet and do the best they can to convince the people. Those who feel to the contrary, as I do, should be willing to stand and debate the matter as well.

So I hope we are here tomorrow debating this. I have offered an amendment. There it is. Debate it; vote it up or down. If the amendment goes down, my conscience is clear. I offered the amendment. The Senate will have made its decision; worked its will. We go on to the next issue. I will harbor no ill will toward those who took the opposing position.

In closing, I think I should say to my friend the junior Senator from Colorado, who said today something to the effect that this was the worst Appropriations Committee that there has ever been since the founding of the Republic, that is a pretty broad statement.

I know we have all, at times, been given to the making of extreme statements. I have. Sometimes we do not think clearly before we speak. I have done that, as well. Occasionally, I have let some foolish idea get the best of my good judgment, and I have wished I had not spoken in haste. But once it is said, it is gone. We cannot reach out there and bring it back.

I would suggest that the distinguished junior Senator from Colorado go to the following Senators and tell them that this is the worst Appropriations Committee since the beginning of the Republic—I may not be quoting Senator BROWN precisely, but in essence, that is what he said. I suggest he go to Senator HATFIELD, the ranking member of the Appropriations Committee from Oregon. Tell him. Go to TED STEVENS of Alaska. Tell him it is the worst Appropriations Committee.

I believe the Senator said that this was the worst Congress in the history of the Republic; the worst Appropriations Committee in the history of the Republic.

I have a letter in my office that just came from Senator BROWN—I may put it in the RECORD—in which he wrote to me, as chairman of the Subcommittee on the Department of the Interior, asking for somewhere between $3 and $5 million, I believe, for the State of Colorado. I will put it in the RECORD.

I do not know what he is asking from the other 12 subcommittees. He has a right to ask, and I think that his request should be considered. And his request in my subcommittee will be considered on its merits.

The Senator is not on the floor now, but if he comes back and wants to respond, I will be glad to listen to him. He is probably listening in.

So I am a little puzzled why he would write to the chairman of the Subcommittee on the Department of the Interior and ask for two items for the State of Colorado. And he has also cosigned letters with other Senators asking for appropriations that go through that subcommittee that would benefit not only his State, but others. And he has a right to do that. And he ought to do it; he ought to continue to do it. He is here to represent his people.

But in the next letter that he writes to me requesting consideration in my committee, I hope he will attach the excerpt from the RECORD where he said that this is the worst Appropriations Committee since the beginning of the Republic.

Then let him go to JAKE GARN; and THAD COCHRAN of Mississippi; BOB KASTEN. Let him go to BOB KASTEN, who is on that Appropriations Committee; ALFONSE D'AMATO; WARREN RUDMAN; ARLEN SPECTER; PETE DOMENICI. Let him go to PETE DOMENICI; DON NICKLES; PHIL GRAMM of Texas; CHRISTOPHER BOND; and SLADE GORTON—they are all members of the Appropriations Committee.

He should have a coffee in his office, and invite all these Republican members of that Appropriations Committee in, and say, "Gentlemen, you may not know it, but I have just been here 2 years in this body, and I can already tell you that this is the worst Appropriations Committee in the history of the Republic." Call them in; get them some coffee. Let them have some coffee.

He could serve tea, if he wishes, and have some cookies along with that, and say, "Gentlemen, you folks have been here a long time. I am sorry that you have not learned much since you have been here. But I have been here, this is my second year, and I can tell you that this is the worst Appropriations Committee in the history of the Republic." Senator BROWN also said, "We need to change the Senate rules."

Well, I have been here 34 years, and I have not learned all there is about the rules. But Mr. BROWN says we ought to change the Senate rules.

I hope that the Senator from Colorado will accept what I am saying in the spirit in which I am offering it. I want to be helpful to him in his requests for Colorado. And I would like to know what Senate rules he would like to change.

And incidentally, I am not sure that I have given him one of my books on the History of the Senate, but I have a chapter on the Senate rules in one of those books. And that chapter did not just spring up, like the prophet's gourd, overnight.

It took me quite a while to do all the research on that chapter on the Senate rules. I went back and studied the rules of the Congress under the Articles of Confederation.

I studied the rules of the first Congress, and I traced those rules down through the 200 years and compared them with the current rules of the Senate, to show that the current rules of the Senate, in many instances, have their roots in the rules of the first Congress, and beyond that, in the rules of the Congress under the Articles of Confederation.

So, I will be glad to be taught by the distinguished Senator from Colorado [Mr. BROWN] as to what is wrong with the Senate rules.

I hope that Senators will please tell the Senator I was smiling, when I said all of these things. And encourage him, if you can, to talk to Senator HATFIELD and Senator STEVENS and these other fine Republican Senators who are on that committee and tell them what a lousy committee they are on. I do not think any of them would want to get off the committee.

Well, as Hughes Mearns said:

As I was going up the stair.
I met a man who wasn't there.
He wasn't there again today.
I wish, I wish he'd go away.

The PRESIDING OFFICER. The Senator from Massachusetts.

SETTLEMENT OF RAILROAD LABOR-MANAGEMENT DISPUTES

Mr. KENNEDY. Mr. President, I understand that the House of Representatives has concluded action on the railway strike; am I correct? I further understand that the legislation that recently passed the House of Representatives is before the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I understand the majority leader will put the matter formally before the Senate in just a few moments, and I will speak to that measure at this time.

Nearly 48 hours ago—after 4 years of negotiations and mediation, after 4 years without a pay raise—a single union went on strike against a single railroad. In response to that act, the Nation's freight railroads shut down their operations nationwide, creating a national emergency to which Congress must now respond.

The Railway Labor Act is premised upon a very simple proposition: that the parties to labor disputes should be encouraged in every way to resolve their differences through private negotiation. At every step, the act is designed to encourage private negotiation and settlement, not Government intervention.

Despite the strong preference of the Railway Labor Act for voluntary settlements by the parties, Congress today is setting in motion a process which may well impose a settlement upon the parties. In light of the current emergency and the importance of protecting the Nation's struggling economy from further harm, I support the pending proposal.

It is important for the Senate to understand how we got to where we are today. A long history of events has led to the current impasse. Awareness of that history is important in understanding the purpose and effect of the legislation we are about to adopt.

The Nation is currently faced with three actual or potential rail shutdowns. The International Association of Machinists is involved in a dispute with the Nation's main freight carriers, and it is that dispute which has resulted in the current lockout.

There are two additional disputes: one between the Maintenance of Way employees and Conrail, and one between Amtrak and three of its unions, including both the Maintenance of Way and Machinists unions.

Each of these disputes has been the subject of collective bargaining since 1988. In those 4 years, the parties have engaged in ongoing negotiations, under the auspices of the National Mediation Board.

By 1991, negotiations among the parties had broken down, and meetings with the mediators had virtually stopped. But the Mediation Board refused to declare an impasse or to release the parties from mediation. In effect, the Board held these three unrelated disputes in limbo. On March 4, 1992, the Board simultaneously released all of the parties to each of these disputes, setting the stage for the current crisis.

After the Mediation Board released the parties, the President, exercising his right under the Railway Labor Act, appointed three Presidential Emergency Boards, in an effort to resolve the disputes. The Boards were charged with investigating the issues and making findings and recommendations to the parties, to assist them in their effort to reach voluntary agreements. Although a separate Board was appointed for each dispute, the same members were named to each of the Boards.

The Boards released their reports on May 28—4 weeks ago. In two of the disputes, the Boards declined to address the positions of the parties on their merits. Instead, they followed the conclusions of a 1991 Presidential Emergency Board—which dealt with disputes to which these unions were not parties. Despite the criticism of the United Auto Workers for seeking "pattern bargaining" in the Caterpillar strike this year, the Boards accepted the carriers' claim that "pattern bargaining" was necessary for the railroad industry.

The Boards' insistence on adhering to the pattern established by the 1991 Emergency Board in those two disputes created a great deal of concern and was a serious setback for the settlement process. Nevertheless, the parties did make progress in their subsequent negotiations. Amtrak had been at odds with 10 of its unions at the time its Presidential Emergency Board was established. Yet it reached a tentative or final agreement with four of its unions while the Board proceedings were pending. Two nights ago, it reached agreements with three more of its unions.

The remaining unions in the dispute with Amtrak are the machinists, the locomotive engineers, and the maintenance of way employees. They were unable to reach agreement due to continuing disputes about wages, working conditions, and health benefits, but they did not strike Amtrak.

On Tuesday at midnight, the mandatory "cooling off" period ended for all of the disputes, and the parties became free to use economic weapons—strikes, imposition of new terms and conditions, and lockouts—in their continuing effort to agree upon new contracts.

Yet the commitment to negotiation remained strong. All but one of the unions that had not yet agreed on a settlement decided to remain at the bargaining table for another 48 hours, rather than go out on strike.

On Tuesday night, the machinists chose to exercise their statutory rights by engaging in a strike against a single railroad, CSX, a freight carrier serving the Southeastern portion of the United States. None of the unions struck a commuter railroad. None of them struck any other freight railroad. They deliberately chose not to call a national strike, because they wanted to avoid precipitating a national crisis.

It is rail management that chose to act in an irresponsible fashion. The Nation's freight carriers closed down the rest of the national railroad system and locked out the employees of those railroads. So let us be clear. This is not a national railroad strike. It is a national railroad lockout. Rail management retaliated against its unions by staging a national railroad lockout in response to a regional railroad strike.

It was the railroads that decided to shut down the Nation's freight rail system. And every Member of this body should understand that it is rail management that caused this national emergency. They do not come to this emergency with clean hands. They saw an opportunity to obtain an advantage by forcing Congress to act. Their attitude is, "Profits first, workers last, and the economy be damned."

Congress should always be reluctant to enter a dispute between labor and management. The right to strike is one of any worker's most basic rights. It is one of the few tools workers can use to see that employers pay fair wages and provide decent work conditions. During the recent debate on the striker replacement bill, I heard many of my colleagues on both sides of the aisle state their strong support for the right to strike.

But we are where we are. It has become clear that the freight railroads are not going to resume service. Clearly, Congress must step in to prevent the harm to the economy that will result from a continuing shutdown of rail service. At a time when the economy is still struggling to recover from one of the longest recessions since World War II, this lockout could plunge us back into recession.

Just as clearly, however, it is not appropriate for Congress to choose the winners and losers of this complex labor dispute. It would be especially unconscionable if Congress were to resolve the dispute in a manner that rewarded rail management for precipitating the crisis.

The railroad owners would have you believe that shutting down the national system was forced upon them by a limited strike against one railroad. But that argument is transparently wrong. Their seamless web argument is a shameful sham.

As the chief economist for a New York securities firm said:

> It's not a strike, it's a lockout. . . . [T]he problem we have here is management's decision to shut down the system. The 1,500 machinists may be valuable, but the absence of 1,500 should not shut down an industry.

Even responsible railroad executives recognize what is really going on. As the executive vice president of a New England freight railroad company said:

> You've got a situation where all of a sudden the railroads are on strike, the unions aren't. It's crazy.

That railroad is still operating—and as its vice president noted, much of the rest of the country could—and should—be operating too.

If the employer lockout continues, it will cause higher prices, substantial economic disruption, lost jobs, and higher costs of unemployment and other social services. A wide range of industries across America are threatened by the lockout.

In Massachusetts, paper mills cannot stay open for more than a few days without rail service. Farmers in Kansas cannot ship wheat, or get accurate prices for future crops. In the State of Washington, lumber and paper companies will stop production if the lockout continues beyond a few days. California

growers cannot get their perishable produce to national markets. In Mississippi, poultry producers will not be able to get adequate supplies of feed. In Delaware, chemical firms will be unable to ship or receive products.

And in Michigan, California, Texas, and other States throughout the Nation, automobile production and supplies will grind to a halt. Already, some auto plants are slowing down operations, and layoffs may begin in a day or two.

In short, the lockout by railroad owners threatens the economic health of the Nation, and the jobs and incomes of hundreds of thousands of Americans. But this seems to be of no concern to the railroad owners.

In fact, their profits are skyrocketing this year. Compared to the first quarter of 1991, profits for the railroad industry as a whole are up 55 percent. And that is just the average. Look at the profits for some of the railroads willing to threaten the American economy while denying fair wages and work conditions to their workers.

The railroad industry, up 55 percent over last year. Chicago and Northwestern, up 127 percent; Consolidated Rail, up 111 percent; Illinois Central, up 38 percent; Kansas City Southern, up 52 percent; Norfolk Southern, up 39 percent; Santa Fe, up 76 percent. During a national recession, this is a money bank. And what do they do when one union strikes one regional carrier? They bring the whole national network down and demand that there be action by Congress. Effectively, they blackmail Congress.

These profits are finding their way to the railroad owners. The chairman of the Union Pacific and 50 top executives there will receive stock option bonuses of at least $15 million, because the company's stock price has risen sharply. According to analysts, the rising profits, and hence the bonuses, are a direct result of a federally imposed labor settlement last year that allowed the company to cut its payroll by up to 4,000 workers.

No wonder the railroad owners do not care about the potential economic havoc they have unleashed on the rest of the Nation. They are saying, not only to their workers, but to every working man and woman in America—"Losing your job? Losing your income and hopes for the future? Too bad. I've got mine."

At a time when Americans are deeply concerned that Congress and the administration are the captives of special interest groups, this lockout is exhibit A of their concern. A small band of railroad owners has walked away from the national interest and forced Congress to come to their rescue.

So now Congress must act, in order to try and protect the jobs and economic health of America from that cynical and self-interested attitude. Ask not what you can do for your country. Ask what your country can do for you.

Congress should not be a party to that tactic. We should not provide further economic advantages and higher profits to the railroad owners.

There are some responsible railroad owners, many of them small regional lines, who are still trying to operate. I commend those railroads that are trying to keep working, like the Boston and Maine in New England. Their spokesman said "Most of the shutdowns are decisions to not run, as opposed to a strike situation. Part of it is an effort to put pressure on Congress, and we don't believe in that. We're in business to run a railroad, and that's what we're doing." It's unfortunate that other railroad owners don't have that attitude.

I have serious concerns about whether the pending bill will result in a fair resolution of these disputes.

As recently as 2 days ago, I spoke to the parties to these disputes. They were quite encouraging. Many felt that they are close to reaching agreement. All but one of the unions that had not settled by Tuesday voluntarily chose to remain at the bargaining table for another 2 days.

There were very positive signs, and there was a real possibility that the parties could reach their own resolution.

I regret that Senator DOLE's sense-of-the-Senate resolution adopted on Tuesday may have undermined the bargaining process. The railroads may have thought that the resolution indicated that Congress would quickly intervene in a strike, and that they would benefit from such intervention. For whatever reason, rail management lost its will to reach an agreement in those last, critical hours on Tuesday.

If either side prefers the structure we are setting up today to what they can obtain through collective bargaining, you can bet that the next time they have a labor dispute, they will not bargain in good faith. Instead, one way or another, they will manufacture a "crisis" to force Congress to act.

No solution is entirely fair. But I ask the Senate to adopt this measure, because it is the best we can do in the current circumstances. The larger problem is the antiquated structure of the Railway Labor Act. If there is a silver lining to the current mess, perhaps it will create a new incentive to reform the act and bring it into the modern world, so that it advances the collective-bargaining process, instead of retarding it.

One final point. The procedure adopted in this bill, in which an arbitrator picks between the last best offers made by the two sides, is sometimes used in other fields. In fact, in sports it is called "baseball arbitration."

I understand that baseball club owners have a strong dislike for this kind of arbitration, because they so often lose when the arbitrators make their choice.

Earlier this year, Ruben Sierra, the star right-fielder of the Texas Rangers, went through such an arbitration. He proposed a salary of $5 million for the season. The owner offered $3.8 million—and the arbitrator picked Sierra's figure. May the railroad workers fare as well in this process they did not want and should not have had imposed on them.

Mr. MITCHELL. 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.

SETTLEMENT OF THE RAILROAD LABOR-MANAGEMENT DISPUTES

Mr. MITCHELL. Mr. President, in view of the extreme urgency of the situation as has been described at great length on the Senate floor, in debate, through action by the House this evening, and at the urging of the President, I believe it imperative that the Senate act on this matter promptly. Having consulted with the distinguished Republican leader, as is my practice on any scheduling decision, I now ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 517, a joint resolution relating to the resolution of the rail labor dispute just received from the House.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 517) to provide for a settlement of the railroad labor-management disputes between certain railroads and certain of their employees.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to talk about what has been going on in this country for the last few days.

I have been listening to the TV, reading the papers, and I have been hearing about a railway strike. That is an inaccurate term. It just is not in accord with the facts.

Now, it did begin as a limited strike by 1,400 machinists against one carrier, but the railroads responded with a na-

tionwide lockout of hundreds of thousands of workers and the complete shutdown of our Nation's freight rail system, and I hardly heard that mentioned all day on the TV. Yes, once in a while but in the main, no. All I heard was there has been a strike, a strike by the railroad workers. That is just not in accord with the facts.

One union, the machinists, struck one company, CSX Corp, 1,400 employees, and the companies responded how? The companies responded by shutting down the railroad system of this country. I have seen no editorials denouncing the companies for their actions, actions which have the capacity to paralyze the American economic system. But, no, it is because of a strike. That is just not true.

As a matter of fact, the carriers admitted that it was a lockout in testimony before the House Energy Committee. But nobody talks about that.

Michael Boskin, the Chairman of the President's Council of Economic Advisers, testified that the Nation could lose $1 billion a day because of this shutdown by the railroads and that Congress needs to act immediately.

Well, let us be clear. We are in this mess because of a calculated effort by the railroads to impose conditions on their workers. Are these workers who are coming in with outrageous demands? Are these workers who have been getting paid so much that they do not need any consideration? These workers have not received a raise in the last 4 years. We in Congress did. So did most other workers in this country. But these workers have not received a raise in 4 years.

What has been happening to the railroads during this time? They have been raking in the bucks. Senator KENNEDY has already addressed himself to that issue. For example, 50 top executives at Union Pacific just got $15 million in bonuses because the railroad's stock rose in value.

Why has the company been doing so well? Is it because they operate so much better? Is it because they now know how to operate these railroads and do a better job than they did in yesteryear? No. It is because they stuck it to the unions last year and the workers that those unions represent.

According to USA Today, "The stock rise was aided by a federally-imposed labor settlement allowing Union Pacific to cut its work force by up to 4,000 and trim wages." In sum and substance, these men at Union Pacific received $15 million in extra pay because they were able to cut the wages of their employees by reason of a Presidential emergency board, and they were able to cut their work force by 4,000 people. Congratulations, gentlemen, you got rich on the backs of blue-collar railroad workers who make something like $20,000 a year.

Now, what is this labor dispute all about? From the workers' perspective, it is about wages and work rules and health benefits.

Let me give you some examples. The Presidential Emergency Board recommended $35 a day for three meals and lodging for track maintenance workers who spend their workweek on the road. You cannot buy three meals a day and get lodging on $35 a day. That does not mean you are going to eat in the best restaurants. It does not mean you are going to sleep in the best hotels. It is not possible to get decent lodging and three meals a day for $35 a day, but that is what the Presidential Emergency Board recommended.

That would force these workers who already labor under some of the most difficult working conditions in the country to live out of their automobiles for days at a time. In addition two of the Board's recommendations may leave many track workers assigned to work hundreds of miles from their home.

So these workers, what did they do? They concluded that the PEB's recommendations were not in their best interests, and as a consequence the workers were free to strike and management was free to lock out their employees as of Wednesday morning.

Now, the country expected at that time a widespread strike by the affected unions. But those unions exercised restraint in an effort to encourage a voluntary settlement of the disputes and avoid causing harm to the economy.

As I previously mentioned, one union representing 1,400 employees at the CSX railroad did go on strike. No other union went on strike, and the machinists did not strike the rest of the railroad industry. But they were locked out.

The railroads thought this was a pretty cute play and they said Congress will bail us out. We will get the whole Nation exercised, and we will come to Congress and say: Impose a settlement on them.

All of the affected Amtrak employees reported to work on Wednesday morning, as did all of the Conrail employees represented by the BMWE. And the machinists reported to work at all of the 40 affected carriers with the exception of CSX.

So while 6 unions representing 20,000 employees exercised restraint in limiting their work stoppage to only 1,400 employees at CSX, the companies totally shut down their operations and locked out 200,000 workers. The unions' actions left virtually undisturbed this Nation's passenger rail services, commuter rail services, and the vast majority of the national freight system.

But the companies' actions created economic havoc in this country. And all day long we kept hearing about all these terrible things that are happening in industry.

I am no different than any other Member of the Senate. I do not want the plants in Ohio not to be able to get goods shipped in and shipped out. And neither do all the unions in this country. One union struck. So management closed down the entire railroad industry in this country.

Many of the unaffected carriers are capable of providing services to shippers who would normally have been served by CSX. We did not have to be in the position that we are in. This list of alternate carriers includes Norfolk Southern, Conrail, Illinois Central, Burlington Northern, Florida East Coast, Meridian & Bigbee Railroad, Grand Trunk Western, Missouri Pacific, and Midsouth. They could have taken the very merchandise that was to be shipped on CSX and carried it on their lines.

Let us face it. Railroads do not have different kinds of tracks. They all run on the same kinds of tracks and other carriers that were present were in the position to move in and carry that freight.

Let us be clear about why the railroads took this action. This was an effort to provoke Congress into intervening, and we are doing their bidding. Their strategy is to make any rail labor disputes into a national emergency no matter how limited or localized it is in order to deprive workers of their principal economic weapon.

The workers' right to strike is what brings management to the table. I have heard discussed on this floor in the last 2 weeks—a number of Members of this body—talking about how much they recognize the workers' right to strike, that being their economic weapon.

It is what makes management bargain in good faith. It is what makes the collective-bargaining process work. We have not let that right be exercised in this instance. We have let the employers lock out their employees.

I recognize that there are instances in which Congress must intervene in a dispute between rail labor and the management to protect the Nation's transportation system and its economy. But I strongly believe that Congress should interfere with the right to strike only where there is no viable alternative and an overriding national interest has been demonstrated.

The railroads could be in operation by tomorrow morning if they had the will to do so, instead of coming here to Congress. They always say Congress ought to keep its nose out of what the corporate world does. I agree. We do not belong in this dispute. We ought to be out of it. Management ought to go put the railroads back to work. It is their responsibility, but we are being called upon as the fall guy to impose some kind of an arrangement between management and labor.

I have mixed feelings about this matter. I have recognized the need to get the Nation's freight moving again. But I am very concerned that we are, in ef-

fect, rewarding the carriers' conduct. I would prefer simply to extend the cooling-off period so the parties could try to reach an agreement.

But the fact is the railroads are closed down. The fact is we want them to be operating, and we want them to be operating as promptly as possible. This Nation is in serious economic difficulty. Keeping the railroads from operating does not help anything.

The proposal of the legislation that we are looking at attempts to provide a balanced manner of resolving the dispute. It comes pretty close to compulsory arbitration which this country has not approved of over a period of many years.

I want to point out, according to Congressman ECKART who I think is in the back of the room, who is the author of the House legislation, that he has indicated—on page 3 of the bill—that it provides that all carriers and all employees affected by such unresolved disputes shall take all necessary steps to restore or preserve the conditions that existed before 12:01 a.m. on June 24, 1992, applicable to all such carriers and employees except as otherwise provided in this joint resolution.

Congressman ECKART, for whom I have great respect and who represents an area very close to the one which I come from, has indicated to me it was made clear on the floor of the House that that means that the carriers are expected to pay the employees for the time that there has been a shutdown. I accept that interpretation. Congressman ECKART has indicated that was spelled out very explicitly on the floor of the House. I think that would in some little way help to at least ameliorate the harm that the carriers have done to their locked out employees.

I think that there could have and should have been a more direct resolution of the differences between the parties.

I see no reason to delay this body from acting on this legislation. But I do not think it is the right thing to do as far as the workers are concerned. I think they are getting the short end of the stick. I think that they are the ones who have been looked upon as having created the problem when, in fact, in reality, it is management at whose doorstep this problem should be laid.

AMENDMENT NO. 2452

Mr. WELLSTONE. 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 Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2452.

Mr. WELLSTONE. 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 3, strike all after the word "**conditions**", insert the following:

DURING RESOLUTION OF DISPUTES

The following conditions shall apply to the disputes referred to in Executive Order Nos. 12794, 12795, and 12796 of March 31, 1992, between certain railroads and the employees of such railroads represented by the labor organizations which are party to such disputes:

(1) The parties to such disputes shall take all necessary steps to restore or preserve the conditions out of which such disputes arose as such conditions existed before 12:01 a.m. on June 24, 1992.

(2) All railroads ceasing operations on or after June 24, 1992, shall resume such service immediately upon enactment of this joint resolution and shall reinstate all positions in existence before 12:01 a.m. on June 24, 1992, without reprisal against any employee involved in such disputes.

(3) The final paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply and be extended for an additional period with respect to the disputes referred to in Executive Order Nos. 12794, 12795, and 12796 of March 31, 1992, so that no change shall be made before July 24, 1992 by such parties, in the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on June 24, 1992. On July 24, 1992 the parties will report back to the Congress on the progress of such negotiations.

SEC. 2 MUTUAL AGREEMENTS PRESERVED.

Nothing in this joint resolution shall prevent a mutual written agreement to any terms and conditions different from those established by this joint resolution.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that there be 30 minutes for debate on the Wellstone amendment with the time equally divided and controlled by Senator WELLSTONE and myself; and when all time is used or yielded back, the Senate without intervening action or debate proceed to a vote on or in relation to the Wellstone amendment.

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

Mr. KENNEDY. I amend that to include that no second-degree amendment be in order.

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

Mr. WELLSTONE. Mr. President, the amendment that I sent to the desk is, I believe, a constructive proposal, an important response, on the part of the United States Senate, to a critical labor crisis that we have to deal with.

Mr. President, my amendment calls for a 30-day cooling off period, a rush to the status quo, a report to the Congress at the end of that period, no reprisals, all workers return to original positions.

Mr. President, I am concerned about the economy, I am concerned about the disruptions, but I am also concerned about fairness to working people and fairness to railroad workers.

Mr. President, I think it is just a shame—and I would just echo the remarks of Senator KENNEDY and Senator METZENBAUM—that, really, just as negotiations were loosening up and their was movement leading right up to the strike deadline, then really the companies changed and moved away from what I think was a real bargaining position.

Mr. President, the cooling off period gives us time to negotiate, and it encourages compromise by both parties. Then both parties can report to the Congress. Only after this cooling off period, only after that, do I think we should move to bind the arbitration only if necessary.

Mr. President, let me point out that there are many precedents for a cooling off period:

The shop craft dispute in 1967, Congress enacted Public Law 90–13, extending the status quo period for 47 days.

The shop craft dispute, 1970, Congress enacted legislation extending status quo for an additional 37 days.

Four union disputes, 1970–71, Congress extended the status quo for an additional 80 days.

Signalmen dispute, extended the status quo for 4½ months.

Penn Central-UTU crew consist dispute, Congress enacted legislation restoring and extending the status quo for 90 days.

The Maine Central dispute, again a cooling off period of time for 60 days.

Chicago & Northwest-UTU dispute, on August 2, the day before the expiration of the status quo period, the Senate passed a Simon resolution extending the status quo to September 9.

Mr. President, I believe that this cooling off period is a constructive and an important proposal that will be fair to all the parties. And that after we have this period of time where negotiations can go on, negotiations could go on without the clear deadline or timeline of binding arbitration, then I think we will have a report before us, and we will be able to make a decision.

Mr. President, let me point out that only 1,347 members of the International Association of Machinists employed by the CSX Corp. actually went on strike but, in response, the Nation's rail carriers voluntarily shut down the entire national rail freight system and locked out over 100,000 employees.

How ironic it is that with all of the warnings from the industry about the dire economic consequences of a nationwide strike, when the unions were so moderate, when they engage in a strike that does not disrupt this country at all, and then the response of the railroads was to shut down the entire system, shut down the entire system, and lock out the workers.

I believe that the reason this amendment is so important is that it does not reward these companies for what they have done, because it is clear to me the unions were moderate and reasonable and did not disrupt this economy, and,

instead, as a result of what they tried to do by moderation, the companies locked out railroad workers across the country, forced this to the Congress, and then hoped we would simply move forward with, I think, the proposal at least that I worry about, in terms of what the final result will be.

So, Mr. President, what is the hurry? We do not want to see our economy disrupted; we all agree. So let us have a freeze, let us have a cooling-off period, let us go back to the status quo. It seems to me that this amendment is neutral. This amendment is fair to both parties. This amendment is fair to our country.

Finally, Mr. President, I have to say that this amendment is, I think, sensitive to and respectful of an important history in our country. It really saddens me that too many of our parents and our grandparents struggled so hard for more bread and more justice, and they made more gains for all of us, such as protection against strike breaking, protection against the terror of unemployment, more bread, more justice, minimum wage, and these gains were not just good for unions, they were good for the vast majority of people in our country, because our economy depends upon men and women being able to work for decent wages under civilized working conditions.

I just feel like, as I speak on the floor of the Senate, that I speak with a sense of history, because I feel like we are seeing and witnessing a half century of people's gains being overturned, being wiped out. I really believe that is the meaning of what the companies have done to the railroad workers. I do not think it is just about the railroad workers. I think it is about the debate we had not too long ago in the Senate where we had a piece of legislation that Senator METZENBAUM and Senator KENNEDY and others exerted such strong leadership on, to prevent companies from permanently replacing striking workers; the right to strike becomes the right to be fired. And then we had a more moderate version of that proposal. And no matter what we did to try and restore some balance, we could not even get it up for a vote. It was filibustered. And then I think of all of the broken strikes, and all of the unions busted, and all of the people thrown out of work, and all of the wages depressed.

I heard Senator METZENBAUM speak about this with great eloquence. We are talking about railroad workers that are trying to get a decent wage, about people that are trying to hold on to decent health care benefits, working people that want to work under civilized working conditions. We are talking about health and safety issues. I just feel like we are talking history tonight, and I think it would be a mistake to be so precipitous and to move forward with this proposal and, instead, the reason I propose this amendment is I think a cooling-off period really does establish some fairness.

I think we are at the point in time in the U.S. Senate when it is important that we understand what has been happening to working people, to middle-income people, to union people, and we have some commitment to economic justice, some commitment to decent working conditions. And so, Mr. President, keeping in mind the need to make sure that we do not disrupt the economy, keeping in mind the need to make sure that we move forward with economic activity, but also keeping in mind the need to make sure that there is some fairness for railroad workers and to make sure we do not reward the railroad companies who have simply locked working people out, I hope that my colleagues will support this amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Massachusetts has 15 minutes, and the Senator from Minnesota controls 5 minutes.

Mr. KENNEDY. Are there any further remarks that the Senator wishes to make on this issue?

Mr. WELLSTONE. Mr. President, I think that I have said just about all that is inside of me, although Senator WOFFORD may want to speak for this amendment as well. I want to reserve the additional 5 minutes, if I could.

Mr. KENNEDY. Mr. President, I am glad to try and accommodate a colleague, but I have not been notified of that. If the Senator wants to put a quorum call in on his time, I certainly would understand that.

The PRESIDING OFFICER. If no one yields time, time will be deducted equally from both sides.

Mr. KENNEDY. Mr. President, I am not yielding any time. So if the Senators wants to ask for a quorum call, he can do so, and it will be charged to his time. If the Senator does not, I am going to make a motion to table.

Mr. WELLSTONE. I thank the Senator from Massachusetts. I do not want to delay people. I will not ask for a quorum call.

Mr. KENNEDY. Mr. President, many of us would have preferred this as an alternative solution, but it is not a practical step at this time. I yield the remainder of my time.

Mr. WELLSTONE. Mr. President, I yield the remainder of my time.

Mr. KENNEDY. All time having been yielded back, I make a motion to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment 2542.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BORDEN], the Senator from Arizona [Mr. DECONCINI], and the Senator from North Carolina [Mr. SANFORD] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS], and Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

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

The result was announced—yeas 76, nays 18, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—76

Akaka	Glenn	Mitchell
Baucus	Gore	Moynihan
Bentsen	Gorton	Murkowski
Bingaman	Graham	Nickles
Bond	Gramm	Nunn
Breaux	Grassley	Packwood
Brown	Hatch	Pell
Bryan	Hollings	Pressler
Bumpers	Inouye	Pryor
Burns	Jeffords	Reid
Byrd	Johnston	Riegle
Chafee	Kassebaum	Robb
Coats	Kasten	Rockefeller
Cochran	Kennedy	Rudman
Cohen	Kerry	Sarbanes
Craig	Kohl	Seymour
D'Amato	Leahy	Simon
Danforth	Levin	Simpson
Daschle	Lieberman	Smith
Dixon	Lott	Stevens
Dodd	Lugar	Symms
Dole	Mack	Thurmond
Domenici	McCain	Warner
Durenberger	McConnell	Wirth
Ford	Metzenbaum	
Garn	Mikulski	

NAYS—18

Adams	Exon	Lautenberg
Biden	Fowler	Sasser
Bradley	Harkin	Shelby
Burdick	Hatfield	Specter
Conrad	Heflin	Wellstone
Cranston	Kerrey	Wofford

NOT VOTING—6

Boren	Helms	Sanford
DeConcini	Roth	Wallop

So the motion to lay on the table the amendment (No. 2452) was agreed to.

NEED FOR IMMEDIATE ACTION

Mr. DOLE. Mr. President, I am pleased that the House has taken action and that the Senate is about to take action to resolve the rail strike situation.

I congratulate the leadership of Congressmen DINGELL, LENT, SWIFT, and RITTER and others who have done an outstanding job. And most of all, I commend the leadership of President Bush. I know the administration has been working around the clock to ensure that legislation makes its way through Congress.

There are innocent people all across America—literally millions of workers and families—whose lives have been dramatically altered by the course of events this week.

We have seen it on TV; we have read about in the newspapers. My phones and mailboxes are overflowing, and I suspect that every other Member is getting contacted by their constituents who want the strike stopped now.

This bill will end the strike. It is that simple. This legislation will get the Nation's rail system moving again. It has been overwhelmingly passed on a bipartisan basis by the House and is strongly supported by the administration.

If the Senate is able to complete action tonight—which I hope and expect it will—it can be sent to the President who can sign it before tomorrow morning's rush hour.

In my opinion, the earlier we pass this bill, the better. That way, an end is put to the uncertainty and Americans can go to sleep tonight knowing that they can get to their jobs—or that when they get to their jobs, they won't be shut down because essential supplies haven't been delivered.

CONSEQUENCES OF A CONTINUATION OF STRIKE

Everyone knows that the consequences of a continuation of the strike are dire. In my opinion, it is unfortunate that the country has had to endure 2 days of the strike when we are just beginning to see solid signs of recovery and economic growth.

Layoffs have started across the country, and I have seen estimates that if the strike were left to continue, over a half million workers employed in industries dependent on rail service would have to be layed off within 2 weeks.

This strike is hitting all industries, including the auto industry, paper, coal mining, lumber, steel, and chemical industries.

In my State of Kansas, among other impacted industries, I am being told that no grain is being loaded in rail cars and in some areas, is just being piled up on the ground.

The weather has been bad enough this year for the farmers without this latest disaster. And while we can't control the weather, we can get the rail system moving again.

LEGISLATION IS A FAIR RESOLUTION

The legislation we have before us is a fair resolution of the process. It preserves the collective bargaining system while ensuring that the current disputes will be resolved.

The bill provides for the selection of an independent arbitrator for each of the unresolved disputes.

During the 20-day period following enactment of the bill, the parties will negotiate to work out their differences. If at the end of this period, no settlement has been reached, the parties are then required within the next 5 days to submit to the arbitrator a written contract representing their last best offer.

During the 7 days following the submission of their final proposals, the parties will again negotiate to resolve their remaining differences. In the event this final round of negotiations does not yield an agreement, the arbitrator is required within the next 3 days to pick one of the proposed written contracts.

In my opinion, this approach provides an added inducement for the parties to resolve their differences themselves rather than leave the final decision to the arbitrator who could pick either the carrier's or the union's proposal. In short, it provides every incentive for the parties to work together instead of polarizing them on opposite ends of the playing field.

So, Mr. President, let's get this process wrapped up and underway. Now is not the time to delay. This bill will end the strike, will get the trains moving again, and will let people's lives get back to normal.

Mr. EXON. I also ask the manager of the bill if it is his understanding that any railroad employee who as of 12:01 a.m. on June 24, 1992, was not on strike and was prevented from working by the shutdown of the railroad by whom such employee was employed shall be compensated by the railroad at such employee's usual wage rate for any period during which the employee would normally have been working if the shutdown had not occurred.

Mr. KENNEDY. Yes, the Senator from Nebraska and I both agree on this point.

Mr. EXON. I thank the distinguished Senator.

Mr. KENNEDY. I thank my colleagues for their support of this change which I strongly support.

Mr. EXON. It is my understanding that any railroad employee who as of 12:01 a.m. on June 24, 1992, was not on strike and was prevented from working by the shutdown of the railroad by whom such employee was employed shall be compensated by the railroad at such employee's usual wage rate for any period during which the employee would normally have been working if the shutdown had not occurred.

Mr. DOLE. Yes, I understand precisely the point the distinguished Senator from Nebraska is making and agree. I know that a number of rail workers in my State of Kansas showed up for work but were sent home. However, I want to emphasize that this understanding does not take precedence to the extent that preexisting contract language addressing this issue existed. I would also like to emphasize that the circumstances and terms of this strike situation are truly unique and that this particular understanding should not establish any precedent or be construed to apply to future or other rail disputes. Is this the distinguished Senator's understanding as well?

Mr. EXON. Yes.

Mr. BIDEN. Mr. President, I will oppose this legislation. As I do so, I would like to make clear my concern that Congress is once again being called upon to settle a rail strike, and in particular, this one. For 4 long years this dispute has remained unresolved. That is far too long for me to believe that labor and management could not reach an agreement. But the conditions under which those negotiations took place led our Nation inexorably to the strike and lockout.

For nearly 20 years, every working day I have traveled from Wilmington to Washington and back to Wilmington on the train. The vast majority of the American public has only become aware of the depth of the differences between rail labor and management in the last few days. I have witnessed a slow but relentless deterioration of those relations in recent years. It has been a painful development to see, particularly since it could have been avoided.

The railroad tradition is strong in my State. Two major rail shops operate in Delaware, the Wilmington shops and the Bear facility. For many of the employees at Wilmington and Bear, a railroad career is in their blood, having been passed from generation to generation. These are employees who are hard-working and dedicated and have sacrificed to make Amtrak a viable rail system.

But this dedication and commitment has been stressed in recent years. Where once there was a measure of good will between labor and management, now there is none. The level of animosity can be startling. Bitterness, anger and, above all, frustration have not just crept into labor-management relations, but have come to dominate it. For years, we fended off elimination of this investment from outside in the form of conservative attacks. But now we find that this national investment is threatened with destruction from within. My colleagues who know the rail employees as I know them, can only ask "how was this possible?"

One of the most important reasons for the decline in relations, in my view, is that rail companies knew that in the end, the odds were stacked in their favor. Last year's strike, combined with White House actions and comments this year, only confirmed those fears on the part of labor. The unions were forced to stick with a futile mediation process—futile because the unions had legitimate questions about the seriousness of the railroad's efforts to reach an agreement. Instead of the mediation process averting a strike, it appears to present a Hobbesian choice to the unions—capitulate or strike.

And even at that point the unions believe the odds continue against them. For Congress has traditionally acted to settle, in one form or another, railroad

strikes. The means to reach a settlement has varied markedly, but the efforts of the Presidentially appointed board has often given great weight. That is what the workers fear and the railroad companies are counting on. It is a reasonable system in theory that has turned insidious in practice. I think rail workers will be encouraged by the serious review of Federal rail labor laws that is likely as a result of this lockout.

This mediation process, as it stands now, cannot be expected to yield a balanced result. And in that regard, the legislation before us will be a dramatic improvement over earlier efforts. Rail workers will at least have reason for optimism in the arbitration process in this bill, even if the strongest card they can play has been taken from them.

It is a difficult decision to oppose this legislation. I am concerned about the serious effects of a continued shutdown of our Nation's rail system on hundreds of companies in Delaware and across the country. But I am also concerned that we are rewarding a concerted decision of the railroads that would have caused fevered expressions of outrage by industry had the unions taken a similar step.

We need to restore a measure of balance to these negotiations. The legislation before us is an improvement over the earlier mediation process, and over the settlement process adopted last year. But I am not convinced that we should act to reward the actions of the railroad companies at this time.

Mr. GORTON. Mr. President, the impacts of a rail strike in this country are devastating. Literally, each hour of each day that it continues economic havoc is wreaked on hundreds of thousands of workers and businesses. Michael Boskin, the Chairman of the Council of Economic Advisers, stated that the economy will lose $1 billion every day the strike lasts. Our ability to recoup any of that loss is greatly lessened should the strike be protracted. This strike must end, and must do so soon.

I don't believe there is a Senator amongst us who is happy to find Congress having to deal with this legislation. Each of us, I'm sure, would have preferred that the collective bargaining process had worked and that all sides, in each dispute, had reached an agreement. But, unfortunately, that was not the case, and since Tuesday at midnight, our freight lines and most of the passenger service around the Nation ground to a screeching halt.

Some critics of this legislation have claimed that what our country has experienced is not a strike, but a lockout. This ignores the seamless nature of our freight rail infrastructure as well as the fact that the vast majority of our passenger service travels over freight lines. Other critics suggest that we should impose only a cooling-off period, but not impose an arbitration procedure. The likely outcome of this suggestion is obvious—we will be faced with the same national crisis; and, in my State, during the height of the agricultural harvest, an even more disastrous situation.

Mr. President, I have heard from Washington State railroad workers, and I have sympathy for their situation. But, I also have heard from and realize the impact on so many other workers, in so many other industries, in my State. Containers are rapidly stacking up at the ports of Tacoma and Seattle waiting to move East. Wheat growers, some of whom will begin harvesting this weekend, are anxiously wondering if the railcars they count on will be moving. Manufacturers from as large as Boeing to our smallest companies are already trying to cope with shortages in their inventories. Perishable food products grown in my State cannot wait through weeks of offers and counter-offers. From aluminum companies to forest products companies, our businesses rely on a steady shipment of supplies and materials. For a trade dependent State that relies on both imports and exports, this strike is hitting us hard. Mr. President, I cannot explain to the thousands of workers in my State who are not in the railroad industry, how I can allow this situation to continue and how I could vote to allow them to be layed-off their jobs.

Mr. President, this strike cannot end a moment too soon. I urge the Senate to adopt this legislation.

Mr. DURENBERGER. Mr. President, I support this compromise proposal that will bring a prompt yet overdue resolution to the national rail strike. Our economy is highly dependent upon the rail industry, and I applaud our action today to assure that Minnesota's economy and the entire country's industrial base retains its vitality.

I would like to take a few moments to underscore how much Minnesota's economy depends upon the rail industry. Burlington Northern, Chicago Northwestern, the Soo Line, and many short line railroads serve the people of Minnesota. We have 2,000 miles of Burlington Northern track, and about 340,000 Burlington Northern car loads originate in my State.

We need the rail industry in Minnesota. The following figures simply illustrate some of the categories and quantities of materials that the rail industry transports in and around my State:

Coal: 259,000 carloads or 26.2 million tons.

Grain: 288,000 carloads or 26 million tons.

Farm products: 263,000 carloads or 24.2 million tons.

Metallic ores: 146,000 carloads or 14.7 million tons.

Food/kindred products: 85,000 carloads or 6 million tons.

Chemicals: 66,000 carloads or 6.9 million tons.

Pulp and paper: 46,000 carloads or 3 million tons.

During the course of the strike, many agricultural shippers contacted me to make sure that I understood how much they depend on the rail industry. The Farmer Elevators served by Burlington Northern ship 547,000 bushels of grain per day in Minnesota. Because farmers save $.10 per bushel when they ship by rail instead of by truck, farmers will lose $54,700 per day due to the rail strike. And this only accounts for those grain elevators who use Burlington Northern. There are another 40 or so elevators who use other rail carriers in Minnesota.

Let's take another example, Prairie Land Co-op Elevator, in Windom, MN. Prairie Land has ordered a train from Chicago Northwestern for Monday, June 29. If the train does not arrive to move grain out of the elevator before this year's harvest begins, the elevator, with its 40 full-time employees, will stop taking grain, stop making payments on contracts with farmers, and simply shut down.

The 5,000 farmer/members of this co-op will not get paid, and will not be able to pay their expenses for seed and fertilizer. The cost to the elevator will be $1,000 in interest the first week, compounded to $2,000 the next week and every week of a strike thereafter. To farmers, that means $1,500 in interest the first week, and $3,000 the next week and every week thereafter. These are real people in Minnesota that will be severely hurt by the current national strike.

Given the devastating effects of this national labor dispute, I feel confident that Congress must act, and we must act quickly to prevent further disruption to our economy.

Mr. President, I would like to repeat the sentiment that I expressed a couple of days ago that I think Congress is acting properly by swiftly curtailing this rail disruption. In addition to the need to protect our industries, I believe that the Senate is indeed treating these striking workers fairly. We are giving them a second chance to make their case before an impartial arbitrator.

Let me explain the process that we propose today. The parties with unresolved disputes have 20 days to negotiate in consultation with a neutral third party arbitrator chosen by the parties from a list of National Mediation Board [NMB] approved individuals. After 20 days, the parties have 5 days to submit their last best offer to the arbitrator, and to the opposing party.

After the 5-day period expires, the parties would then have 7 days to negotiate among themselves, with the as-

sistance of the arbitrator, to reach agreement. The parties would utilize the respective last best offers as the basis for an agreement, although nothing would preclude the parties from voluntarily reaching agreement based on subjects that fall outside the scope of the last best offer proposals.

After the 7-day period, the arbitrator would have 3 days to choose one of the last best offers, which shall be binding upon the parties and shall have the same effect as if agreed to and ratified by the parties. I anticipate that the arbitrator would use that 3 day period to deliberate thoughtfully, but also to discuss with the parties the possibility of settlement. After the arbitrator chooses one of the last best offers, he or she shall immediately submit that contract to the President of the United States. The contract shall be binding on the parties, unless the President disapproves the arbitrator's decision and contract.

If the President does disapprove the arbitrator's decision and contract, then the parties may engage in self-help, which is to say, labor organizations may strike, and the carriers may take such as action as is proper, including unilaterally implementing chosen terms and conditions of employment or locking out workers.

Mr. President, we want to encourage the parties to settle their labor disputes. The process whereby the arbitrator chooses the last best offer that shall become the parties collective bargaining agreement should provide an incentive for the parties to settle, and I support that approach. But there is a larger issue that I feel compelled to discuss.

The parties that are covered by this legislation chose to opt-out of the negotiations that lead to last year's rail strike. The had that right, but they also had to understand that the procedures that were used to settle that dispute and the findings made therein, would affect them. The parties covered by the legislation that we address today gambled that they would obtain more for their workers by holding out from last year's negotiations.

By the legislation before us today, I am concerned that we are creating a precedent that encourages the parties to hold out for as long as possible. And that seems regrettable.

Under today's legislation, the parties to the dispute are entitled to a second arbitration process—a fresh look if you will, without regard to the findings of the Presidential Emergency Board. But the parties to last year's dispute did not get that fresh look. Rather, they were required to present their case to a Special Board, which accorded a presumption of validity to the findings of the earlier convened Presidential Emergency Board 219.

In addition to my concern that we are creating incentives for the parties to hold-out rather than settling their disputes, I am also concerned that the Railway Labor Act's Presidential Emergency Board process may be rendered meaningless after today's action. If the parties know that they will receive a fresh, second opportunity to present their case before an arbitrator, even after the Presidential Emergency Board has issued its recommendations, then the parties have no incentive to take the PEB process seriously. I find that regrettable as well.

Mr. President, we are faced with a choice today. The Nation's economy is standing on a precipice, and the Congress must act today to resolve the national rail strike. On the other hand, the Railway Labor Act dispute resolution processes may be compromised by this legislation.

Mr. President, at this moment in history, I think that we have no choice but to support the last best offer approach to ending this rail strike. We cannot let this national rail strike continue. We cannot let this national rail strike to disrupt our economic vitality. We must respond with action. The American people demand nothing less.

Minnesota's economy is being seriously threatened by the strike, and the Nation's economy is being threatened as well. I feel a responsibility as a United States Senator to do what must be done to protect our Nation's best interest, and that is why I call upon my colleagues to support this legislation.

The PRESIDING OFFICER. The Senate will be in order. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 517) was read the third time.

Mr. WELLSTONE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. DECONCINI], and the Senator from North Carolina [Mr. SANFORD] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. COATS] and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] and the Senator from Indiana [Mr. COATS] would each vote "yea."

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

The result was announced, yeas 87, nays 6, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—87

Akaka	Gore	Mikulski
Bentsen	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Bradley	Grassley	Nickles
Breaux	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Hatfield	Pell
Burdick	Heflin	Pressler
Burns	Hollings	Pryor
Byrd	Inouye	Reid
Chafee	Jeffords	Riegle
Cochran	Johnston	Robb
Cohen	Kassebaum	Rockefeller
Conrad	Kasten	Rudman
Craig	Kennedy	Sarbanes
D'Amato	Kerrey	Sasser
Danforth	Kerry	Seymour
Daschle	Kohl	Shelby
Dixon	Lautenberg	Simon
Dodd	Leahy	Simpson
Dole	Levin	Smith
Domenici	Lieberman	Specter
Durenberger	Lott	Stevens
Exon	Lugar	Symms
Ford	Mack	Thurmond
Fowler	McCain	Warner
Garn	McConnell	Wirth
Glenn	Metzenbaum	Wofford

NAYS—6

Adams	Biden	Cranston
Baucus	Brown	Wellstone

NOT VOTING—7

Boren	Helms	Wallop
Coats	Roth	
DeConcini	Sanford	

So the joint resolution (H.J. Res. 517) was passed as follows:

H.J. RES. 517

Whereas the unresolved labor disputes between certain railroads and certain of their employees represented by certain labor organizations threaten essential transportation services of the United States;

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained;

Whereas the President, pursuant to the provisions of section 10 of the Railway Labor Act (45 U.S.C. 160), by Executive Orders No. 12794, 12795, and 12796 of March 31, 1992, created Presidential Emergency Boards No. 220, 221, and 222 to investigate the disputes referenced therein and report findings;

Whereas the recommendations of Presidential Emergency Boards No. 220, 221, and 222 issued on May 28, 1992, have not resulted in a settlement of all the disputes referenced therein;

Whereas all the procedures provided under the Railway Labor Act, and further procedures agreed to by the parties, have been exhausted and have not resulted in settlement of all the disputes;

Whereas it is desirable to resolve such disputes in a manner which encourages solutions reached through collective bargaining;

Whereas Congress, under the Commerce Clause of the Constitution, has the authority and responsibility to ensure the uninterrupted operation of essential transportation services;

Whereas Congress finds that emergency measures are essential to security and con-

tinuity of transportation services by such railroads; and

Whereas Congress has in the past enacted legislation for such purposes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONDITIONS DURING RESOLUTION OF DISPUTES.

The following conditions shall apply to all carriers and all employees affected by the dispute referred to in Executive Orders No. 12794, 12795, and 12796 of March 31, 1992, that remain unresolved between certain railroads and the employees of such railroads represented by the labor organizations which are party to such disputes:

(1) All carriers and all employees affected by such unresolved disputes shall take all necessary steps to restore or preserve the conditions that existed before 12:01 a.m. on June 24, 1992, applicable to all such carriers and employees, except as otherwise provided in this joint resolution.

(2) The final paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply and be extended for an additional period with respect to each unresolved dispute referred to in Executive Orders No. 12794, 12795, and 12796 of March 31, 1992, so that no change shall be made by any carrier or employee affected by such unresolved dispute, before a decision is rendered under section 3(d) or the parties have reached agreement, in the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on June 24, 1992.

SEC. 2. APPOINTMENT OF ARBITRATORS.

(a) IN GENERAL.—(1) Within three days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the carrier parties to the unresolved disputes described in Executive Order No. 12794 (acting jointly) and the labor organization party to such unresolved disputes shall each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within six days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the individuals selected under the preceding sentence shall jointly select an individual from such roster to serve as arbitrator for such unresolved disputes.

(2) Within three days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the carrier party to the unresolved dispute described in Executive Order No. 12795 and the labor organization party to such unresolved dispute shall each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within six days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the individuals selected under the preceding sentence shall jointly select an individual from such roster to serve as arbitrator for such unresolved dispute.

(3) Within three days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the carrier party to the unresolved disputes described in Executive Order No. 12796 and each of the labor organization parties to such unresolved disputes shall select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within six days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the individual selected by each of the labor organizations under the preceding sentence shall, jointly with the individual selected by the carrier under the preceding sentence, select an individual from such roster to serve as arbitrator for the unresolved disputes involving such labor organization and the carrier.

(4) For purposes of this subsection and section 1, a dispute as to which tentative agreement has been reached but not ratified shall be considered an unresolved dispute.

(b) QUALIFICATIONS.—No individual shall be selected under subsection (a) who is pecuniarily or otherwise interested in any organization of employees or any railroad, or who has served as a member of Presidential Emergency Board No. 219, 220, 221, or 222. Nothing in this joint resolution shall preclude an individual from serving as arbitrator for more than one dispute described in subsection (a).

(c) COMPENSATION AND EXPENSES.—The compensation of individuals selected under subsection (a) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

SEC. 3. CONDUCT OF NEGOTIATIONS.

(a) INITIAL PERIOD.—During the 20-day period beginning on the date of enactment of this joint resolution, the parties to the unresolved disputes described in section 2(a) shall conduct negotiations for the purpose of reaching agreement with respect to such disputes. Arbitrators selected under section 2 shall be available for consultation with the parties to the unresolved disputes for which they have been selected.

(b) SUBMISSION OF FINAL OFFERS.—If, within the period described in subsection (a), the parties to any dispute described in section 2(a) do not reach agreement, both the labor organization and the carrier (or carriers) shall, within five days after the end of such period, submit to the arbitrator and to the other party (or parties) a proposed written contract embodying its last best offer for agreement concerning rates of pay, rules, and working conditions. Such proposed written contract shall address only—

(1) issues that the relevant Presidential Emergency Board dealt with by a recommendation in its report issued on May 28, 1992; or

(2) other issues that the parties agree may be addressed by the written contract.

(c) FINAL NEGOTIATIONS.—Upon submission to the arbitrator of the proposed written contracts described in subsection (b) and for a period of seven days thereafter, the parties shall, with the assistance of the arbitrator, at tempt to reach agreement.

(d) ARBITRATOR'S DECISION.—If the parties fail to reach agreement within the period described in subsection (c), the arbitrator, within three days thereafter, shall render a decision selecting one of the proposed written contracts submitted under subsection (b), without modification and shall immediately submit such decision and selected contract to the President. The selected contract shall be binding on the parties and have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.) unless, within three days following receipt of the decision and selected contract, the President disapproves such decision and contract. If the President disapproves such decision and contract, the parties shall have those rights under the Railway Labor Act (45 U.S.C. 151 et seq.) they had at 12:01 a.m. on June 24, 1992.

(e) SPECIAL RULES.—(1) With respect to any tentative agreement reached but not ratified prior to the date of enactment of this joint resolution, if the ratification of such tentative agreement fails the parties to such tentative agreement shall be considered parties to an unresolved dispute for purpose of this section, and the time periods described in this section shall apply to such dispute beginning on the date of such failure.

(2) With respect to any tentative agreement reached after the date of enactment of this joint resolution, if the ratification of such tentative agreement fails, both the labor organization and the carrier (or carriers) party to such tentative agreement shall, within five days after the date of such failure, submit to the arbitrator and to the other party (or parties) a proposed written contract under subsection (b), and shall be subject to subsections (c) and (d).

(3) Upon the agreement of the parties to an unresolved dispute, final offers may be submitted under subsection (b) at any time after the date of enactment of this joint resolution.

(f) TERMINATION.—The responsibilities of an arbitrator appointed under section 2 shall terminate upon a decision under subsection (d).

SEC. 4. PRECLUSION OF JUDICIAL REVIEW.

There shall be no judicial review of any decision of an arbitrator under this joint resolution.

SEC. 5. MUTUAL AGREEMENT PRESERVED.

Nothing in this joint resolution shall prevent a mutual written agreement to any terms and conditions different from those established by the joint resolution.

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

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

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2448, AS MODIFIED, AND AMENDMENT NO. 2449 TO AMENDMENT NO. 2448

Mr. BYRD. Mr. President, in view of the fact that no action has been taken on either of my amendments, do I not have a right to modify them?

The PRESIDING OFFICER. The Senator has that right.

Mr. BYRD. Mr. President, I modify each of my two amendments on page 3, line 4, to change the word "shall" to the word "may."

The PRESIDING OFFICER. The amendments are so modified.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

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

TIME TO ADVANCE RELATIONS WITH TAIWAN

Mr. PRESSLER. Mr. President, recently I spoke on the occasion of the second anniversary of the free election of Lee Teng-hui as President of the Republic of China on Taiwan. Today I would like to address United States relations with that country. The United States continues to operate under what many consider to be an outdated policy mandated by the Taiwan Relations Act of 1979, which severed diplomatic relations between our two nations. Times have changed. Our policy regarding Taiwan should reflect the new realities.

We, in Congress, have a responsibility to American workers and businesses to explore every possible avenue to develop markets for American products. This responsibility takes on an even more urgent tone in the face of the tough economic times our Nation currently faces. We operate in a global marketplace, not a vacuum. As Taiwan's prominence in that marketplace rises, U.S. foreign policy should keep pace.

As a member of the Senate Foreign Relations Committee, I would like to suggest to my colleagues that the United States could have better relations with Taiwan. The Republic of China on Taiwan offers opportunities for strengthening both our own economic health and the democratic spirit in another nation.

Taiwan has demonstrated continuous economic growth, as evidenced by its increasing investment on the Chinese mainland and in our country. As the fifth largest investor in U.S. securities, it owns nearly $27 billion in U.S. Treasury bonds. In addition, Taiwan holds $920 million in American common stocks. We have official relations with many nations whose impact on our economy is not nearly as great as Taiwan's.

We also should keep in mind that one-half of Taiwan's GNP comes from exports—and a full one-third of those exports enter the United States. Nor should we ignore the technology that makes Taiwan the sixth largest electronics producer and the third largest personal computer producer in the world. American businesses stand only to benefit from greater access to the technology of our trading partners, such as Taiwan.

Another indicator of Taiwan's strength lies in its modernization efforts. Its 6-year development plan for the 1990's involves Government and private expenditures of $300 billion for infrastructure and other improvements. This ambitious plan signifies even greater economic prospects for Taiwan and trade with the United States.

Despite its growing self-reliance, Taiwan remains heavily dependent on the United States for both capital and agricultural goods. The possible benefits from even stronger relations are immense, both for the farmers and ranchers in my home State of South Dakota and workers and businesses across the country. Taiwan currently has ready access to United States markets. We should work to ensure that a reciprocal benefit is enjoyed by American producers.

Mr. President, other Members of Congress and I have spoken at length about the need to bring an end to the trade deficit we now experience. Reducing the trade deficit must be a high priority, and Taiwan presents a prime opportunity to help bring it under control. Our trade deficit with Taiwan amounted to $10 billion in 1991. Bringing our bilateral trade deficit under control will be impossible, however, if officials of our Governments continue to be unable to talk freely with each other and with companies with which American companies wish to trade.

The United States already affords Taiwan most-favored-nation trading status. Our Government sells over 600 million dollars' worth of arms to Taiwan every year. Yet our Government officials cannot communicate openly with officials of this valuable trading partner. That inconsistency in policy violates common sense.

Under President Lee Teng-hui and other able leaders, Taiwan has joined the democratization trend that is sweeping the world. This movement toward political liberalization should produce a stronger society on Taiwan and will help to break down the barriers that prevent us from improving trade relations with Taiwan.

Mr. President, we cannot ignore the possibility for closer official relations with the Republic of China on Taiwan. The time has come to consider replacing the outmoded Taiwan Relations Act with a new policy that permits direct, face-to-face contact between all officials of the Governments of the United States and of the Republic of China on Taiwan.

NORTH-SOUTH COCOM—AT LAST

Mr. PRESSLER. Mr. President, on January 31, 1989, I wrote to the President, saying that "if we are serious about slowing down the proliferation of chemical and biological weapons, we must find a mechanism, such as an organization of supplier countries, to limit trade in materials and technology necessary to produce those weapons."

My letter also stated, "Given the complexity of the subject matter and the need for uniform standards of control, consultation and cooperation among the leading supplier nations must be a high priority." And I suggested formation of an organization, "perhaps modeled on Cocom, established in one of the supplier countries" where experts could meet, "discuss the latest technology and reach a mutual accommodation on what should and should not be controlled."

Later in 1989, the Foreign Relations Committee adopted my amendment to S. 808, the Foreign Relations Authorization Act for 1990 and 1991, to promote the same approach. In a misguided attempt to slim down the legislation, my amendment was dropped by committee staffs even before it could be considered by conferees.

In the Washington Post of June 2, 1992, a story by Stuart Auerbach, entitled "Former Soviet Empire To Be Invited into Cocom," reported that "The United States and its allies agreed yesterday to invite the former Soviet empire to join in a global effort to control the spread of missile technology and nuclear, chemical and biological weapons to maverick Third World nations."

Mr. President, although it has been more than 3 years since I suggested this very approach, I praise President Bush for taking this necessary step. It can make the world safer from future madmen like Saddam Hussein.

Where do we stand on biological and chemical weapons proliferation issues? Thanks to the leadership of Senator JESSE HELMS and Representative HOWARD BERMAN of California in the other body, a partial solution to the chemical and biological weapons problem was included in the Foreign Relations Authorization Act for fiscal years 1992 and 1993.

Unfortunately, the House Ways and Means Committee backed away from a commitment it made during discussions with conferees to consider a free-standing bill imposing tough new import sanctions on the dealers of death. Senator HELMS, speaking during consideration of the conference report to accompany H.R. 1415 when it was considered by the Senate on October 3, 1991, fully outlined details of the agreement which had been made between himself, Chairmen PELL and FASCELL, Representative BERMAN, and Chairman ROSTENKOWSKI the previous evening.

The Bush administration's announcement of the formation of a Cocom Cooperative Forum on Export Control, which is open to the nations of the former Soviet Union and Eastern Europe, represents real progress. But the job of controlling the proliferation of weapons of mass destruction is far from over.

Mr. President, I ask unanimous consent that my speech from the CONGRESSIONAL RECORD of February 2, 1989, including my letter to President Bush, and the article I referred to from the Washington Post be included in the RECORD at this point.

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

[From the CONGRESSIONAL RECORD, Feb. 2, 1989]

A COCOM FOR CHEMICAL AND BIOLOGICAL WEAPONS

Mr. PRESSLER. Mr. President, the revelations of the past month have made it abundantly clear to all that the supplies of materials and technology related to the production of chemical and biological weapons must be controlled. It is absolutely vital that international trade be cleansed of this merchandise of death.

Wanting it to happen and making it happen, however, are two different things. Anyone who has considered the chemical and biological weapons production problem recognizes that controlling it will be very complex. Nearly every chemical precursor to chemical weapons production is a dual use item. That is, the chemicals which must be controlled also have common application in the pesticide and other fields. It has even been reported that the chemicals in ballpoint pen production could be misused.

Not only is it clear that this area is technically complex, it is equally clear that a unilateral American embargo of these materials and technology will not be sufficient. On January 24, Gen. William Burns told the Senate Foreign Relations Committee that it is hardly accidental that the names of firms alleged to be involved in this vile trade are not U.S.-based. Our export control system, while not perfect, has been fairly effective.

In order to control the supplies of chemical and biological agents, we must have the cooperation of all the potential suppliers. The suppliers must agree on what is to be controlled. Inevitably there will be differences of opinion to be resolved. Since technology does not stand still, discussions of technical experts on this subject should be more or less continuous. As a practical matter, the experts will need a regular place to meet and some sort of clerical assistance, copying facilities and the like.

The Coordinating Committee for Export Controls, known as Cocom, performs a similar function today in the field of strategic trade. It is composed of 16 major suppliers of high tech equipment, including the United States, and meets regularly in an annex of the American Embassy in Paris. Cocom has a small clerical staff and the usual office machines.

Currently there is no regular organization for the control of chemical and biological weapons. There is an informal organization, known as the Australia Group, which has met infrequently, has no regular meeting place and no assigned clerical staff.

This week, therefore, I wrote to President Bush proposing that the supplier nations should meet with a view to creating a Cocom for the control of chemical and biological agents. Such an organization would be small, perhaps modeled on Cocom, established in one of the supplier countries, and would contain a small clerical staff. It would be a place for experts to meet, discuss the latest technology and reach a mutual accommodation on what should and should not be controlled.

Mr. President, if we are serious about slowing down the proliferation of chemical and biological weapons, we must become serious about an organization of supplier countries to limit the trade in materials and technology necessary to produce such weapons. Failure to do so will send a dangerous message about our lack of resolve.

Mr. President, I ask unanimous consent that my letter, dated January 31, to President Bush be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, January 31, 1989.

Hon. GEORGE BUSH,
The President,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The shocking revelations of the past few months have made it abundantly clear that the supplies of materials and technology necessary to produce chemical and biological weapons must be controlled. It is absolutely vital that international trade be cleansed of this merchandise of death.

Given the complexity of the subject matter and the need for uniform standards of control, consultation and cooperation among the leading supplier nations must be a high priority. However, unlike the area of strategic trade which is coordinated by Cocom, there is no regular meeting place for international coordination of controls on chemical and biological weapons. The Australia Group has met infrequently, and has neither an established location nor the clerical staff to assist the work of experts in the field.

I hope, therefore, that you will consider calling the supplier nations together at some suitable location with the intention of creating a Cocom for the control of chemical and biological agents. Such an organization should be small, perhaps modeled on Cocom, established in one of the supplier countries, and should contain a small clerical staff. It would be a place for experts to meet, discuss the latest technology and reach a mutual accommodation on what should and should not be controlled.

If we are serious about slowing down the proliferation of chemical and biological weapons, we must find a mechanism, such as an organization of supplier countries, to limit trade in materials and technology necessary to produce these weapons. Our resolve and determination on this matter is crucial to stopping the spread of chemical and biological weapons.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

[From the Washington Post, June 2, 1992]

FORMER SOVIET EMPIRE TO BE INVITED INTO COCOM

(By Stuart Auerbach)

The United States and its allies agreed yesterday to invite the former Soviet empire to join a global effort to control the spread of missile technology and nuclear, chemical and biological weapons to maverick Third World nations.

Bush administration officials here said the decision was made at a day-long meeting in Paris of the Coordinating Committee for Multilateral Export Controls, known as Cocom, which for 40 years has been dedicated to stopping the flow of military significant technology from the West to the former Soviet Union and its Eastern European allies.

The move is part of an effort by the Bush administration to make sure that military scientists of the former Soviet Union do not sell their talents to rogue nations such as Iraq, Libya or North Korea, administration officials said.

The Cocom decision in Paris is due to be announced today by the State Department.

With the end of the Cold War, the threat of the flow of technology to Moscow subsided and was replaced with concerns that weapons of mass destruction would be used by rogue nations, as well as regional powers such as India and Pakistan for their own purposes.

To meet that new threat, the 17 Cocom members—Japan, Australia and all NATO nations except Iceland—agreed to ask their former enemies to join in a new effort to curb the spread of weapons of mass destruction.

Administration sources said the new group would be called the Cocom Cooperative Forum on Export Control. Membership would be open to Eastern European nations and the newly independent states of the former Soviet Union that were willing to restrict exports to keep advanced technologies from countries that would use them for military purposes.

THE CRAZY HORSE MEMORIAL: A CELEBRATION OF HERITAGE

Mr. PRESSLER. Mr. President, I rise today to recognize the 150th anniversary of the birth of Crazy Horse and the 10th anniversary of the death of sculptor Korczak (Kor-zak) Ziolkowski, who began work on the Crazy Horse Memorial near Custer, SD in 1948. It is appropriate that we celebrate the anniversary of the birth of Crazy Horse and mark the anniversary of the death of Korczak Ziolkowski in 1992, the Year of Reconciliation between Indian and non-Indian people.

The Crazy Horse Memorial is a tribute to the famous war chief of the Teton Sioux who was born on Rapid Creek in the Black Hills of South Dakota in 1842. A courageous warrior, he soon became a respected leader who fought fiercely to defend the rights and lives of his people. In 1876, he led a force of Cheyenne and Oglala warriors to victory over George Armstrong Custer in the Battle of Little Big Horn. Crazy Horse died at the age of 35 after being stabbed by a soldier at Fort Robinson, NE. Sculptor Korczak Ziolkowski was invited by Siouan chiefs to design and create a memorial to their great leader. An American of Polish descent, Ziolkowski began chiseling the giant mountain in 1948. For over three decades, he devoted himself to the carving of the mountain and to the causes of American Indians. The sculptor envisioned the monument not only as a commemoration of the great spirit of Crazy Horse, but as a tribute to the proud and rich heritage of all North American Indian tribes. Although Korczak Ziolkowski died in 1982, his vision continues under the careful and caring direction of his wife Ruth and their three children. Now emerging from the mountain is an awe-inspiring profile of the great American Indian leader. When complete, the monument will measure over 560 feet tall.

As a monumental work of art, the Crazy Horse Memorial also promises to become a great asset to South Dakota's tourism industry. Thousands of visitors along with members of the national and international media now gather to witness the blasts of dynamite needed to carve the mountain. As progress on the monument continues

and publicity on the work increases, ever greater numbers of tourists will see and appreciate the beauty of South Dakota's "fifth granite face."

As a memorial, Crazy Horse preserves the pride and richness of American Indian history. For the nine tribes in South Dakota as well as for all North American Indian tribes, Crazy Horse symbolizes the spirit of the American Indian people. In response to the question posed by a white man, "Where are your lands now?", Crazy Horse answered with an outstretched hand pointing, "My lands are where my dead lie buried." The spirit of Crazy Horse—his undaunted commitment to justice and to freedom—is truly an inspiration to people of all ages and races.

Mr. President, I also am saddened to report that this anniversary celebration has been tainted. I am referring to the appalling decision of the Hornell Brewing Co. of New York to market a malt liquor under the brand name "Crazy Horse". I am deeply angered by this insensitivity to Native American heritage. Defaming this hero by associating his name with any alcoholic beverage is an insult to the American Indian culture, and it must not be tolerated.

I have taken several steps to try to stop the marketing of this product. Recently I testified before the House Select Committee on Children, Youth and Families objecting to this use of the name of a great American Indian spiritual leader and war hero. Earlier I asked the company to stop marketing the product and earmark any profits for alcohol programs on Indian reservations. On June 3, 1992, I requested the support of Secretary of the Interior Manuel Lujan in prohibiting the sale of "Crazy Horse" malt liquor at national park concession stands. I will continue my efforts to protect the sanctity of the name Crazy Horse and to prevent the denigration of the American Indian culture. Mr. President, I am proud to recognize the Crazy Horse Memorial as we celebrate the 150th anniversary of the birth of Crazy Horse and mark the 10th anniversary of the death of sculptor Korczak Ziolkowski.

POET LAUREATE: A GREAT RESOURCE SELDOM USED

Mr. PRESSLER. Mr. President, in 1985, Congress created the office of poet laureate. Regrettably, this position has not received the attention it deserves. Recently, Russian exile Joseph Brodsky completed his term as poet laureate. Mr. Brodsky expected great things from this position. As something of a student of poetry myself, I was excited by his plan to create an extensive anthology of American poetry. To his dismay and to the dismay of other poetry enthusiasts, the services of the office of poet laureate have not been utilized to their full potential.

It was my pleasure to have Mr. Brodsky to lunch to discuss some poetry I was reading. I know very little about poetry and I felt a little inadequate talking to the poet laureate. But he was very nice and understanding to me.

Echoing the feelings of other former poet laureates, Mr. Brodsky believes that in Washington, a city of enormous professional and educational potential, there should be a greater commitment to literature—specifically American poetry. It is important that we Members of Congress take a greater interest in literature and in the office of poet laureate.

For decades, my home State of South Dakota has shown strong interest in literature and poetry. In February, 1987, honoring the 16th anniversary of the South Dakota State Poetry Society's publication, Pasque Petals, the State Poetry Society presented the Library of Congress with a bound set of the publication—all 60 volumes, I am proud to say that South Dakota's Pasque Petals is the oldest continuously published poetry magazine in the United States.

I was proud to personally present Pasque Petals to the Library of Congress on behalf of my State.

Mr. President, I ask unanimous consent that an article which appeared in the Washington Post on May 31, 1992, be printed in the RECORD.

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

[From the Washington Post, May 31, 1992]

POET LAUREATE LAMBASTES LIBRARY

(By David Streitfeld)

Joseph Brodsky's term as poet laureate, which officially concluded with a reading of his work to an overflow crowd of several hundred at the Library of Congress May 14, was stormier and more colorful than those of his four predecessors put together, and not coincidentally probably did more to boost the profile of this obscure post.

It wasn't raised nearly enough to satisfy Brodsky, however. In his favorite Capitol Hill cafe the morning after his final appearance, the poet waffled about whether he regretted taking the job, but made his feelings clear: "I could have happily lived without it. The job was ill-paid, ill-defined and ultimately ill-executed * * * I'm glad it's behind me."

In spite of the attention he has drawn to poetry since September, Brodsky had hoped and expected to do much more, and blames the library and its bureaucracy for his failure. "I experienced more hindrance than support," he said. "The library's chief interest is in sustaining things the way they are," and his tiny staff was "fairly inept."

His pet project, an anthology of American verse that would be as plentiful and as widely available as a telephone directory, isn't moving as fast as he wished; a plan for a major, freewheeling conference here on the state of American poetry at the end of the century is, at best, delayed.

The office of poet laureate, created by Congress in 1985 but not given much of a mandate, is, Brodsky said, "nothing but a feather in the library's cap—or rather, given the cloudiness of its mental operations, in its turban. (A turban looks like a cloud, yeah?) It should be a bully pulpit from which to address the entire nation."

At about this point the Russian exile will be criticized for being at best unrealistic, at worst naive. American-born poets, no matter how serious about their work, tend to be resigned to spending their lives without ever running into anyone out in the real world who can quote the title of a poem, much less a line or two. Yet Mark Strand, the previous laureate, echoed many of Brodsky's complaints in a phone interview from his home in Salt Lake City.

"If the position were taken more seriously, and there was a greater commitment to poetry, perhaps there would be more people at poetry readings," Strand said. "The whole poetry program and the laureateship has to be rethought. It's a tremendous mess."

Strand also said, somewhat contradictorily, that "it's not the library's fault. It's an institution, and like all institutions it works slowly." At readings he organized during his stint here, 30 to 50 people came. "That's disgraceful." Brodsky averaged more, but then he chose better-known poets.

Even though Strand's expectations weren't enormous, he was disappointed. "In Salt Lake City, you'd expect most people to be reading The Book of Mormon, which in fact is what most people do read. In Washington, with a highly educated professional population, you'd expect a greater literacy or greater interest in literature. But there's this great silence, and no sign that they ever read anything."

He traces it all the way to the top. "Here's a president whose supposed to be the education president, and I have not heard tell of one book he's supposed to have read while in office. Wouldn't it be wonderful if Bush could say, 'Boy, I really liked that last novel of Updike's'?"

Among Strand's off-the-cuff recommendations for improving things: "They have to say poetry is important, they have to do twice as much advertising, they have to take it off the ugly brown paper they do the announcements on and have to revise the mailing list. They have to say, 'Let's do something.' Start a poetry bookstore in the library. Take out a big ad in the paper and let people know what the schedule is through the year, so people can put it on the refrigerator. Do something that's better and different."

To these comments, Prosser Gifford, the library's director of scholarly programs, responds that the poetry position is indeed underfunded. "We certainly do have a commitment to poetry and literature but we could do more if we had more funds, and we'll soon develop a procedure for doing so."

To his knowledge, Gifford said, there haven't been any major new gifts since the original establishment of the poetry endowment in 1954. As for other complaints by Brodsky, he said a bit cryptically: "Each poet laureate is his or her own personality."

Brodsky certainly has a flamboyant one. Anyone who's been sentenced to five years at hard labor simply for declaring himself a poet—as Brodsky was in the Soviet Union in 1964—might naturally tend to have feelings about the form that are larger than life.

His last library reading was as remarkable performance simply as theater: The poet insisting on beginning with two works of Robert Frost, then moving onto his own work, alternating in Russian and English, doing much of it from memory. His favorite poem written here, he said, was also the shortest:

I sit at my desk
My life's grotesque.

It was, in truth, often difficult to make out the roughly accented words, but no one seemed to feel that really mattered: This was more akin to a musical performance. Through much of it Brodsky's final pre-performance cigarette, dumped hastily into a plant on the podium, continued to billow forth. For a smoker so devout that he should be doing advertisements for Marlboro, it was particularly appropriate.

The poet's trouble at the library was compounded by the fact that he is not what one would call a natural administrator. His staff would tell callers they never knew when or if he'd show up. Inviting a poet to come and read was often a last-minute decision. Brodsky said it was "psychologically impossible" to do things any other way. In his office in the library's dusty, cluttered attic. I once saw the start of a letter that could be his slogan: I apologize for not responding promptly * * * There is, in short, probably enough blame to go around.

When Brodsky was announced as laureate last year, there was some grumbling over the fact that he wasn't American-born. Yet he quickly won most over with his ardent partisanship of the native verse. And he is increasingly an American poet: He continues to write in Russian, but now translates himself. His passion for English is one of the more dramatic things about him, although his words often seem to come out of a private time warp. "He still believes he's the cat's pajamas," he says of one exile. Or to a friend on the phone: "Call me Monday morning when the rooster sings.

American poetry is even better, Brodsky is fond of saying, than the country's two most famous cultural creations: jazz and cinema. An American citizen for 15 years, this guy's been in love with our verse since he taught himself the language three decades ago, and he doesn't see why everyone else shouldn't feel the same way. Just give them a chance.

Merely as a statement of ambition, this is wildly different from Brodsky's four predecessors. Robert Penn Warren, Richard Wilbur and Howard Nemerov, for various reasons including age and health, didn't move to Washington for their stints. Strand did, but could only do so because he had a MacArthur fellowship to supplement the $35,000 the library pays.

Brodsky—even commuting from New York two or three days a week—assumed a much higher profile than any of them. "You want to be self-effacing in poetry," he said during a lecture at the library last year, "you might as well take the next step and shut up."

Before there was a poet laureate, the library had a consultant in poetry who performed some of the same roles. As the Library of Congress is still at the service of the legislators it was originally set up to serve, so too was the consultant (as is the laureate).

"Nobody ever consulted me on anything," Brodsky remembered. Then he brightened: One member of Congress actually did call, Sen. Larry Pressler (R-S.D.). "He said he would like to upgrade his sense of American poetry." The other 534 members were presumably busy confirming Mark Strand's vision of Washington as a place where the elite are uncultured. Brodsky's own verdict on the city: "Lively, but on the whole it wasn't called Ground Zero for nothing."

Yet there were a few encouraging signs of movement. A minor one that could stand for the whole: Two mid-level executives of the Pathmark supermarket chain, responding to the poet's plea, sent him a letter saying: "If you want an 'in' to getting poetry to the supermarket checkout line (Think you can beat 'Baby born with map of solar system on his back'?) we'd be willing to do everything within our limited authority. Just for the hell of it."

Poetry isn't in supermarkets, or drugstores. Almost everywhere, the status quo is that verse goes unrecognized. Poets, too. The guy behind the counter of the cafe the morning Brodsky was being interviewed, apparently with no idea who he was even after his many visits there, motioned for him to put out his cigarette. "Hey, this is a cafe!" the poet yelled back. And defiantly continued to smoke.

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 sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REVISED DEFERRALS OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 254

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report two revised deferrals, now totaling $2.2 billion in budgetary resources. Including the revised deferrals, funds withheld in FY 1992 now total $5.7 billion.

The deferrals affect Funds Appropriated to the President and the Department of Agriculture. The details of the deferrals are contained in the attached reports.

GEORGE BUSH.

THE WHITE HOUSE, *June 25, 1992.*

FEDERAL GRANTS FOR STATE AND LOCAL "GI BILLS" FOR CHILDREN—MESSAGE FROM THE PRESIDENT—PM 255

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

Forty-eight years ago this week, President Franklin Roosevelt signed the GI Bill. With the hope of duplicating the success of that historic legislation, I am pleased to transmit for your immediate consideration and enactment the "Federal Grants for State and Local 'GI Bills' for Children." This proposal is a crucial component of our efforts to help the country achieve the National Education Goals by the year 2000. Also transmitted is a section-by-section analysis.

This legislation would authorize half-a-billion new Federal dollars in fiscal year 1993, and additional amounts in later years, to help States and communities give $1,000 scholarships to middle- and low-income children. Families may spend these scholarships at any lawfully operating school of their choice—public, private, or religious. The result would be to give middle- and low-income families consumer power—dollars to spend at any school they choose. This is the muscle parents need to transform our education system and create the best schools in the world for all our children.

At the close of World War II, the Federal Government created the GI Bill giving veterans scholarships to use at any college of their choice—public, private, or religious. This consumer power gave veterans opportunity, helped to create the best system of colleges and universities in the world, and gave America a new generation of leaders. Now that the Cold War is over, the Federal Government should help State and local governments create GI Bills for children. Under this approach, scholarships would be available for middle- and low-income parents to use at the elementary or secondary schools of their choice.

This bill will give middle- and low-income families more of the same choices available to wealthier families. Through families, it will provide new funds at the school site that teachers and principals can use to help all children achieve the high educational standards called for by the National Education Goals. In addition, the legislation will create a marketplace of educational opportunities to help improve all schools; engage parents in their children's schooling; and encourage creation of other academic programs for children before and after school, on weekends, or during school vacations.

Once this proposal is enacted, any State or locality can apply for enough Federal funds to give each child of a middle- or low-income family a $1,000 annual scholarship. The governmental unit would have to take significant steps to provide a choice of schools to

families with school children in the area and permit families to spend the $1,000 Federal scholarships at a wide variety of public and private schools. It would have to allow all lawfully operating schools in the area—public, private, and religious—to participate if they choose.

The Secretary of Education would select grantees on the basis of: (1) the number and variety of choices made available to families; (2) the extent to which the applicant has provided educational choices to all children, including children who are not eligible for scholarships; (3) the proportion of children who will participate who are from low-income families; and (4) the applicant's financial support (including private support) for the project.

The maximum family income for eligible children would be determined by the grantee, but it could not exceed the higher of the State or national median income, adjusted for family size. All eligible children in the project area would receive scholarships, as long as sufficient funds are available. If all eligible children cannot participate, the grantee would provide scholarships to those with the lowest family incomes. Students would continue to receive scholarships over the 4-year life of a project unless they leave school, move out of the area, or no longer meet the income criteria. Up to $500 of each scholarship may be used for other academic programs for children before and after school, on weekends, or during school vacations.

This bill provides aid to families, not institutions. However, as a condition of participating in this program, a school must comply with Federal anti-discrimination provisions of: section 601 of title VI of the Civil Rights Act of 1964 (race), section 901 of title IX of the Education Amendments of 1972 (gender), and section 504 of the Rehabilitation Act of 1973 (disability).

Funding is authorized at $500 million in FY 1993, and "such sums as may be necessary" through FY 2000. The Department of Education would conduct a comprehensive evaluation of these demonstration projects. The evaluation would assess the impact of the program in such areas as educational achievement and parents' involvement in, and satisfaction with, their children's education.

I urge the Congress to take prompt and favorable action on this legislation.

GEORGE BUSH.

THE WHITE HOUSE, *June 25, 1992.*

MESSAGES FROM THE HOUSE

At 3:56 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5428. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

At 9:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 517. Joint resolution to provide for a settlement of the railroad labor-management disputes between certain railroads and certain of their employees.

ENROLLED BILL SIGNED

At 10:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3711. An act to authorize grants to be made to State programs designed to provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 517. Joint resolution to provide for a settlement of the railroad labor-management disputes between certain railroads and certain of their employees.

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5428. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with amendments:

H.R. 2324. A bill to amend title 28, United States Code, with respect to witness fees.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 3379. A bill to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference.

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment:

S. 2566. A bill to establish partnerships involving Department of Energy laboratories and educational institutions, industry, and other Federal agencies, for purposes of development and application of technologies critical to national security and scientific and technological competitiveness.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 248. A joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day".

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title and an amended preamble:

S.J. Res. 252. A joint resolution designating the week of April 19 - 25, 1992, as "National Credit Education Week".

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amended preamble:

S.J. Res. 281. A joint resolution designating the week of September 14 through September 20, 1992, as "National Small Independent Telephone Company Week".

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 287. A joint resolution to designate the week of October 4, 1992, through October 10, 1992, as "Mental Illness Awareness Week".

S.J. Res. 288. A joint resolution designating the week beginning July 26, 1992, as "Lyme Disease Awareness Week".

S.J. Res. 294. A joint resolution to designate the week of October 18, 1992 as "National Radon Action Week".

S.J. Res. 295. A joint resolution designating September 10, 1992, as "National D.A.R.E. Day".

S.J. Res. 301. A joint resolution designating July 2, 1992, as "National Literacy Day".

S.J. Res. 303. A joint resolution to designate October 1992 as "National Breast Cancer Awareness Month".

S.J. Res. 304. A joint resolution designating January 3, 1993, through January 9, 1993, as "National Law Enforcement Training Week".

S.J. Res. 305. A joint resolution to designate October 1992 as "Polish American Heritage Month".

S.J. Res. 307. A joint resolution designating the month of July 1992 as "National Muscular Dystrophy Awareness Month".

S.J. Res. 309. A joint resolution designating the week beginning November 8, 1992, as "National Women Veterans Recognition Week".

S.J. Res. 318. A joint resolution designating November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day".

S.J. Res. 319. A joint resolution to designate the second Sunday in October of 1992 as "National Children's Day".

By Mr. FORD, from the Committee on Rules and Administration:

Special Report entitled "Printing Pictures of Missing Children on Senate Mail" (Rept. No. 102-303).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Stephanie Duncan-Peters, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for the term of 15 years;

Ann O'Regan Keary, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for the term of 15 years;

Judith E. Retchin, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for the term of 15 years; and

William M. Jackson, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for the term of 15 years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Eduardo C. Robreno, of Pennsylvania, to be U.S. district judge for the eastern District of Pennsylvania;

Thomas K. Moore, of the Virgin Islands, to be a judge of the District Court of the Virgin Islands for a term of 10 years;

Gordon J. Quist, of Michigan, to be U.S. district judge for the Western District of Michigan; and

Norman H. Stahl, of New Hampshire, to be U.S. Circuit Judge for the First Circuit.

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. KOHL (for himself, Mr. GLENN, and Mr. PRYOR):

S. 2892. A bill to amend title 44, United States Code, to authorize appropriations for the National Archives and Records Administration and the National Historic Publications and Records Commission, to establish requirements for the disposal by Federal agencies of extra copies of records, to establish requirements for the management of public records, and to establish requirements applicable to the National Archives Trust Fund Board; to the Committee on Governmental Affairs.

By Mr. PRYOR (for himself, Mr. MITCHELL, Mr. STEVENS, Mr. GLENN, Mr. HOLLINGS, Ms. MIKULSKI, Mr. DODD, Mr. LEVIN, Mr. BUMPERS, Mr. ROBB, Mr. KENNEDY, Mr. PELL, Mr. RIEGLE, Mr. KOHL, Mr. GRAHAM, Mr. WIRTH, Mr. SASSER, Mr. SARBANES, Mr. BINGAMAN, Mr. WOFFORD, Mr. AKAKA, Mr. METZENBAUM, Mr. BREAUX, Mr. NUNN, Mr. ADAMS, and Mr. REID):

S. 2893. A bill to provide for assistance to Federal employees in reduction in force actions of Federal personnel, and for other purposes; to the Committee on Governmental Affairs.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 2894. A bill to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992; to the Committee on Commerce, Science, and Transportation.

By Mr. ADAMS (for himself, Mr. LEAHY, Mr. WIRTH, and Mr. DODD):

S. 2895. A bill to provide a program for rural development for communities and businesses in the Pacific Northwest and northern California, to provide retraining assistance for workers in the Pacific Northwest and northern California who have been dislocated from the timber harvesting, log hauling and transportation, saw mill, and wood products industries, to provide cost share and forest management assistance to private landowners in the Pacific Northwest and northern California in order to ensure the long-term supply of Pacific yew for medicinal purposes, to preserve Federal watersheds and late-successional and old-growth forests in the Pacific Northwest and northern California, to provide oversight of national forest ecosystem management throughout the United States, to provide for research on national forest ecosystem management, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROCKEFELLER (for himself and Mr. LIEBERMAN):

S. 2896. A bill to ensure that consumer credit reports include information on any overdue child support obligations of the consumer; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INOUYE:

S. 2897. A bill for the relief of the Persis Corporation; to the Committee on the Judiciary.

By Mr. MCCAIN:

S. 2898. A bill to authorize a project to identify, map and assess transboundary aquifers along the border between the United States and Mexico, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KENNEDY (for himself, Mr. ADAMS, Mr. INOUYE, and Mr. WELLSTONE):

S. 2899. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PRYOR (for himself and Mr. COHEN):

S. Res. 320. A resolution to authorize the printing of additional copies of a Senate report entitled "Developments in Aging: 1991"; to the Committee on Rules and Administration.

By Mr. DECONCINI:

S. Con. Res. 127. A concurrent resolution to express the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, Georgia; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL (for himself, Mr. GLENN, and Mr. PRYOR):

S. 2892. A bill to amend title 44, United States Code, to authorize appropriations for the National Archives and Records Administration and the National Historic Publications and Records Commission, to establish requirements for the disposal by Federal agencies of extra copies of record, to establish requirements for the management of public records, and to establish requirements applicable to the National Archives Trust Fund Board; to the Committee on Governmental Affairs.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION AUTHORIZATION ACT OF 1992

• Mr. KOHL. Mr. President, today Senators GLENN, PRYOR, and I are introducing the National Archives and Records Administration Authorization Act of 1992. This act provides a number of specific changes in the operation of the National Archives. The purpose of these changes is to strengthen the operations of the Archives and to make it more responsive to the people it serves—the public of this United States.

The Archives is a remarkable institution. With some 250 miles of shelves, it houses the most important documents of our history. The Constitution and the Declaration of Independence are there. And, perhaps more importantly, the Archives holds the documents that make up each American's personal history. The Archives makes census records available for people researching their roots. In fact, the 1920 census was recently opened up for that purpose.

Each year millions of visitors come to Washington, DC, because it embodies the history of this great country. Many of those visitors get a real and tangible feel for our history by visiting the National Archives. But the Archives is not just a museum. It is a live and active place for researchers as well. Much of the documentary footage in the PBS series on the Civil War came from the National Archives. And every day the study rooms at the Archives are filled with researchers developing new views of our history.

Since the Archives was separated from the General Services Administration in 1984 it has received little attention from Congress. Two recent, GAO's "Federal Records: Document Removal by Agency Heads Needs Independent Oversight" and the House Information Subcommittee's "Taking a Byte Out of History", have illustrated the need for oversight. Our legislation is an attempt to provide that.

Let me highlight some of the major provisions in this bill.

The Archives recently changed the rules regarding access to films, videotapes, and audiotapes. That change was made without consulting the public or the researchers who use those records. It is unlikely that the PBS series on the Civil War could be made under the current rules. This bill provides for changes such as this to be made publicly—with Federal Record notice and an opportunity for public comment.

This legislation also addresses the Archives' trust fund, a revolving fund to run souvenir shops and handle requests for copies of documents. The fund now charges 25 cents per page for copies and until recently charged 35 cents. That is more than agencies charge for freedom of information requests, and more than most commercial copying costs. This bill requires that copying be done at a price that does not exceed costs. In addition, the bill provides for a Visiting Scholars Program to be funded by the trust

fund. This would provide travel and lodging expenses for researchers to travel to Washington to use the Archives' resources.

Our legislation also requires the National Archives to develop adequate procedures for preserving electronic records. To date, the Archives has often fought against preserving such records. A number of publications have recommended changes in the way the Archives handles electronic records. "Taking a Byte Out of History" makes specific recommendations as does "Research Issues in Electronic Records" published by the National Historical Publications and Records Commission. This bill provides for an Advisory Committee on Electronic Records to provide a forum for continued advice on this issue.

And, finally, our bill calls for a general advisory committee for the Archives. There is concern that the National Archives has grown too isolated from their customers—the public—and from the community of archivists. This committee will advise the Archivist on all programs and activities of the Archives.

I have outlined the details of this bill in a summary, and I ask unanimous consent that this be printed in the RECORD. I also ask unanimous consent that the full text of our legislation be placed in the RECORD.

These details are important, but, at its heart, our legislation is not about details or dry documents. It is about keeping our history alive for our children and their children. It is about our obligation to assure records exist that future generations can use to explore their past as fully as we have been able to explore ours. It is about keeping the National Archives strong and open so that our past can continue to shape and guide our future.

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

S. 2892

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 "National Archives and Records Administration Authorization Act of 1992".

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS.

(a) NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—

(1) IN GENERAL.—Chapter 21 of title 44, United States Code, is amended by adding at the end the following:

"§ 2121. Authorization of appropriations

"There are authorized to be appropriated to the Archivist to carry out functions of the Archivist, to remain available until expended—

"(1) $210,000,000 for fiscal year 1994;

"(2) $230,000,000 for fiscal year 1995; and

"(3) $250,000,000 for fiscal year 1996.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 21 of title 44, United States Code, is amended by adding at the end the following:

"2121. Authorization of appropriations.".

(b) NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION.—Section 2504(f) of title 14, United States Code, is amended to read as follows:

"(f)(1) For the purposes specified in this section, there is authorized to be appropriated to the Commission—

"(A) $7,000,000 for fiscal year 1994;

"(B) $8,500,000 for fiscal year 1995; and

"(C) $10,000,000 for fiscal year 1996.

"(2) Amounts appropriated under this subsection shall be available until expended if so provided in appropriations Acts.".

SEC. 3. RULES AFFECTING PUBLIC ACCESS TO RECORDS.

Section 2108 of title 44, United States Code, is amended by adding at the end the following:

"(c) Any rule that affects access or use by the public to records in the custody of the Archivist may be adopted or amended only in accordance with the notice and comment requirements of section 553 (b), (c), and (d) of title 5.".

SEC. 4. REMOVAL OF RECORDS.

(a) DEFINITION OF RECORDS.—Section 3301 of title 44, United States Code, is amended to read as follows:

"§ 3301. Definition of records

"As used in this chapter, the term 'records'—

"(1) includes all books, papers, maps, photographs, computer programs, machine readable materials, computerized, digitized, or electronic information, regardless of the medium on which it is stored, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them; and

"(2) does not include stocks of publications.".

(b) REQUIREMENTS FOR DISPOSAL OF EXTRA COPIES OF RECORDS.—Chapter 33 of title 44, United States Code, is amended by striking sections 3315, 3316, 3317, 3318, 3319, 3320, 3321, 3322, 3323, and 3324, and inserting the following:

"§ 3315. Removal of records

"(a) Subject to regulations issued by the Archivist of the United States under subsection (b), the head of an agency may remove or authorize the removal from the agency extra copies of records maintained only for convenience of reference.

"(b)(1) The Archivist of the United States shall issue regulations for the removal of records under subsection (a).

"(2) Regulations issued by the Archivist of the United States under this subsection—

"(A) shall expressly prohibit the removal under this section of—

"(i) records classified by law or by Executive order in the interest of national defense or foreign policy;

"(ii) original records; and

"(iii) records containing information that is subject to express statutory prohibitions against public disclosure;

"(B) shall require that, before a record may be removed from an agency under this section, the record shall be independently reviewed by—

"(i) the Archivist, in the case of a record proposed to be removed by the head of an executive department, or

"(ii) the Archivist or an officer or employee of the agency, in the case of a record proposed to be removed by any other person;

"(C) may require that a person who removes a record from an agency under this section shall be liable to the United States Government for—

"(i) any duplication of the record requested by the person, and

"(ii) the cost of delivering the record to the person.

"(c)(1) The Archivist of the United States (or a designee of the Archivist) may inspect any record removed from an agency.

"(2) The Comptroller General of the United States (or a designee of the Comptroller General) may inspect any record removed from an agency.

"(3) The Archivist of the United States may institute appropriate legal action in the United States District Court for the District of Columbia to—

"(A) require the custodian of any record removed from an agency to permit the Archivist (or a designee of the Archivist) to inspect the record; and

"(B) recover any record improperly removed from an agency.".

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 33 of title 44, United States Code, is amended—

(1) by striking the items relating to sections 3315, 3316, 3317, 3318, 3319, 3320, 3321, 3322, 3323, and 3324, and

(2) by adding at the end the following:

"3315. Removal of records.".

SEC. 5. REGULATIONS CONCERNING MANAGEMENT

(a) DISPOSAL OF RECORDS.—Section 3302 of title 44, United States Code, is amended—

(1) in the first sentence by inserting "and binding on all Federal agencies" after "chapter"; and

(2) by redesignating paragraphs (1) through (3) as paragraphs (3) through (5), respectively, and inserting before such newly redesignated paragraph (3) the following new paragraphs:

"(1) standards for interpreting the definition of records under section 3301, including standards for determining if records are appropriate for preservation as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of an agency, or because of the informational value of the records,

"(2) standards for establishment and maintenance of adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency for incorporation in record keeping requirements to be issued by heads of agencies,".

(b) ESTABLISHMENT OF PROGRAM OF MANAGEMENT.—Section 3102(3) of title 44, United States Code, is amended by striking out "and 3101–3107, of this title and the regulations" and inserting in lieu thereof "3101–3107, and 3301–3314, of this title and the regulations and standards".

(c) EXAMINATION OF RECORDS FOR HISTORICAL PRESERVATION.—(1) Section 2107 of title 44, United States Code, is amended—

(A) in the first sentence by inserting "(a)" before "When it appears"; and

(B) by adding at the end thereof the following new subsection:

"(b) Subject to section 2906 of this title and notwithstanding any other provision of law, the Archivist (or a designee of the Archivist) may inspect or examine any record to determine if—

"(1) an agency is in compliance with the binding guidelines issued by the Archivist; and

"(2) the record has sufficient value to warrant the continued preservation by the United States Government.".

(2) Section 2906 of title 44, United States Code, is amended—

(A) in subsection (a)(1) by striking out the first sentence and inserting in lieu thereof: "In carrying out their respective duties and responsibilities under this chapter and under chapters 21, 31, 33, and 35 of this title, the Administrator of General Services and the Archivist (or a designee of either) may inspect the records or the records management practices and programs of any Federal agency for the purposes of rendering recommendations for the improvement of records management practices and programs. The Archivist (or a designee of the Archivist) may inspect the records of any Federal agency for the purpose of determining whether records in the custody of the agency have sufficient historical, administrative, legal, research or other value to warrant their further preservation by the Government.";

(B) in subsection (a) by amending paragraph (2) to read as follows:

"(2) The Administrator and the Archivist shall promulgate regulations (subject to the approval of the President) to—

"(A) provide for the inspection of records, the use of which is restricted by law; and

"(B) provide that regulations authorizing and restricting the examination and use of such records applicable to the head of the custodial agency or to employees of that agency are applied in the same manner to the Archivist and the Administrator and to the employees of the National Archives and Records Administration and General Services Administration, respectively."; and

(C) in subsection (b) by inserting "and in sections 2107 and 3303a of this title" after "subsection (a) of this section".

(3) The first sentence of section 3303a(a) is amended to read as follows: "Subject to the limitations of sections 2906 and notwithstanding any other provision of law, the Archivist shall examine the lists and schedules submitted under section 3303, and the Archivist (or a designee of the Archivist) may examine any record on such lists or schedule.".

SEC. 6. AMENDMENTS RELATING TO NATIONAL ARCHIVES TRUST FUND BOARD.

(a) COMPLIANCE WITH PROCUREMENT RULES.—Section 2302 of title 44, United States Code, is amended—

(1) in paragraph (3) by striking "and" after the semicolon at the end,

(2) in paragraph (4) by striking the period and inserting "; and", and

(3) by adding at the end the following:

"(5) shall comply with all procurement rules that are applicable to the National Archives and Records Administration.".

(b) CLERICAL AMENDMENTS RELATING TO TAX TREATMENT OF GIFTS.—Section 2305 of title 44, United States Code, is amended—

(1) by inserting "(a)" before "The Board"; and

(2) by adding at the end the following:

"(b) Gifts and bequests received by the Board under this chapter, and the income from them, are exempt from taxes.".

(c) TRUST FUND ACCOUNT AND DISBURSEMENTS.—

(1) IN GENERAL.—Section 2307 of title 44, United States Code, is amended to read as follows:

"§ 2307. Trust fund account; disbursements

"The income from trust funds held by the Board and the proceeds from the sale of securities and other personal property, as and when collected, shall be covered into the Treasury of the United States in a trust fund account to be known as the National Archives Trust Fund, subject to disbursement on the basis of certified vouchers of the Archivist of the United States (or a designee of the Archivist) for activities approved by the Board and in the interest of the national archival and records activities administered by the National Archives and Records Administration.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 44, United States Code, is amended in the item relating to section 2307 by striking "; sales of publications and releases".

(d) PUBLICATIONS.—

(1) GENERAL AUTHORITY.—Section 2308 of title 44, United States Code, is amended to read as follows:

"§ 2308. Publications

"The Board may authorize—

"(1) the preparation and publication of special works and collections of sources; and

"(2) the preparation, duplication, editing, and release of historical photographic materials and sound recordings.".

(2) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 23, United States Code, is amended—

(A) in the item relating to section 2302 by inserting "the" before "Board"; and

(B) by striking the item relating to section 2308 and inserting the following:

"2308. Publications.".

(e) SALES OF PUBLICATIONS AND OTHER ITEMS.—

(1) IN GENERAL.—Chapter 23 of title 44, United States Code, is amended by adding at the end the following:

"§ 2309. Sales of publications and other items

"(a)(1) The Board may sell—

"(A) publications authorized under section 2308 which are produced with amounts in the National Archives Trust Fund and;

"(B) other publications and items.

"(2) Subject to subsection (b), the Board may charge a price for any publication and other item sold under this section, that shall not exceed the cost of producing the item, plus a profit of not more than 25 percent of that cost.

"(3) Amounts received by the United States as proceeds of sales under this section shall be deposited into the National Archives Trust Fund established under section 2307.

"(b)(1) The Board shall provide for the sale of reproductions of documents, photographs, motion pictures, sound recordings, and other records in the custody of the Archivist of the United States, at a price that shall not exceed the cost of producing the reproductions.

"(2) Amounts in the National Archives Trust Fund established under section 2307 that are attributable to profits from sales of items under subsection (a) shall be available for use by the Board for providing copies under this subsection at a price that is less than the cost of producing the copies.

"(3) The Board shall, subject to the availability of funds, provide reproductions without charge to persons who would qualify for a waiver of fees under section 552 of title 5.

"(4) The Board may establish limits on the number of reproductions that may be provided to a person in any year under this subsection without charge.

"(c) The Board shall establish a program, to be known as the 'Visiting Scholars Program', under which persons engaged in scholarly research may be provided travel and lodging support to visit research facilities of the National Archives and Records Administration.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 44, United States Code, is amended by adding at the end the following:

"2309. Sales of publications and other items.".

(f) ACCOUNTING; EXCESS PROFITS.—

(1) IN GENERAL.—Chapter 23 of title 44, United States Code, is amended by adding at the end the following:

"§ 2310. Accounting; excess profits

"(a)(1) The Comptroller General of the United States shall, by not later than 1 year after the date of the enactment of the National Archives and Records Administration Authorization Act of 1992—

"(A) conduct an audit of the National Archives Trust Fund established under section 2307, in accordance with generally accepted Federal Government accounting principles; and

"(B) as part of that audit, identify any amounts in the National Archives Trust Fund that are not needed for the operation of the Board during the next fiscal year, including a reasonable reserve against losses which might be incurred by the Board during that period; and

"(C) submit to the Board and the Congress a report on that audit.

"(2) Not later than 1 year after the date of the receipt by the Board of the report under paragraph (1)(B), and annually thereafter, the Board shall—

"(A) provide for an independent audit of the National Archives Trust Fund established under section 2307, in accordance with generally accepted Federal Government accounting principles; and

"(B) submit to the Congress a report on that audit.

"(b)(1) There is established in the National Archives Trust Fund a separate account, to be known as the 'Excess Funds Account', which shall consist of—

"(A) amounts identified by the Comptroller General under subsection (a)(1)(B);

"(B) profits transferred to the account under subsection (c); and

"(C) interest earned on amounts in the National Archives Trust Fund.

"(2) Amounts in the Excess Funds Account shall be used by the Board for—

"(A) the Visiting Scholars Program established under section 2309;

"(B) reproductions of records under section 2309(b); and

"(C) any other authorized activity of the Board.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 44, United States Code, is amended by adding at the end the following:

"2310. Accounting; excess profits.".

SEC. 7. ADVISORY COMMITTEE ON ELECTRONIC RECORDS.

(a) ESTABLISHMENT OF COMMITTEE.—Chapter 21 of title 44, United States Code, is amended by inserting after section 2118 the following:

"§ 2119. Advisory Committee on Electronic Records

"(a) There is established in the National Archives and Records Administration an Advisory Committee on Electronic Records (hereafter in this section referred to as the 'Committee').

"(b)(1) The Committee shall advise the Archivist on matters pertaining to the acquisition, preservation, and documentation of electronic records by the Administration, in-

cluding technical, policy, legal, and management issues.

"(2) Not later than 2 years after its first meeting, the Committee shall make recommendations to the Archivist concerning—

"(A) the role of satellite archives as a means of preserving and providing public access to electronic records;

"(B) use of the National Research and Education Network established under section 102 of the High-Performance Computing Act of 1991 or other electronic networks to provide public access to electronic records maintained by the Administration;

"(C) preservation and access problems resulting from electronic records created or maintained by Federal contractors or grantees;

"(D) the need for improved documentation and standards for Federal electronic records;

"(E) special preservation problems for records maintained on personal computers, battlefield records, and electronic mail; and

"(F) the ability of the Archivist to obtain from Federal agencies in a timely manner copies of electronic records for preservation.

"(c)(1) The Committee shall be composed of not less than 11 and not more than 17 members, as specified by the Archivist, who shall be appointed by the Archivist.

"(2) The members of the Committee shall be appointed from individuals with knowledge and expertise in computer science, records management, information resources management and policy, public administration, electronic communications, Government operations, history, and archival administration.

"(3) A majority of the members of the Committee shall be appointed from individuals who are not employed by the Federal Government.

"(d)(1) Except as provided in paragraph (2), a member of the Committee shall not be paid for his or her service on the Committee.

"(2) Each member of the Committee shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(e)(1) The Archivist (or a designee of the Archivist) shall be Chairman of the Committee.

"(2) The Committee shall meet at least twice each year, as specified by the Chairman of the Committee.

"(f) The Archivist shall provide to the Committee such administrative support services as are necessary for the Committee to carry out its responsibilities under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 21 of title 44, United States Code, is amended by inserting after the item relating to section 2118 the following:

"2119. Advisory Committee on Electronic Records.".

SEC. 8. ADVISORY COMMITTEE ON THE NATIONAL ARCHIVES.

(a) ESTABLISHMENT OF COMMITTEE.—Chapter 21 of title 44, United States Code, is amended by inserting after section 2119 the following:

"§ 2120. Advisory Committee on the National Archives

"(a) There is established in the Administration an Advisory Committee on the National Archives (hereinafter in this section referred to as the 'Committee').

"(b) The Committee—

"(1) shall advise the Archivist on all programs and activities of the National Archives and Records Administration;

"(2) shall review the role of the Administration as a leader and a resource for State and local archivists, including the need for coordinating the disposition of records of Federal interest that are created or maintained by State and local governments; and

"(3) may submit reports to the Congress on the needs, programs, and activities of the Administration.

"(c)(1) The Committee shall be composed of 13 members, as follows:

"(A) 11 members appointed by the Archivist.

"(B) The Archivist and the Librarian of Congress, who shall serve as ex officio members.

"(2) Of the members of the Committee appointed under paragraph (1)(A), at least one shall be appointed from each of the following:

"(A) Historical, archival, or records management professions.

"(B) Genealogical researchers.

"(C) Documentary film producers.

"(D) The publishing industry.

"(3) Of the members of the Committee appointed under paragraph (1)(A), 2 shall be State archivists.

"(4) Members of the Committee appointed under paragraph (1)(A) (other than the members appointed under paragraph (2)) shall be appointed from individuals with knowledge and expertise in the collection, maintenance, use, or preservation of Government records.

"(5) Not more than 2 of the members of the Committee appointed under paragraph (1)(A) may be Federal employees.

"(d)(1) The term of a member of the Committee shall be 4 years.

"(2) A person may not serve more than 2 terms as a member of the Committee.

"(e)(1) Except as provided in paragraph (2), a member of the Committee shall not be paid for his or her service on the Committee.

"(2) Each member of the Committee shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

"(f) The Committee shall select its Chairman from among the appointed members.

"(g) The Committee shall meet at least twice each year, as specified by the Chairman of the Committee in consultation with the Archivist.

"(h) The Archivist shall provide to the Committee such administrative support services as are necessary for the Committee to carry out its responsibilities under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 21 of title 44, United States Code, is amended by inserting after the item relating to section 2119 the following:

"2120. Advisory Committee on the National Archives.".

SEC. 9. FEDERAL REGISTER ONLINE PILOT PROGRAM.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Archivist of the United States, acting through the Office of the Federal Register, shall establish with each of 3 or more Federal agencies a pilot program for providing the public with electronic access to the documents, notices, and other information published in the Federal Register by those agencies.

(b) PILOT PROGRAM REQUIREMENTS.—Each agency participating in a pilot program under this section shall establish and operate a computer bulletin board or similar online access mechanism, through which documents, notices, and other information published in the Federal Register by the agency shall be made available to the public by no later than the date of publication of the information in the Federal Register.

(c) CHARGES PROHIBITED.—

(1) IN GENERAL.—No charge may be imposed by a Federal agency for any use of a bulletin board or similar online access mechanism established under a pilot program under this section (including for any information provided under the pilot program).

(2) TELECOMMUNICATION CHARGES NOT PROHIBITED.—Paragraph (1) shall not be considered to prohibit requiring a user of a bulletin board or similar online access mechanism established under a pilot program under this section from paying the telecommunications costs associated with that use.

(d) REPORT.—Not later than 18 months after the establishment of a pilot program under this section, the Archivist of the United States shall submit a report on the results of the pilot program to the Committee on Government Operations of the House of Representatives and to the Committee on Governmental Affairs of the Senate.

SEC. 10. DEFINITION OF RECORDS DISPOSITION.

Section 2901(5) of title 44, United States Code, is amended—

(1) in subparagraph (C) by striking "or" after the semicolon; and

(2) by adding at the end the following:

"(E) removal of records pursuant to section 3315; or

"(F) relinquishment of control over records;".

SEC. 11. OFFICERS OF NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.

(a) ARCHIVIST.—Section 2103(a) of title 44, United States Code, is amended to read as follows:

"(a) The Archivist of the United States shall be appointed by the President by and with the advice and consent of the Senate. The Archivist shall serve a term of 7 years and may be reappointed. The Archivist shall be appointed without regard to political affiliations and solely on the basis of the professional qualifications required to perform the duties and responsibilities of the office of Archivist. The Archivist may be removed from office by the President. The President shall communicate the reasons for any such removal to each House of the Congress.".

(b) DEPUTY ARCHIVIST.—Section 2103(c) of title 44, United States Code, is amended to read as follows:

"(c)(1) The Deputy Archivist of the United States shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Archivist shall be appointed without regard to political affiliations and solely on the basis of the professional qualifications required to perform the duties and responsibilities of the office of Deputy Archivist. The Deputy Archivist may be removed from office by the President. The Deputy Archivist shall perform such functions as the Archivist shall designate. During any absence or disability of the Archivist, the Deputy Archivist shall act as Archivist. In the event of a vacancy in the office of the Archivist, the Deputy Archivist shall act as Archivist until an Archivist is appointed under subsection (a).

"(2) The Deputy Archivist shall be compensated at the rate provided for level IV of the Executive Schedule under section 5314 of title 5.".

SEC. 12. PRESIDENTIAL ARCHIVAL DEPOSITORIES.

Section 2112(g)(3) is amended in subparagraphs (A), (B), and (C) by striking "20 per-

cent'' each place that term appears and inserting ''40 percent''.

SEC. 13. REGULATIONS.

The Archivist of the United States shall issue all regulations required under this Act and the amendments made by this Act by not later than 120 days after the date of the enactment of this Act.

A SUMMARY OF THE PROVISIONS OF THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION AUTHORIZATION ACT OF 1992

Introduced in the House of Representatives on Tuesday June 16, 1992 by Representative Robert Wise. Introduced in the Senate on Thursday June 25 by Senators Herb Kohl, and co-sponsored by Senators Glenn and Pryor.

Section 2:

This section authorizes appropriation levels for the National Archives and the National Historical Publications and Records Commission. The authorization levels are:

	NARA	NHPRC
1994	$210,000,000	$7,000,000
1995	230,000,000	8,500,000
1996	250,000,000	10,000,000

Section 3:

Any rules affecting public access to record in the custody of the Archivist can only be adopted or amended after notice and comment as provided in the Administrative Procedures Act. This provision is included in response to the recent changes in the rules regarding access to the Motion Picture, Sound, and Video Reading Room. New access rules which severely restricted access to the room were introduced without any public notice or opportunity for public comment. This collection was used extensively in the PBS series on the Civil War. It is unlikely that the Civil War project could be completed under the new rules.

Section 4(a):

The definition of records is explicitly extended to include computerized and electronic information.

Section 4(b):

Extra copies of documents preserved only for convenience are included as part of the definition of records. In addition, specific procedures are established for the Archivist to review records proposed for removal by departing agency officials. This loophole has been used by agency officials as an excuse to remove classified, sensitive, original, and other governmental records when they leave office. The GAO report Federal Records: Document removal by Agency Heads Needs Independent Oversight (GAO/GGD-91-117) documents this problem.

Section 5:

This section gives the Archivist increased authority for interpreting the definition of records under 44 U.S.C. P. 3301 and for carrying out other existing responsibilities pertaining to records and records management.

Section 6:

The National Archives Trust Fund is a revolving fund that runs souvenir shops at Archives facilities and handles requests for reproduction of documents. Until recently the Trust Fund charged 35 cents a page for copies. The fee was just lowered to 25 cents. This section requires that all document duplication be done at a price that does not exceed cost, and requires that the Trust Fund provide fee waivers to qualified requesters. In addition, the Trust Fund is required to set up a Visiting Scholars Program to provide travel and lodging support for researchers using the facilities of the National Archives.

Section 7:

An Advisory Committee on Electronic Records is established to advise the Archivist on the acquisition, preservation, and documentation of electronic records. This includes technical, policy, legal, and management issues. House Report 101-978 (1990) Taking a Byte Out of History: The Archival Preservation of Federal Computer Records highlights the problems of archiving electronic records.

Section 8:

This section establishes a general Advisory Committee on the National Archives. The committee will advise the Archivist on all programs and activities of the Archives and review the role of the Archives as a leader and resource for State and local archivists. This proposal has developed out of concerns that the National Archives has grown too isolated from those who are affected by its work and from those who look to it for leadership. Since the National Archives was moved out of the General Services Administration they have operated without any advisory committees.

Section 9:

The Office of the Federal Register is required to develop a pilot program to make Federal Register notices available through computer bulletin boards or other on-line access mechanisms.

Section 10:

This section makes a conforming change in the law relating to the removal of records provision in Section 4.

Section 11:

The term of the Archivist is changed from lifetime to 7 years, and makes the Deputy Archivist subject to presidential appointment and Senate confirmation.

Section 12:

The endowment requirement for Presidential Libraries is increased from 20 percent to 40 percent.●

By Mr. PRYOR (for himself, Mr. MITCHELL, Mr. STEVENS, Mr. GLENN, Mr. HOLLINGS, Ms. MIKULSKI, Mr. DODD, Mr. LEVIN, Mr. BUMPERS, Mr. ROBB, Mr. KENNEDY, Mr. PELL, Mr. RIEGLE, Mr. KOHL, Mr. GRAHAM, Mr. WIRTH, Mr. SASSER, Mr. SARBANES, Mr. BINGAMAN, Mr. WOFFORD, Mr. AKAKA, Mr. METZENBAUM, Mr. BREAUX, Mr. NUNN, Mr. ADAMS, and Mr. REID):

S. 2893. A bill to provide for assistance to Federal employees in reduction in force actions of Federal personnel; to the Committee on Governmental Affairs.

ASSISTANCE TO FEDERAL EMPLOYEES IN REDUCTION IN FORCE ACTIONS

Mr. PRYOR. Mr. President, today I am introducing legislation on behalf of the majority leader, Senator STEVENS and 22 other Senators to help Department of Defense civilians adjust to the post-cold war defense environment. Among the 22 cosponsors is the distinguished chairman of the Armed Services Committee, Senator SAM NUNN, and the distinguished chairman of the Governmental Affairs Committee, Senator JOHN GLENN. Our bill, which I will discuss shortly, carries out several of the recommendations made by the 21-member Senate Democratic Task Force on Defense Transition, including concepts supported by the administration.

I was proud to be asked by the majority leader to serve as chairman of the Defense Transition Task Force, which issued its recommendations on May 21. I am also proud to report today that the task force report has received endorsements from 17 organizations, including the Economic Conversion Project of Maine, the Council on Economic Priorities, the National Commission for Economic Conversion and Disarmament, to name a few.

We have also received strong support from various business groups, including the U.S. Chamber of Commerce, the Aerospace Industries Association, and the Electronics Industries Association.

Mr. President, I ask unanimous consent that a full list of task force endorsements be printed in the RECORD directly following my statement.

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

(See exhibit 1.)

Mr. PRYOR. Mr. President, one important section of our report dealt with helping the civilian veterans of the cold war—those civil servants who work in support of our military. By 1997, DOD expects to reduce its civilian work force by 20 percent or 229,000 positions. Forty thousand of these jobs will be abolished as a result of base closures and realignments.

In my home State of Arkansas, Eaker Air Force Base in Blytheville will be closed this year and Fort Chaffee in Fort Smith, AR, will be realigned next year. A total of 1,400 civilian jobs will be terminated as a result of these reductions.

Last February, I traveled to Blytheville to visit Eaker Air Force Base. During this visit, I had the opportunity to meet, face to face, with a number of the civilian employees who are being forced out of their jobs at the Air Force base. Many of these employees anticipated that they would find new jobs. But other employees were very worried about the state of our economy and the limited number of job opportunities in the region.

These concerns were again raised when I chaired a Governmental Affairs Subcommittee hearing earlier this year. The Pentagon informed the subcommittee that if employee resignations and retirements were sufficient, then layoffs would not occur. Unfortunately, as the General Accounting Office noted recently, retirements among DOD civilians have declined from 18 to 5 percent this year and voluntary resignations are down as well. As a result, the pink slips are ready to be handed out.

The Air Force alone will close four bases this year—Myrtle Beach Air Force Base in South Carolina, England Air Force Base in Louisiana, George

Air Force Base in California, and Eaker Air Force Base in Arkansas. The Air Force is preparing to lay off hundreds of civilian employees at these bases. Mr. President, this is just the tip of the iceburg. Many more bases will be closed and the Department is gearing up for other massive reductions.

The legislation I am introducing today takes into account that 25 percent of the DOD civilian workforce is retirement eligible. With this in mind, the Department of Defense would be given the authority to encourage retirement among these eligible civilians, in order to free up positions for other employees who would otherwise be laid off.

Mr. President, layoffs are unpleasant and costly both for the employer and the employee. To avoid unwanted involuntary separations, preventive measures should be taken. Aside from retirement incentives, job retraining prior to job loss is helpful in preparing workers for new employment. In many cases, workers know 2 or 3 years in advance that their base is closing. This bill would allow these employees to receive job training assistance a full year before their base closes, in order to better prepare themselves for new employment.

Mr. President, in the event that layoffs continue, unwanted hardships will be placed on these DOD employees. At my subcommittee hearing last February, an electronic technician from Portsmith Naval Shipyard in New Hampshire told the Governmental Affairs Committee that, if laid off, her health insurance rates would triple and she would join the ranks of the 37 million Americans who could not afford health coverage. This bill would attempt to ease the pain by extending the Government's contribution to Federal employee health insurance up to 18 months.

Mr. President, the entire Department of Defense will be undergoing a reduction. The Pentagon has already outlined many generous initiatives to ease the transition for uniformed employees. In addition, the Congress is currently considering how to soften the blow for the National Guard and Reserves. This bill would complete the Pentagon's manpower cycle and reinforce that, in our total force structure, civilians are people too.

On a cautionary note, Mr. President I reiterate that this civilian employee package is not intended to be applied departmentwide. I urge DOD retirement eligible civilian employees, and others who may be considering leaving the Department, not to put off a decision with the hope of receiving a separation bonus. Again, this bill will benefit only those in specific target groups as determined by DOD.

Mr. President, I thank the members of the Senate Defense Transition Task Force, whose insight and suggestions contributed greatly to the formation of this important legislation. This bill would implement task force recommendations I-(D)1 and I-(B)2. Throughout the summer, I look forward to seeing more task force recommendations transformed into policy for our country. I also thank the ranking member of the Subcommittee on Federal Services, Post Office, and Civil Service—Senator STEVENS, for his input and support for this legislation.

EXHIBIT 1

ENDORSEMENTS OF THE SENATE DEFENSE TRANSITION TASK FORCE REPORT

Americans for Democratic Action.
Bread for the World.
Council on Economic Priorities.
Economic Conversion Project of Maine.
Friends Committee on National Legislation.
Jesuit Social Ministries, National Office.
Mennonite Central Committee.
National Association of Social Workers.
National Commission for Economic Conversion and Disarmament.
NETWORK: A National Catholic Social Justice Lobby.
Physicians for Social Responsibility.
Professionals' Coalition for Nuclear Arms Control.
SANE/FREEZE: Campaign for Global Security.
20/20 Vision National Project.
Unitarian Universalist Association of Congregations.
United Church of Christ, Office for Church in Society.
Women's Action for New Directions.

Mr. PRYOR. Mr. President, I see my distinguished colleague and very good friend, Senator STEVENS, from Alaska, now on the floor. It is my understanding that he has a statement with regard to the legislation we are introducing this morning. I am wondering if he is prepared to now speak.

Mr. STEVENS. Mr. President, when I first heard of the Democratic group I thought perhaps we might be once again heading toward an impasse between the two parties concerning a very sensitive and difficult issue that we must address on a bipartisan basis.

Mr. President, today I am pleased to join Senator PRYOR as an original cosponsor of this bill to minimize DOD civilian layoffs. It is a bipartisan, cooperative effort to create some new flexibilities for managing the drawdown in the DOD civilian work force.

The need for this bill is increasingly apparent. Congress must ensure fair and equitable treatment for employees as reductions occur. We must soften the impact of the cutbacks and provide some additional tools for the Department of Defense and the services to use in shaping a balanced work force still able to perform the changing mission.

DOD has already initiated some program and policy changes to minimize layoffs and assist employees in transition to new jobs or early retirement. My staff and I had also been working on several retirement incentive options. For example, I considered reducing the 2-percent early retirement annuity penalty and providing additional service credit to encourage voluntary retirements. However, the costs were high and likely to cause pay-go problems under the budget agreement.

The bill that we are introducing today includes needed authority to encourage voluntary separations and to increase the number of retirements in DOD's civilian work force. It provides some new benefits to help civilians at the time of base closure or if involuntary separations become necessary. It is a good way to minimize the turmoil of layoffs. It offers an opportunity for DOD to shape its future work force wisely.

I urge my colleagues to join in this bipartisan effort by cosponsoring this important legislation.

It did originate with my good friend and the committee or group that was appointed by the majority leader. We asked to participate in that effort, and I am delighted that the Senator from Arkansas has welcomed our participation, and I welcome his efforts.

I ask unanimous consent that the analysis of the bill be printed in the RECORD.

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

SECTION ANALYSIS

Section 1—Reemployment of DoD Civilian Employees in the Competitive Service.

Section 1 establishes reemployment rights for Department of Defense (DoD) employees in reduction in force actions. The Department of Defense (DoD) and the Military departments must offer an individual who has been laid off the right of first refusal to a job it restores within two years after a position has been eliminated. Further, the Department and the Military departments cannot replace within two years a released employee with a contract employee or temporary employee. If DoD or the Military departments seek to staff some positions within two years after a reduction in force takes place, the departments must offer reemployment to released employees on the basis of seniority.

Section 2—Information on Federal Employment and Special Consideration for Displaced DoD Employees.

Section 2 requires the Office of Personnel Management to publish a government-wide list of vacant positions and to establish a toll-free number which will enable the public to access Federal job information. In additon, Federal agencies are urged to give qualified displaced DoD employees full consideration before hiring candidates from outside the agency.

Section 3—Reduction-in-Force Notification Requirements.

Section 3 puts into statute the existing regulations requiring agencies to issue specific written notices to employees and their representatives at least 60 days prior to a reduction in force (RIF) action. In addition, an agency must also notify the state dislocated worker unit and the chief elected local government official whenever a significant number of employees will be separated.

Section 4—Alleviation of Adverse Effects of Base Closures on Employees at the Base.

Section 4 provides that civilian employees at military installations scheduled for clo-

sure or realignment are eligible to receive assistance under section 325 of the Job Training Partnership Act 12 months in advance of base closures or realignments.

Section 5—Department of Defense Employee Assistance.

Section 5 provides that the Secretary of Defense or the Secretaries of the Military departments may offer a civilian employee who retires on an immediate annuity the option of receiving a lump sum payment for unused sick leave. This option is in lieu of adding unused sick leave to length of service in calculating retirement benefits and would apply only to those having creditable service under the Civil Service Retirement System. The amount is to be calculated at the rate of pay an employee is entitled to receive on the day before he separates.

Section 5 also provides that the Secretary of the Department of Defense or the Secretaries of the Military departments may offer incentives to employees to encourage voluntary separations and increase the number of retirements. These incentives—a resignation incentive of up to $20,000, an early retirement incentive of up to $20,000, and a regular retirement incentive of up to $10,000—may be offered to employees at military installations being closed or realigned or to employees in surplus skill categories.

Section 5 further provides that civilian employees at military bases scheduled for closure between October 1, 1992 and December 31, 1997 will be allowed to accumulate unlimited annual leave.

These provisions are temporary and will expire on December 31, 1997.

Section 6—Continued Health Benefits for Department of Defense Employees.

Section 6 requires DoD to pay for up to 18 months the Government's contribution for a Federal health insurance plan for an individual who is involuntarily separated due to a reduction in force. The individual must also continue paying his share of the premium.

Section 7—Thrift Saving Plan Benefits of Employees Separated by a Reduction in Force.

Section 7 provides that an employee who is involuntarily separated due to a reduction in force will be treated as if eligible for an immediate retirement for Thrift Saving Plan purposes. This means that an employee who has been fired may withdraw his TSP account in a single payment or leave his money in his TSP account.

Mr. PRYOR. Mr. President, I very much appreciate the remarks of my colleague. Certainly we are very fortunate to have his support of this legislation which we introduce this morning with some 22 of our colleagues in the Senate, and 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. 2893

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

SECTION 1. REEMPLOYMENT OF FEDERAL EMPLOYEES IN THE COMPETITIVE SERVICE.

(a) REEMPLOYMENT AFTER REDUCTION IN FORCE.—Subchapter I of chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3505. Reemployment after reduction in force for certain employees

"(a) For purposes of this section, the term—

"(1) 'employee' means an employee of the Department of Defense, including each Military department, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months; and

"(2) 'Secretary concerned' means—

"(A) the Secretary of the Army with respect to the Department of the Army;

"(B) the Secretary of the Navy with respect to the Department of the Navy;

"(C) the Secretary of the Air Force with respect to the Department of the Air Force; and

"(D) the Secretary of Defense with respect to all other employees of the Department of Defense.

"(b) Subject to the provisions of subsection (c), if a Secretary concerned releases an employee under regulations for a reduction in force under section 3502(a), and within 2 years after the date of such release—

"(1) seeks to employ a person for a position in the competitive area which was the employee's competitive area at the time of release, such Secretary shall offer such person reemployment in such position before offering employment to any other person for such position; or

"(2) seeks to employ a person for the position from which such employee was released or to perform the duties performed by such employee, the Secretary may not employ a contract employee or a temporary employee for such position or to perform the duties which were performed by the released employee.

"(c) If a Secretary concerned releases employees from positions in a competitive area under regulations for a reduction in force under section 3502(a), and within 2 years after the date of the last such release seeks to employ persons in all or some of such positions, but not in a sufficient number to result in the reemployment of all such released employees, such Secretary shall offer such released employees reemployment on the basis of seniority before offering employment to any other persons for such positions.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 35 of title 5, United States Code, is amended by inserting after the item relating to section 3504 the following:

"3505. Reemployment after reduction in force for certain employees.".

SEC. 2. REEMPLOYMENT ASSISTANCE FOR CERTAIN FEDERAL EMPLOYEES.

(a) REQUIREMENT THAT A GOVERNMENT-WIDE LIST OF VACANT POSITIONS BE MAINTAINED.

(1) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following:

"§ 3329. Government-wide list of vacant positions

"(a) For the purpose of this section, the term 'agency' means an Executive agency, excluding the General Accounting Office and any agency (or unit thereof) whose principal function is the conduct of foreign intelligence or counterintelligence activities, as determined by the President.

"(b)(1) The Office of Personnel Management shall establish and keep current a comprehensive list of all vacant positions within each agency for which applications are being (or will soon be) accepted.

"(2) The list shall not include any position which has been excepted from the competitive service because of its confidential, policy-determining, policy-making or policy-advocating character.

"(c) Included for any position listed shall be—

"(1) a brief description of the position, including its title, tenure, duties and responsibilities, qualification requirements, and rate of pay;

"(2) application procedures, including the period within which applications may be submitted; and

"(3) any other information which the Office considers appropriate.

"(d) The list shall be available to members of the public.

"(e) The Office shall prescribe such regulations as may be necessary to carry out this section. Any requirement under this section that agencies notify the Office as to the availability of any vacant positions shall be designed so as to avoid any duplication of information otherwise required to be furnished under section 3327 or any other provision of law.".

(2) INFORMATION SYSTEM.—No later than 120 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall begin providing the information on the list referred to in section 3329 of title 5, United States Code (as amended by this section) by means of a toll-free telephone number (commonly referred to as an 800 number).

(3) CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3328 the following:

"3329. Government-wide list of vacant positions.".

(b) TEMPORARY MEASURES TO FACILITATE REEMPLOYMENT OF CERTAIN DISPLACED FEDERAL EMPLOYEES.—

(1) DEFINITIONS.—For the purpose of this subsection—

(A) the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), excluding the General Accounting Office and the Department of Defense; and

(B) the term "displaced employee" means any individual who is—

(i) an employee of the Department of Defense who has been given specific notice that such employee is to be separated due to a reduction in force; or

(ii) a former employee of the Department of Defense who was involuntarily separated therefrom due to a reduction in force.

(2) METHOD OF CONSIDERATION.—In accordance with regulations which the Office of Personnel Management shall prescribe, consistent with otherwise applicable provisions of law, an agency shall, in filling a vacant position for which a qualified displaced employee has applied in timely fashion, give full consideration to the application of the displaced employee before selecting any candidate from outside the agency for the position.

(3) LIMITATION.—A displaced employee is entitled to consideration in accordance with this subsection for the 12-month period beginning on the date such employee receives the specific notice referred to in paragraph (1)(B)(i), except that, if the employee is separated pursuant to such notice, the right to such consideration shall continue through the end of the 12-month period beginning on the date of separation.

(4) APPLICABILITY.—(A) This subsection shall apply to any individual who—

(i) became a displaced employee within the 12-month period ending immediately before the date of enactment of this Act; or

(ii) becomes a displaced employee on or after the date of enactment of this Act and before October 1, 1997.

(B) In the case of a displaced employee described in subparagraph (A)(i), for purposes of computing any period of time under paragraph (3), the date of the specific notice described in paragraph (1)(B)(i) (or, if the employee was separated as described in paragraph (1)(B)(ii) before the date of enactment of this Act, the date of separation) shall be deemed to have occurred on such date of enactment.

(C) Nothing in this subsection shall be considered to apply with respect to any position—

(i) which has been filled as of the date of enactment of this Act; or

(ii) which has been excepted from the competitive service because of its confidential, policy-determining, policy-making or policy-advocating character.

SEC. 3. REDUCTION-IN-FORCE NOTIFICATION REQUIREMENTS.

(a) IN GENERAL.—Section 3502 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Except as provided under subsection (e), an employee may not be released, due to a reduction in force, unless—

"(A) such employee and such employee's exclusive representative for collective-bargaining purposes (if any) are given written notice, in conformance with the requirements of paragraph (2), at least 60 days before such employee is so released; and

"(B) if the reduction in force would involve the separation of a significant number of employees, the requirements of paragraph (3) are met at least 60 days before any employee is so released.

"(2) Any notice under paragraph (1)(A) shall include—

"(A) the personnel action to be taken with respect to the employee involved;

"(B) the effective date of the action;

"(C) a description of the procedures applicable in identifying employees for release;

"(D) the employee's ranking relative to other competing employees, and how that ranking was determined; and

"(E) a description of any appeal or other rights which may be available.

"(3) Notice under paragraph (1)(B)—

"(A) shall be given to—

"(i) the appropriate State dislocated worker unit or units (referred to in section 311(b)(2) of the Job Training Partnership Act); and

"(ii) the chief elected official of such unit or each of such units of local government as may be appropriate; and

"(B) shall consist of written notification as to—

"(i) the number of employees to be separated from service due to the reduction in force (broken down by geographic area or on such other basis as may be required under paragraph (4));

"(ii) when those separations shall occur; and

"(iii) any other matter which might facilitate the delivery of rapid response assistance or other services under the Job Training Partnership Act.

"(4) The Office shall prescribe such regulations as may be necessary to carry out this subsection. The Office shall consult with the Secretary of Labor on matters relating to the Job Training Partnership Act.

"(e)(1) Subject to paragraph (3), upon request submitted under paragraph (2), the President may, in writing, shorten the period of advance notice required under subsection (d)(1)(A) and (B), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

"(2) A request to shorten notice periods shall be submitted to the President by the head of the agency involved, and shall indicate the reduction in force to which the request pertains, the number of days by which the agency head requests that the periods be shortened, and the reasons why the request is necessary.

"(3) No notice period may be shortened to less than 30 days under this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any personnel action taking effect on or after the last day of the 90-day period beginning on the date of enactment of this Act.

SEC. 4. ALLEVIATION OF ADVERSE EFFECTS OF BASE CLOSURES ON EMPLOYEES AT THE BASE.

(a) 1990 CLOSURE AND REALIGNMENT ACT.—Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by adding at the end thereof the following new subsection:

"(e) ASSISTANCE FOR ADVERSELY AFFECTED EMPLOYEES.—(1) In the case of a civilian employee of the Department of Defense employed at a military installation being closed or realigned under this part, the date determined by the Secretary of Defense under paragraph (2) shall be considered to be the date of notice of termination to the employee for purposes of determining the employee's eligibility for assistance under the defense conversion adjustment program under section 325 of the Job Training Partnership Act (29 U.S.C. 1662d).

"(2) The date determined by the Secretary of Defense referred to under paragraph (1) shall be the date occurring 12 months before the date on which the affected military installation shall be closed or realigned.".

(b) 1988 CLOSURE AND REALIGNMENT ACT.—Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100-526; 10 U.S.C. 2687 note) is amended by adding at the end thereof the following new subsection:

"(d) ASSISTANCE FOR ADVERSELY AFFECTED EMPLOYEES.—(1) In the case of a civilian employee of the Department of Defense employed at a military installation being closed or realigned under this title, the date determined by the Secretary of Defense under paragraph (2) shall be considered to be the date of notice of termination to the employee for purposes of determining the employee's eligibility for assistance under the defense conversion adjustment program under section 325 of the Job Training Partnership Act (29 U.S.C. 1662d).

"(2) The date determined by the Secretary of Defense referred to under paragraph (1) shall be the date occurring 12 months before the date on which the affected military installation shall be closed or realigned.".

SEC. 5. DEPARTMENT OF DEFENSE EMPLOYEE ASSISTANCE.

(a) LUMP-SUM PAYMENT FOR SICK LEAVE ON SEPARATION.—

(1) IN GENERAL.—Chapter 55 of title 5, United States Code, is amended by inserting after section 5552 the following new section:

"§ 5553. Lump-sum payment for accumulated and accrued sick leave on separation for certain employees

"(a) For purposes of this section, the term—

"(1) 'employee' means an employee of the Department of Defense, including each Military department, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months; and

"(2) 'Secretary' means—

"(A) the Secretary of the Army with respect to the Department of the Army;

"(B) the Secretary of the Navy with respect to the Department of the Navy;

"(C) the Secretary of the Air Force with respect to the Department of the Air Force; and

"(D) the Secretary of Defense with respect to all other employees of the Department of Defense.

"(b) An employee who is separated from the service may elect to receive a lump-sum payment for accumulated and current accrued sick leave to which he is entitled by statute. The lump-sum payment shall equal the pay (calculated at the rate of pay such employee is receiving on the date immediately preceding the date of separation from service) the employee would have received had he remained in the service until expiration of the period of the sick leave. The lump-sum payment is considered pay for taxation purposes only. The period of leave used for calculating the lump-sum payment shall not be extended due to any holiday occurring after separation. For purposes of this subsection, movement to employment described in section 2105(c) shall not be deemed separation from the service in the case of an employee whose sick leave is transferred under section 6308(b).

"(c) If an employee elects to receive a lump-sum payment under this section, the period of accrued and accumulated sick leave of such employee used to determine such payment shall not be used for purposes of determining an annuity or any other benefit under chapter 83 or 84 of this title.

"(d) The Office of Personnel Management and each Secretary shall administer the provisions of this section.

"(e) No lump-sum payment may be paid under this section with respect to a separation occurring after December 31, 1997.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5552 the following:

"5553. Lump-sum payment for accumulated and accrued sick leave on separation for certain employees.".

(b) DEPARTMENT OF DEFENSE EMPLOYEE SEPARATION BENEFITS.—

(1) IN GENERAL.—Subchapter IX of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following:

"§ 5597. Employee separation benefits for certain employees

"(a) For purposes of this section, the term—

"(1) 'employee' means an employee of the Department of Defense, including each Military department, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months; and

"(2) 'Secretary concerned' means—

"(A) the Secretary of the Army with respect to the Department of the Army;

"(B) the Secretary of the Navy with respect to the Department of the Navy;

"(C) the Secretary of the Air Force with respect to the Department of the Air Force; and

"(D) the Secretary of Defense with respect to all other employees of the Department of Defense.

"(b) The Secretary concerned may authorize the payment of a civilian employee separation benefit to an employee who separates voluntarily from employment, by retirement

or resignation, in accordance with the provisions of this section and any regulations prescribed by such Secretary.

"(c) A civilian employee separation benefit under this section may be offered to—

"(1) all employees at an installation or organization of the Department of Defense that is to be closed or reduced in force;

"(2) all employees in one or more occupational series or grades, or combinations or subdivisions thereof, at an installation or organization of the Department of Defense, when the Secretary concerned determines that the voluntary separation of such employee would—

"(A) increase placement opportunities for other employees affected by the closure or reorganization of installations or organizations of the Department of Defense;

"(B) reduce the need for involuntary separations as a result of such closure or reorganization; or

"(C) otherwise serve the personnel management needs of the Department of Defense.

"(d) An offer of a civilian employee separation benefit under this section shall be limited to a specific period of time, and the benefit shall be payable only to an employee whose voluntary separation, by resignation, or retirement, is effective during such period.

"(e) A civilian employee separation benefit under this section shall be paid in a lump sum, and shall be the lesser of—

"(1) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section; or

"(2)(A) $10,000, in the case of an employee who is eligible for immediate retirement at the time of separation under section 8336 (other than under subsection (d) of such section) or section 8412; or

"(B) $20,000, in the case of any other employee.

"(f)(1) The Secretary concerned shall take such actions as may be necessary to ensure that any employee to whom a civilian employee separation benefit is offered under this section is able to consider such offer freely without duress or coercion of any kind.

"(2) A declination of an offer of a civilian employee separation benefit under this section shall not have any effect on an employee's rights and benefits under any other provision of law.

"(g) The Secretary concerned may prescribe such regulations as he determines necessary for the administration of this section.

"(h) No civilian employee separation benefit may be paid under this section with respect to a separation occurring after December 31, 1997.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5596 the following:

"5597. Civilian employee separation benefits for certain employees.".

(c) RESTORATION OF CERTAIN LEAVE.—Section 6304(d) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) For the purpose of this subsection, the closure of an installation of the Department of Defense, during the period beginning on October 1, 1992, and ending on December 31, 1997, shall be deemed to create an exigency of the public business and any leave that is lost by an employee of such installation by operation of this section (regardless of whether such leave was scheduled) shall be restored to the employee and shall be credited and available in accordance with paragraph (2).".

(d) REPORT.—At the end of each fiscal year, beginning with fiscal year 1993 through fiscal year 1998, the Secretary of Defense shall submit a report to the President, the Congress, and the Director of the Office of Personnel Management on the effectiveness and costs of the amendments made by this section.

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of enactment of this Act.

SEC. 6. CONTINUED HEALTH BENEFITS FOR DEPARTMENT OF DEFENSE EMPLOYEES.

(a) IN GENERAL.—Section 8905a(d) of title 5, United States Code, is amended—

(1) in paragraph (1)(A) by striking "An individual" and inserting "Except as provided in paragraph (4), an individual";

(2) in paragraph (2) by striking "in accordance with paragraph (1))" and inserting "in accordance with paragraph (1) or (4), as the case may be)"; and

(3) by adding at the end the following:

"(4)(A) If the basis for continued coverage under this section is an involuntary separation from a position in or under the Department of Defense due to a reduction in force—

"(i) the individual shall be liable for not more than the employee contributions referred to in paragraph (1)(A)(i); and

"(ii) the agency which last employed the individual shall pay the remaining portion of the amount required under paragraph (1)(A).

"(B) This paragraph shall apply with respect to any individual whose continued coverage is based on a separation occurring on or after the date of enactment of this paragraph and before—

"(i) October 1, 1997; or

"(ii) February 1, 1998, if specific notice of such separation was given to such individual before October 1, 1997.".

(b) SOURCE OF PAYMENTS.—Any amount which becomes payable by an agency as a result of the enactment of subsection (a) shall be paid out of funds or appropriations available for salaries and expenses of such agency.

SEC. 7. THRIFT SAVINGS PLAN BENEFITS OF EMPLOYEES SEPARATED BY A REDUCTION IN FORCE.

(a) BENEFITS.—Section 8433(b) of title 5, United States Code, is amended by inserting "any employee who separates from Government employment pursuant to regulations under section 3502(a) or procedures under section 3595(a) in a reduction in force," after "chapter 81 of this title,".

(b) PROTECTIONS FOR SPOUSES.—Section 8435(c)(2)(A) of title 5, United States Code, is amended by inserting ", or who separates from Government employment pursuant to regulations under section 3502(a) or procedures under section 3595(a) in a reduction in force," after "8451 of this title".

(c) APPLICATION TO CIVIL SERVICE RETIREMENT SYSTEM EMPLOYEES.—Section 8351(b)(4) of title 5, United States Code, is amended by inserting "separates from Government employment pursuant to regulations under section 3502(a) or procedures under section 3595(a) in a reduction in force," after "section 8337 of this title)".

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 2894. A bill to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow February 11, 1992; to the Committee on Commerce, Science, and Transportation.

NORTH PACIFIC ANADROMOUS STOCKS ACT

Mr. STEVENS. Mr. President, I am sending to the desk today legislation which will allow the Departments of Commerce and State, along with the Coast Guard, to implement the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, which was signed in Moscow by the United States, Canada, Japan, and the Russian Federation on February 11 of this year. The convention itself has been submitted by the President to the Senate for its advice and consent.

The convention is the culmination of many years of effort. It will finally ban any directed fishing for salmon on the high seas—a goal long sought by Alaskan fishermen.

With the authority granted by the legislation I am introducing today, the Departments of Commerce and State, along with the Coast Guard, the United States will be able to work with the other three salmon producing countries to ensure that the prohibition on directed salmon fishing contained in the convention is, in fact, met.

This convention replaces the International North Pacific Fisheries Commission [INPFC] established by the 1954 International Convention for the High Seas Fisheries of the North Pacific between the United States, Canada, and Japan. It was under the INPFC that Alaskans fought to roll back the Japanese salmon drift net fleets that fished within 3 miles of the Alaska coast. In 1978, after passage of the Magnuson Act 2 years earlier, the United States and Japan renegotiated the 1954 agreement to restrict the Japanese salmon fleets to areas west of 175 degrees east longitude. Then again in 1985, when scientific evidence showed that the Japanese fleets were still impacting Alaska salmon, the INPFC once again was the center for negotiations that rolled the boundary west 10 degrees, to 175 degrees east longitude.

But while the United States was making progress through the INPFC on restricting directed fishing for salmon, the Japanese were end running the system by establishing a new squid drift net fishery, that fished far to the east of the directed salmon boundary. To combat this new threat to our salmon, I then introduced legislation which led to the passage of the drift net Monitoring, Assessment, and Control Act of 1987. After 2 years of negotiations under this act, the Senate once again led the charge to address this problem when 11 of my colleagues joined me in a letter to Secretary of State Baker that resulted in the successful passage in 1989 of a U.N. resolution calling for a worldwide moratorium on high seas drift net fishing.

The United Nations reaffirmed their joint commitment to end large-scale drift net fishing on the high seas with the passage of another resolution in 1991. Japan and other drift net nations

have now agreed to end the use of large-scale drift nets by December 31 of this year. However, without this new convention, our salmon, Alaska salmon, might not be safe. While the United Nations have agreed to ban drift net fishing on the high seas, in part because of the impact such fishing has on salmon, the U.N. resolution does not prohibit the use of other fishing techniques to harvest salmon on the high seas, but this new convention does. I want to emphasize that. The new convention before the Senate now for ratification does. And my bill gives the United States the necessary authority to implement that convention to the fullest.

Alaska has long been determined to protect the salmon, for which our State is so famous. I am pleased to sponsor this legislation.

I ask unanimous consent, Mr. President, that this bill be held at the desk so that if any of my colleagues who wish to join in taking this needed step to protect this resource, upon which so many jobs in my State and the Pacific Northwest depend, will be able to add their names as original cosponsors for the remainder of this day and then that it be appropriately referred according to the rules. And I also ask unanimous consent that the bill be printed in the RECORD.

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

S. 2894

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 North Pacific Anadromous Stocks Act of 1992".

SEC. 2. PURPOSE.

It is the purpose of this Act to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow February 11, 1992.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(a) "Anadromous stocks" means stocks of species listed in the Annex to the Convention that migrate into the Convention area.

(b) "Anadromous fish" means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(c) "Authorized officer" means a law enforcement official authorized to enforce this Act under section 9(a).

(d) "Commission" means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(e) "Convention" means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, signed in Moscow February 11, 1992.

(f) "Convention area" means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude, beyond 200 nautical miles from the baselines from which the breath of the territorial sea is measured.

(g) "Directed fishing" means fishing targeted at a particular species or stock of fish.

(h) "Ecologically related species" means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous species.

(i) "Enforcement officer" means a law enforcement official authorized by any Party to enforce this Act.

(j) "Exclusive economic zone" means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line doterminous with the seaward boundary of each of the coastal States.

(k) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(l) "Fishing" means—

(1) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(2) any operation at sea in preparation for or in direct support of any activity described in paragraph (1).

(m) "fishing vessel" means—

(1) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(2) any vessel outfitted to engage in any activity described in paragraph (1); or

(3) any vessel in normal support of any vessel described in paragraph (1) or (2).

(n) "Incidental taking" means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(o) "Party" means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(p) "Secretary" means the Secretary of Commerce.

(q) "United States Section" means the United States Commissioners of the Commission.

SEC. 4. UNITED STATES COMMISSIONERS

(a) The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the President. Each United States Commissioner shall be appointed for a term of office not to exceed four years, but is eligible for reappointment. Of the Commissioners, who shall receive no compensation for their services as Commissioners—

(1) one shall be an official of the United States Government;

(2) one shall be a resident of the State of Alaska; and

(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

(b) The Secretary, in consultation with the Secretary of State, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise all designated powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(c) The United States Section, in consultation with the Advisory Panel established in section 5, shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries.

SEC. 5. ADVISORY PANEL.

(a) An Advisory Panel to the United States Section shall be composed of:

(1)(A) The Commissioner of the Alaska Department of Fish and Game;

(B) The Director of the Washington Department of Fisheries; and

(C) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission; and

(2) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of State, from among a slate of twelve persons nominated by the Governor of Alaska and a slate of ten persons nominated by the Governor of Washington.

(b) Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subparagraph (a)(2), the Governors of Alaska and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) Any person appointed to the Advisory Panel pursuant to subparagraph (a)(2) shall serve for a term not to exceed four years, and may not serve more than two consecutive terms.

(d) The Advisory Panel shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

SEC. 6. COMMISSION RECOMMENDATIONS.

The Secretary of State, with the concurrence of the Secretary, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

SEC. 7. ADMINISTRATION AND ENFORCEMENT OF CONVENTION.

(a) The Secretary shall be responsible for administering provisions of the Convention, this Act, and regulations issued under this Act. The Secretary of State, in consultation with the Secretary and the Secretary of the Department in which the Coast Guard is operating, shall be responsible for coordinating the participation of the United States in the Commission.

(b) In carrying out such functions, the Secretary—

(1) shall, in consultation with the Secretary of the department in which the Coast Guard is operating and the United States Section, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this Act; and

(2) may, with the concurrence of the Secretary of State, cooperate with the author-

ized officials of the government of any party to the Convention.

SEC. 8. COOPERATION WITH OTHER AGENCIES.

(a) Any agency of the Federal Government is authorized, upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(b) In carrying out the provisions of the Convention and this Act, the Secretary may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

SEC. 9. ENFORCEMENT PROVISIONS.

(a) This chapter shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers to enforce the provisions of the Convention, this Act, and regulations adopted under this Act: *Provided*, That any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in Appropriation Acts.

(b) The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act.

(c) Authorized officers may, within the exclusive economic zone—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 10 of this Act;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this Act;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this Act, or any regulation adopted under this Act;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(d)(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing anadromous species, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons on board the vessel, for the purpose of carrying out the provisions of the Convention, this Act, or any regulation adopted under this Act; and

(B) if any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

SEC. 10. UNLAWFUL ACTIVITIES.

It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(a) to fish for any anadromous fish in the Convention area;

(b) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(c) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(d) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this Act or any regulation adopted under this Act;

(e) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this Act, or any regulation adopted under this Act;

(f) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (e);

(g) to resist a lawful arrest or detection for any act prohibited by this section;

(h) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or

(i) to violate any provision of the Convention, this Act, or any regulation adopted under this Act.

SEC. 11. PENALTIES.

(a)(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 10 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within thirty days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary, the Attorney General, and the appropriate United States Attorney. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) A fishing vessel (including its fishing gear, furniture appurtenances, stores, and cargo) used in the commission of an act prohibited by section 10 shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(6) For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served under any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b)(1) A person is guilty of an offense if he commits any act prohibited by section 10 (e), (f), (g), or (h).

(2) Any offense described in paragraph (1) is punishable by a fine of not more than $100,000, or imprisonment for not more than

six months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than $200,000, or imprisonment for not more than ten years, or both.

(c)(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 10 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

(3) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this Act or for which security has not previously been obtained. The provisions of the customs laws relating to—

(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(B) the disposition of such property or the proceeds from the sale thereof; and

(C) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act.

(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 9(b) shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this Act may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 10 were taken or retained in violation of the Convention and this Act.

SEC. 12. FUNDING REQUIREMENTS.

(a) There is hereby authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this Act, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and

(2) the United States' share of the joint expenses of the Commission.

(b) Such funds as shall be made available to the Secretary for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

SEC. 13. DISPOSITION OF PROPERTY.

The Secretary of State shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this Act.

SEC. 14. REPEAL OF THE NORTH PACIFIC FISHERIES ACT OF 1954.

The Act of August 12, 1954, as amended (16 U.S.C. 1021–1035) is repealed.

By Mr. ADAMS (for himself, Mr. LEAHY, Mr. WIRTH, and Mr. DODD):

S. 2895. A bill to provide a program for rural development for communities and businesses in the Pacific Northwest and northern California, to provide retraining assistance for workers in the Pacific Northwest and northern California who have been dislocated from the timber harvesting, log hauling and transportation, saw mill, and wood products industries, to provide cost share and forest management assistance to private landowners in the Pacific Northwest and northern California in order to ensure the long-term supply of Pacific yew for medicinal purposes, to preserve Federal watersheds and late-successional and old-growth forests in the Pacific Northwest and northern California, to provide oversight of National Forest ecosystem management throughout the United States, to provide for research on National Forest ecosystem management, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

RURAL DEVELOPMENT AND ANCIENT FOREST ECOSYSTEM CONSERVATION ACT

Mr. ADAMS. Mr. President, I rise to introduce probably the most important bill that I have ever sponsored in my career, both in the Congress and in the U.S. Senate or when I was in the administration. I rise today to introduce, with Senator LEAHY, the Rural Development and Ancient Forest Ecosystem Conservation Act.

This is for the forests of the Pacific Northwest and is the clarion call for those who would save our forests to join together in the U.S. Senate as well as in the House of Representatives to save what is left of our magnificent heritage, which is rapidly disappearing.

For example, 2 weeks ago, NASA's Goddard Space Flight Center released satellite photographs of the Amazon rain forest and the Pacific Northwest's forests. The photographs confirmed a tragic fact: Nearly 90 percent of the Northwest's original forest is gone. One observer said the clear-cutting is so extensive that the land looks perforated by a giant blast of buckshot. This giant blast of buckshot is the result of 12 years of mismanagement of public forestland.

The Reagan and Bush administrations have made a mockery of Federal laws that require forests to be managed for multiple use. Timber harvest has dominated and now threatens to destroy other uses, like salmon and wildlife habitat, water quality, and recreation.

Today, Senator LEAHY and I, along with our cosponsors, call for an end to mismanagement of the Northwest's forests.

We are here to introduce legislation that will restore balance to the forest ecosystem and science and sanity to forest management. This bill will also assure there is no net loss of jobs.

It is appalling, Mr. President, that Federal court judges appointed by President Reagan have repeatedly found the Bush administration to have systematically violated our Nation's forest management laws.

Time and time again, the courts have ordered the administration to get its house in order. This goes back for several years. Congress had even gone so far, as in 1988, to try to completely insulate the administration from any review by the courts while it prepared lawful forest management plans. I will never agree again to any attempt to prevent judicial review while the administration is conducting this program.

To date, the administration has failed to comply with the court orders, and increasingly strict court orders have followed. One could predict that would happen.

In the 1980's, the timber industry also enjoyed special tax breaks. Weyerhaeuser and other companies have used a 1984 law to defer Federal taxes on as much as 30 percent of the raw logs shipped overseas for processing in foreign mills.

Burlington Resources, International Paper, and ITT cleverly used a 1987 tax break to form limited partnerships whose income from timber harvest is totally exempt from all Federal income taxes.

With such tax breaks, mismanagement, and excessive harvesting, it is no surprise the industry and administration joined forces to pin the blame for the worsening timber crisis on the little spotted owl and what they call radical environmentalists.

But let us look at the facts of what we are doing to ourselves.

During the 1980's, Federal timber harvests in the Northwest jumped from 3.6 to 5.5 billion board feet a year, but timber-related employment fell by more than 26,000 jobs. There is no connection between the jobs and the timber harvest increases.

From 1978 to 1990, the country's seven largest timber companies reduced their mill capacity in the Northwest by one-third and raised it in Southern States by 121 percent. The old cycle from West to South and South to West is repeating itself.

From 1969 to 1989, the number of raw logs exported from the Northwest would have built 7.5 million homes. Those exports would have been worth some 417,000 American jobs.

Increased automation in mills has reduced the number of workers needed to produce 1 million board feet of lumber by one and one-half. Increased productivity is projected to eliminate 33,000 additional jobs over the next two decades, regardless of the spotted owl, regardless of the salmon, regardless of the other little critters in the forests, regardless of recreation or any other threatened species.

Finally, a Seattle newspaper reported that Weyerhaeuser was closing a 285-employee pulp mill north of Seattle, citing a cost of $35-$40 million to install air and water pollution control equipment. In other words, the mill was simply shut down because they did not want to comply with the clean water and clean air act. Similar new environmental requirements were mentioned in connection with the possible closure of other mills in the region.

The politics of private profit have dictated the administration's Federal forest management decisions. These policies have led to the problems we face today. This is what has caused the problems, not some small creature called the spotted owl.

The question now is whether we can both conserve forest ecosystems and protect our workers. All the owl has done is warn us, as the small birds used to do in the coal mines when tragedy was about to appear.

I believe we can protect our ecosystems and protect our workers. But the answer is not Secretary Lujan's owl extinction plan.

His proposal would continue destructive harvest levels, exempt decisions on Federal sales from judicial review, and maintain unchecked levels of log exports to Japan.

On this path, we will lose our forests and the salmon whose habitat depends on a healthy forest ecosystem. Without the forests and salmon, what will sustain jobs in the timber and fishing industries in the Pacific Northwest?

Time and again I say to my friends, suppose I stand aside completely and let you cut the forests as you wish, so there is nothing left. You will have the same system in 5 years, only there will be no forest left, no salmon, no critical habitat, no ancient forests.

Secretary Lujan's extinction plan for owls will pass to salmon and, yes, to workers too.

The optimal solution will preserve both the old growth and jobs.

Automation and mill closures make retraining of some workers for other employment an imperative, regardless of what happens with endangered species or anything else. Such retraining is necessary regardless of the spotted owl. Our legislation assures no net loss of jobs.

Our solution does not require amendment or revocation of the Endangered Species Act. Doing so would not stop the deterioration of Federal forest ecosystems. It does require the Northwest's forests to be managed on a sound, scientific basis.

This bill does not limit judicial review. A limitation on judicial review is too drastic an action and is completely unnecessary to resolve the crisis. The bill does mandate that we rebalance the relationship among the various components of the ecosystem—water, forests, wildlife. This will restore the health of the ecosystem and assure sustainable use of the forests for all purposes. The bill is designed to restore the health and productivity of the forests necessary to provide long-term social, economic, and environmental stability to the region.

The people of the Pacific Northwest deserve better than the same old scare tactics which serve only short-term political needs and the timber industry's quarterly profit report. This is not the way to go about making sound, long-term public policy.

Our legislation makes difficult political choices. But it makes the right choices. It protects the workers.

I urge all of my colleagues to read this bill on the rural community development and on the worker retraining provisions. It makes the proper choices with regard to seeing that the entire ecosystem is protected as a system, not individually. It will protect the environment and the people of the Pacific Northwest today, tomorrow and in the future—and the people of the United States.

I appreciate the time this morning, and I beg my colleagues to please examine what we have said this morning, what we have placed in the RECORD, and compare it with what is happening in the Pacific Northwest, and what we hope the entire Congress will do in terms of moving this legislation forward so we save, not just a heritage, but our very lives as part of the environment of the world in which we all live.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a prepared statement in greater detail on this bill and an attached explanatory chart.

I ask unanimous consent a copy of the bill, which I now send to the desk, be printed in the RECORD and referred to the appropriate committee.

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

S. 2895

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rural Development and Ancient Forest Ecosystem Conservation Act".

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

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—RURAL DEVELOPMENT IN RURAL COMMUNITIES

Sec. 101. Purposes.

Subtitle A—Rural Development for Communities and Businesses

Sec. 111. Definitions.
Sec. 112. Community Rural Development Investment Fund.
Sec. 113. Community Rural Development Commissions.
Sec. 114. Community rural development loans.
Sec. 115. Payments to States from Federal timber sale revenues.
Sec. 116. Provision of information to Commissions.

Subtitle B—Dislocated Forest-Worker Assistance

Sec. 121. Definitions.
Sec. 122. Dislocated Forest-Worker Assistance Account.
Sec. 123. Dislocated Forest-Worker Assistance Committees.
Sec. 124. Categories of dislocated forest-worker assistance.

Subtitle C—Miscellaneous

Sec. 131. Purposes.
Sec. 132. Ecosystem management contracts.
Sec. 133. Financial security requirements.
Sec. 134. Land management appropriations.
Sec. 135. Log exports.
Sec. 136. Red cedar log exports.
Sec. 137. Pacific yew conservation and management.
Sec. 138. Wood residue utilization.
Sec. 139. Regulations.
Sec. 140. Authorization of appropriations.

TITLE II—FOREST ECOSYSTEM CONSERVATION

Sec. 201. Purposes.
Sec. 202. Definitions.

Subtitle A—Westside Forests

Sec. 211. Management of late-successional/old-growth Westside forests.
Sec. 212. Watershed management emphasis.
Sec. 213. Management of other Westside forests.
Sec. 214. Amendment and modification of prescriptions.
Sec. 215. Timber harvest suitability and calculations.

Subtitle B—Eastside Forests

Sec. 221. Eastside forest study.
Sec. 222. Interim protection of Eastside watersheds and late-successional/old-growth forests.
Sec. 223. Forest inventory and analysis report.

Subtitle C—Miscellaneous

Sec. 231. Forest Ecosystem Advisory Committees.
Sec. 232. Duties of Committees.
Sec. 233. Forest ecosystem management objectives.
Sec. 234. Action by the Secretaries on Committee recommendations.

Sec. 235. Duties of Inspectors General.
Sec. 236. Forest ecosystem research.
Sec. 237. Planning guidance.
Sec. 238. Regulations.
Sec. 239. Authorization of appropriations.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Pacific Northwest and northern California forest ecosystems are unique among forests in the 48 contiguous States because of—

(A) the presence of biologically diverse watersheds and late-successional/old-growth forests;

(B) the relative abundance of anadromous fish and other communities of plants and animals associated with late-successional/old-growth forests and watersheds; and

(C) the capacity of the ecosystems to produce timber and wood products;

(2) intensive timber management practices on forests in the Pacific Northwest and northern California have impaired the productivity of these forests, and severely reduced the quantity and quality of remaining late-successional/old-growth forests and watersheds and the habitat effectiveness of forest ecosystems, in ways that now threaten the economic and ecological health of the region;

(3) economic assistance is necessary for workers who—

(A) were in the past, or are currently, employed in the timber harvesting, log hauling and transportation, saw mill, or secondary manufacturing of wood products industries in Washington, Oregon, and northern California; and

(B) because of adverse economic conditions caused by changes in the timber industry and a reduction in the supply of timber in Federal forests, need assistance for retraining for alternative employment or relocation of residence;

(4) rural development economic diversification and financial assistance—

(A) is needed for communities that—

(i) are adjacent to or near late-successional/old-growth forests in Washington, Oregon, and northern California; and

(ii) have suffered adverse economic conditions caused by changes in the timber industry and a reduced supply of timber;

(B) is needed to assist small businesses in these communities; and

(C) should be promoted through technical, financial, and other assistance to these communities and businesses;

(5) inflated prices and shortages in the domestic log supply in Washington, Oregon, and northern California continue to have serious adverse effects on workers employed in industries affected by the supply of timber and retarded rural development in the region;

(6)(A) the problem of temporary timber supply shortages has been exacerbated by the steady growth in the export of unprocessed logs, which reduces secondary employment and mill jobs in the Pacific Northwest and northern California; and

(B) some restriction on the export of logs—

(i) is necessary because of a temporary shortage in the supply of timber, which is caused by conserving an exhaustible natural resource; and

(ii) is a necessary corollary to restrictions on domestic harvesting of timber in the Pacific Northwest and northern California;

(7) a national ecosystem approach to the management of all forests managed by the Forest Service and the Bureau of Land Management throughout the United States is necessary to—

(A) maintain long-term sustainable production of all forest resources and related products, including viable populations of native and desired non-native vertebrate species in each Federal forest;

(B) maintain employment associated with this production; and

(C) protect and restore on a national basis—

(i) anadromous fish;

(ii) riparian corridors;

(iii) the unique characteristics of each federally owned forest; and

(iv) other communities of plants and animals associated with the forests;

(8) an ecosystem approach to the management of Federal forests in Washington, Oregon, and northern California is necessary to protect and restore anadromous fish, riparian corridors, late-successional/old-growth forests, and other communities of plants and animals associated with late-successional/old-growth forests and watersheds;

(9) national research is needed to determine the best forest ecosystem management practices in federally owned forests throughout the United States; and

(10) the assistance of private persons through national forest ecosystem contracts is necessary for the implementation of forest ecosystem management throughout the United States.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to assist, through rural development programs, in the economic diversification of timber associated businesses and communities that—

(A) are adjacent to or near late-successional/old-growth forests in Washington, Oregon, and northern California; and

(B) have been adversely affected by changes in the timber industry and a declining timber supply;

(2) to assist workers who—

(A) were in the past, or are currently, employed in the timber harvesting, log hauling and transportation, saw mill, or secondary manufacturing of wood products industries in Washington, Oregon, and northern California; and

(B) need assistance for retraining for alternative employment or relocation of residence;

(3) to establish a sound, national ecosystem approach to the management of all forests and watersheds managed by the Forest Service and the Bureau of Land Management throughout the United States in order to—

(A) maintain viable populations of native and desired non-native vertebrate species in each Federal forest;

(B) preserve fisheries, wildlife, water quality, soil quality, and other natural resources within these ecosystems; and

(C) ensure the production of timber and wood products, and employment associated with the production, on a long-term basis;

(4) to establish programs for national research on forest ecosystem management to determine how best to manage forest ecosystems nationally; and

(5) to establish national forest ecosystem contracts with private parties in order to implement forest ecosystem management nationally on all federally owned forests.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) FEDERAL FOREST.—The term "Federal forest" means land in Federal ownership that is managed—

(A) by the Forest Service and is located—

(i) within the exterior boundaries of a national forest in the State of Washington or the State of Oregon; or

(ii) in one of the following national forests (or portions of forests) in the State of California: Siskiyou, Rogue River, Klamath, Six Rivers, Shasta-Trinity, and Mendocino National Forests, or that portion of the Modoc National Forest inhabited by northern spotted owls; or

(B) by the Bureau of Land Management and is located in—

(i) the State of Washington;

(ii) the State of Oregon; or

(iii) the Ukiah District in the State of California.

(2) LAND AND RESOURCE MANAGEMENT PLAN.—The term "land and resource management plan" means a land or resource management plan required by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(3) LATE-SUCCESSIONAL/OLD-GROWTH FOREST.—The term "late-successional/old-growth forest" has the same meaning as is provided for the term in the Panel Report.

(4) PANEL REPORT.—The term "Panel Report" means the report entitled "Alternatives for Management of Late-Successional Forests of the Pacific Northwest", prepared by the Scientific Panel on Late-Successional Forest Ecosystems, dated October 8, 1991.

(5) SECRETARIES.—The term "Secretaries" means the Secretary of Agriculture and the Secretary of the Interior.

(6) SECRETARY.—Except as otherwise provided in this Act, the term "Secretary" means—

(A) the Secretary of Agriculture with respect to lands and interests in lands under the jurisdiction of the Forest Service; or

(B) the Secretary of the Interior with respect to lands and interests in lands under the jurisdiction of the Bureau of Land Management.

TITLE I—RURAL DEVELOPMENT IN RURAL COMMUNITIES

SEC. 101. PURPOSES.

The purposes of this title are—

(1) to create an organizational structure to plan rural development programs for economic diversification, stability, and rural development for rural communities that have been adversely affected by a declining timber supply and changes in the timber industry in Oregon, Washington, and northern California;

(2) to provide rural development programs for small businesses and microbusinesses adversely affected by changes in the timber industry;

(3) to provide affected States with a new formula for the calculation of payments earned from timber sales in lieu of taxes on Federal forests in the State;

(4) to create an organizational structure for the planning and disbursement of financial assistance to individual workers who have been employed in the timber harvesting, log hauling and transportation, saw mill, and secondary manufacturing of wood products industries in Washington, Oregon, and northern California, and who are experiencing dislocation from one of these industries;

(5) to assist individual workers described in paragraph (4) to obtain training for employment in another sector of the economy through the provision of grants for income supplements, costs of training, job searches, and relocation;

(6) to provide employment opportunities and to fulfill other purposes through na-

tional forest ecosystem management in federally owned forests throughout the United States;

(7) to restrict the export of unprocessed logs, which is necessary because of a temporary shortage in the supply of timber, which is caused by conserving an exhaustible natural resource; and

(8) to provide for the management of federally owned and private forests containing Pacific yew to ensure a sufficient supply of taxol.

Subtitle A—Rural Development for Communities and Businesses

SEC. 111. DEFINITIONS.

As used in this subtitle:

(1) ADVERSELY AFFECTED.—The term "adversely affected", with respect to a community or a business situated near or adjacent to a Federal forest, means adversely economically affected by changes in the timber industry.

(2) AFFECTED STATE.—The term "affected State" means Oregon, Washington, or California.

(3) COMMISSION.—The term "Commission" means a Community Rural Development Commission established by section 113.

(4) COMMUNITY.—The term "community" means a rural community that—

(A) is adjacent to or near a Federal forest; and

(B) has been adversely affected.

(5) FUND.—The term "Fund" means the Community Rural Development Investment Fund established by section 112.

SEC. 112. COMMUNITY RURAL DEVELOPMENT INVESTMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Community Rural Development Investment Fund", consisting of such amounts as are transferred to the Fund under subsection (b).

(b) TRANSFERS TO FUND.—

(1) IN GENERAL.—For each of fiscal years 1993 through 1998, the Secretary of the Treasury shall transfer to the Fund by not later than the last day of the fiscal year an amount equal to 5 percent of the Federal portion of all monies received in the fiscal year from the sale of timber and other forest products from federally owned forests.

(2) MONIES RECEIVED.—As used in paragraph (1), the term "monies received", with respect to those forests managed by the Forest Service, has the same meaning as is provided for the term in—

(A) the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine", approved May 23, 1908 (35 Stat. 260, chapter 192; 16 U.S.C. 500); and

(B) section 13 of the Act of March 1, 1911 (36 Stat. 963, chapter 186; 16 U.S.C. 500).

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—On October 1, 1993, and each October 1 thereafter through October 1, 1998, and without further appropriation, the Secretary of the Treasury shall transfer from the Fund to each Commission the amount from the Fund that is determined to be payable to the Commission pursuant to paragraph (2). The amount shall be used by the Commission in accordance with paragraph (3).

(2) DETERMINATION OF AMOUNTS.—

(A) IN GENERAL.—The Secretary of Agriculture shall determine the amounts payable to each Commission according to a pro rata distribution based on a formula determined by the Secretary in accordance with subparagraph (B).

(B) FORMULA.—The formula shall take into consideration, on a historical basis, the number of dislocated workers (as defined in section 121(3)) in the State in proportion to the total number of jobs lost in each industry in which dislocated workers are employed.

(3) USE OF AMOUNTS.—

(A) IN GENERAL.—Subject to subparagraph (B), a Commission shall use amounts received pursuant to paragraph (1) to achieve rural development by—

(i) making loans pursuant to section 115; and

(ii) facilitating the operations of the Commission.

(B) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the funds made available to a Commission may be used for administrative expenses.

(d) TERMINATION.—The Fund shall terminate on October 1, 1998. After termination, any amounts remaining in the Fund shall be paid to the general fund of the Treasury.

(e) EFFECT ON TIMBER PAYMENTS TO STATES.—Except as provided in section 115, nothing in this subtitle is intended to modify or alter payments to States under—

(1) the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine", approved May 23, 1908 (35 Stat. 260, chapter 192; 16 U.S.C. 500); and

(2) section 13 of the Act of March 1, 1911 (36 Stat. 963, chapter 186; 16 U.S.C. 500).

SEC. 113. COMMUNITY RURAL DEVELOPMENT COMMISSIONS.

(a) IN GENERAL.—There is established for each affected State a Community Rural Development Commission.

(b) MEMBERSHIP.—

(1) COMPOSITION.—Each Commission shall be composed of five members appointed by the Governor of the affected State.

(2) CHAIRPERSON.—

(A) IN GENERAL.—Each Commission shall elect a chairperson from among its members.

(B) TERM.—The chairperson shall serve for a term of 1 year.

(3) VACANCIES.—A vacancy on a Commission shall be filled in the same manner in which the original appointment was made.

(4) COMPENSATION.—Members of a Commission shall serve without compensation.

(5) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for a Commission, members of a Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses pursuant to section 5703 of title 5, United States Code.

(c) DUTY.—In accordance with section 114, each Commission shall distribute loans and other assistance to communities from monies received from the Fund.

(d) MEETINGS.—

(1) IN GENERAL.—A Commission meeting shall be open to the public, unless the meeting concerns a personnel or budgetary matter.

(2) NOTICE.—A notice of a Commission meeting shall be published 30 days in advance in a newspaper of general circulation in the State.

(3) RULES OF PROCEDURE.—Each Commission shall adopt and make available to the public such internal rules of procedure as the Commission considers necessary.

(e) STAFF.—Each Commission may appoint, fix compensation for, and assign and delegate duties to an executive director and such other employees, and procure such temporary and intermittent services, as the Commission considers necessary to carry out its duties.

(f) ASSISTANCE FROM OTHER AGENCIES.—

(1) IN GENERAL.—Each Commission may use, with the consent of the agency, the services, equipment, personnel, and facilities of Federal, State, and other agencies with or without reimbursement.

(2) TECHNICAL ASSISTANCE.—Upon the request of a Commission, a Federal agency may provide technical assistance on a nonreimbursable basis to the Commission to assist it in carrying out its duties.

(3) COOPERATION.—Subject to paragraph (2), each Federal agency shall cooperate fully in making its services, equipment, personnel, and facilities available to each Commission.

(g) REPORT.—Not later than 90 days after the end of each fiscal year during which a Commission is in existence, the Commission shall submit in writing to Congress, the Secretary of Agriculture, the Secretary of the Interior, and the Governor of the State, a report that addresses—

(1) the activities of the Commission;

(2) the economic conditions and the employment situation of communities in the State;

(3) any recommendations that the Commission may have concerning the economic conditions; and

(4) any other rural development issues considered appropriate by the Commission.

(h) TERMINATION.—Each Commission shall terminate on September 30, 1999.

SEC. 114. COMMUNITY RURAL DEVELOPMENT LOANS.

(a) IN GENERAL.—For the purposes described in subsection (b), each Commission shall distribute monies received from the Fund in the form of loans to communities that are eligible in accordance with subsection (c).

(b) PURPOSES.—To further the purposes of rural development, loans shall be provided to—

(1) assist eligible communities and businesses in achieving economic diversity; and

(2) carry out such other purposes as the Commission considers appropriate.

(c) ELIGIBILITY.—A community shall be eligible for a loan if the community—

(1) has associated with it employment in a wood products, log harvesting, or log hauling or transportation company that during the period beginning 2 years before, and ending 3 years after, the date of enactment of this Act has experienced a plant closure or reduction in its work force of at least 33 percent; and

(2) is approved for assistance by the Commission for the State.

(d) REVOLVING LOAN FUND.—

(1) IN GENERAL.—Each Commission shall establish a revolving loan fund from the monies made available to the Commission for the purpose of making low interest loans to businesses that—

(A) have been adversely affected; and

(B) have 300 or fewer employees.

(2) PROMOTION OF NEW BUSINESSES.—A Commission may set aside a portion of the funds made available to carry out this subsection for loans to promote new businesses in communities.

(e) ELIGIBILITY FOR OTHER ASSISTANCE.—Nothing in this section is intended to affect the eligibility of communities for technical planning assistance and loans intended to achieve economic diversification and enhance local economies under the National Forest-Dependent Rural Communities Eco-

nomic Diversification Act of 1990 (7 U.S.C. 6611 et seq.).

SEC. 115. PAYMENTS TO STATES FROM FEDERAL TIMBER SALE REVENUES.

(a) NATIONAL FORESTS.—The sixth paragraph under the heading "FOREST SERVICE." in the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine", approved May 23, 1908 (35 Stat. 260, chapter 192; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963, chapter 186; 16 U.S.C. 500), are each amended by adding at the end the following new sentence: "Notwithstanding any other provision of this Act, for fiscal years 1993 through 2002, the Secretary of Agriculture shall calculate payments for each year to each of the States of Washington, Oregon, and California based on the average of the annual payments to the State for the preceding 10 years.".

(b) AUTHORITY OF THE SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall take such actions with regard to Federal forests under the Secretary's jurisdiction as are consistent with the amendments made by subsection (a).

SEC. 116. PROVISION OF INFORMATION TO COMMISSIONS.

Prior to taking any action with respect to managing a Federal forest within an affected State that may have a substantial local or regional impact on employment in communities, the Secretaries shall inform the Commission for the State of the proposed action.

Subtitle B—Dislocated Forest-Worker Assistance

SEC. 121. DEFINITIONS.

As used in this subtitle:

(1) ACCOUNT.—The term "Account" means the Dislocated Forest-Worker Assistance Account established by section 122.

(2) COMMITTEE.—The term "Committee" means a Dislocated Forest-Worker Assistance Committee established by section 123.

(3) DISLOCATED WORKER.—The term "dislocated worker"—

(A) means an individual—

(i) who is employed, or who was employed, in the timber harvesting, log hauling and transportation, saw mill, or secondary manufacturing of wood products industries that are dependent on timber from Federal forests in Oregon, Washington, or northern California;

(ii) who is experiencing dislocation from the individual's employing industry; and

(iii) who has exhausted State unemployment benefits; and

(B) does not include an individual who is engaged in an occupation that is not directly related to the timber harvesting or wood products industries.

(4) DISLOCATED WORKER ASSISTANCE.—The term "dislocated worker assistance" means monetary assistance described in section 124 payable to dislocated workers.

(5) DISLOCATION.—The term "dislocation" means a dislocated worker's total or partial loss of employment (including being compelled to accept a position with lesser pay or to work part-time) during the period beginning 2 years before, and ending 3 years after, the date of enactment of this Act because of an action that is taken pursuant to—

(A) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(B) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

(C) the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.); or

(D) this Act.

(6) EMPLOYMENT.—The term "employment" means the worker's period of employment in the timber harvesting, log hauling and transportation, saw mill, or secondary manufacturing of wood products industries in Oregon, Washington, or northern California in each of the 3 base periods (as determined under State law) preceding the total or partial dislocation that constitutes—

(A) at least 39 weeks of employment (at 20 hours or more of employment per week); or

(B) not fewer than 1560 hours of employment, as determined under the unemployment laws of the worker's State of residence.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(8) STATE.—The term "State" means the worker's State of residence in Oregon, Washington, or California.

(9) STATE AGENCY.—The term "State agency" means the agency that administers the State's unemployment compensation laws.

(10) STATE LAW.—The term "State law" means the unemployment compensation laws of the worker's State of residence.

SEC. 122. DISLOCATED FOREST-WORKER ASSISTANCE ACCOUNT.

(a) ESTABLISHMENT OF ACCOUNT.—There is established in the Treasury of the United States an account to be known as the "Dislocated Forest-Worker Assistance Account", consisting of such amounts as are transferred to the Account under subsection (b).

(b) TRANSFERS TO ACCOUNT.—

(1) IN GENERAL.—For each of fiscal years 1993 through 1998, the Secretary of the Treasury shall transfer to the Account by not later than the last day of the fiscal year an amount equal to 10 percent of the Federal portion of all monies received in the fiscal year from the sale of timber and other forest products from federally owned forests.

(2) MONIES RECEIVED.—As used in paragraph (1), the term "monies received", with respect to those forests managed by the Forest Service, has the same meaning as is provided for the term in—

(A) the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine", approved May 23, 1908 (35 Stat. 260, chapter 192; 16 U.S.C. 500); and

(B) section 13 of the Act of March 1, 1911 (36 Stat. 963, chapter 186; 16 U.S.C. 500).

(c) EXPENDITURES FROM ACCOUNT.—

(1) IN GENERAL.—On October 1, 1993, and each October 1 thereafter through October 1, 1998, and without further appropriation, the Secretary of the Treasury shall transfer from the Account to each State agency the amount from the Account that is determined to be payable to the State agency pursuant to paragraph (2). The amount shall be used by the State agency in accordance with paragraph (3).

(2) DETERMINATION OF AMOUNTS.—

(A) IN GENERAL.—The Secretary of Agriculture shall determine the amounts payable to each State agency according to a pro rata distribution based on a formula determined by the Secretary in accordance with subparagraph (B).

(B) FORMULA.—The formula shall take into consideration, on a historical basis, the number of dislocated workers (as defined in section 121(3)) in the State in proportion to the total number of jobs lost in each industry in which dislocated workers are employed.

(3) USE OF AMOUNTS.—

(A) IN GENERAL.—Subject to subparagraph (B) and in coordination with the appropriate Committee, each State agency shall use amounts received pursuant to paragraph (1) to provide dislocated worker assistance to dislocated workers who file an application with the State agency.

(B) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the funds made available to the State agency may be used for administrative expenses.

(d) TERMINATION.—The Account shall terminate on October 1, 1998. After termination, any amounts remaining in the Account shall be paid to the general fund of the Treasury.

(e) EFFECT ON TIMBER PAYMENTS TO STATES.—Except as provided in section 115, nothing in this subtitle is intended to modify or alter payments to States under—

(1) the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine", approved May 23, 1908 (35 Stat. 260, chapter 192; 16 U.S.C. 500); and

(2) section 13 of the Act of March 1, 1911 (36 Stat. 963, chapter 186; 16 U.S.C. 500).

SEC. 123. DISLOCATED FOREST-WORKER ASSISTANCE COMMITTEES.

(a) IN GENERAL.—There is established for each State a Dislocated Forest-Worker Assistance Committee.

(b) MEMBERSHIP.—

(1) COMPOSITION.—Each Committee shall be composed of five members appointed by the Governor of the State.

(2) CHAIRPERSON.—

(A) IN GENERAL.—Each Committee shall elect a chairperson from among its members.

(B) TERM.—The chairperson shall serve for a term of 1 year.

(3) VACANCIES.—A vacancy on a Committee shall be filled in the same manner in which the original appointment was made.

(4) COMPENSATION.—Members of a Committee shall serve without compensation.

(5) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for a Committee, members of a Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses pursuant to section 5703 of title 5, United States Code.

(c) DUTY.—Each Committee shall provide guidance to the State agency for the State of the Committee in the distribution of grants to dislocated workers within the State from monies received from the Account, pursuant to rules developed by the State agency. The rules shall include procedures for the collection of any overpayments of dislocated worker assistance.

(d) MEETINGS.—

(1) IN GENERAL.—A Committee meeting shall be open to the public, unless the meeting concerns a personnel or budgetary matter.

(2) NOTICE.—A notice of a Committee meeting shall be published 30 days in advance in a newspaper of general circulation in the State.

(3) RULES OF PROCEDURE.—Each Committee shall adopt and make available to the public such internal rules of procedure as the Committee considers necessary.

(e) STAFF.—Each Committee may appoint, fix compensation for, and assign and delegate duties to an executive director and such other employees, and procure such temporary and intermittent services, as the Committee considers necessary to carry out the duties of the Committee.

(f) ASSISTANCE FROM OTHER AGENCIES.—

(1) IN GENERAL.—Each Committee may use, with the consent of the agency, the services, equipment, personnel, and facilities of Fed-

eral, State, and other agencies with or without reimbursement.

(2) TECHNICAL ASSISTANCE.—Upon the request of a Committee, a Federal agency may provide technical assistance on a nonreimbursable basis to the Committee to assist it in carrying out its duties.

(3) COOPERATION.—Subject to paragraph (2), each Federal agency shall cooperate fully in making its services, equipment, personnel, and facilities available to each Committee.

(g) REPORT.—Not later than 90 days after the end of each fiscal year during which a Committee is in existence, the Committee shall submit in writing to Congress, the Secretary, the Secretary of the Interior, and the Governors of California, Oregon, and Washington, a report that addresses—

(1) the activities of the Committee;

(2) the employment situation of workers in the timber harvesting, log hauling and transportation, saw mill, and secondary manufacturing of wood products industries in the regions economically impacted by late-successional/old-growth forests;

(3) any recommendations that the Committee may have concerning workers in the industries described in paragraph (2); and

(4) any other assistance issues considered appropriate by the Committee.

(h) TERMINATION.—Each Committee shall terminate on September 30, 1999.

SEC. 124. CATEGORIES OF DISLOCATED FOREST-WORKER ASSISTANCE.

(a) INCOME SUPPLEMENT.—

(1) IN GENERAL.—A dislocated worker may receive an income supplement.

(2) ELIGIBILITY TESTING.—The dislocated worker's eligibility for the income supplement shall be computed weekly on the same basis as the unemployment insurance in the dislocated worker's State pursuant to the State's unemployment laws.

(3) MAXIMUM AMOUNT OF BENEFIT.—The maximum amount of the weekly income supplement for which a dislocated worker is eligible shall be determined by the unemployment laws of the dislocated worker's State of residence.

(4) BENEFITS FOR CERTAIN WORKERS.—A State agency may grant an income supplement to an otherwise eligible individual worker who was not previously eligible for State unemployment insurance because the worker's unemployment was due to a contraction in the industry or to self-employment.

(b) VOCATIONAL RETRAINING STIPEND.—A dislocated worker may receive a retraining stipend for a course of training approved by a State agency. The stipend may not exceed the average cost in the worker's locale of 2 years' tuition at a vocational school or its equivalent.

(c) JOB SEARCH ALLOWANCE.—A dislocated worker may receive a job search allowance in an amount equal to 90 percent of actual job search costs, not to exceed $800 per year.

(d) RELOCATION ALLOWANCE.—A dislocated worker may receive a relocation allowance, if the worker has obtained employment outside of the commuting area in which the worker resides, in an amount equal to the lesser of—

(1) 90 percent of actual expenses incurred in transporting the worker, the family of the worker, and the household effects of the worker and the family; or

(2) $800 per year.

(e) BENEFITS IN ADDITION TO REGULAR BENEFITS.—A grant provided under this section shall be in addition to regular unemployment benefits provided by a State pursuant to State law.

Subtitle C—Miscellaneous

SEC. 131. PURPOSES.

The purposes of this subtitle are—

(1) to provide employment opportunities in federally owned forests through the implementation of forest ecosystem management practices;

(2) to control speculative bidding on timber sales contracts and provide greater employment certainty by increasing financial security requirements for Federal timber sale programs;

(3) to provide adequate funding for the employment opportunities described in paragraph (1);

(4) to restrict the export of unprocessed logs, which is necessary because of a temporary shortage in the supply of timber, which is caused by conserving an exhaustible natural resource; and

(5) to ensure the supply of Pacific yew on a sustainable basis.

SEC. 132. ECOSYSTEM MANAGEMENT CONTRACTS.

(a) IN GENERAL.—The Secretaries shall employ, or otherwise contract with, persons at regular rates of pay (as determined by the Secretaries) to perform forest ecosystem management practices on all forests managed by the Forest Service and the Bureau of Land Management throughout the United States in accordance with the objectives described in section 233 and other objectives considered appropriate by the Secretaries.

(b) WITHHOLDING OF SUMS.—The Secretaries may withhold a reasonable percentage of the value of the timber harvested pursuant to a contract entered into under subsection (a) to compensate for costs incurred by the Secretaries in carrying out subsection (a), including costs for site preparation, replanting, silvicultural activities, recreation, fish and wildlife enhancement, and other multiple use projects.

(c) EFFECT ON TIMBER SALES TARGETS.—Timber removed under a contract entered into under subsection (a) shall be included within the annual timber sales targets of the Forest Service.

SEC. 133. FINANCIAL SECURITY REQUIREMENTS.

(a) IN GENERAL.—For each timber sale contract that relates to a forest managed by the Forest Service or the Bureau of Land Management and that is entered into after the date of enactment of this Act, the Secretaries shall retain a cash deposit as security to ensure completion of the contract.

(b) AMOUNT OF DEPOSIT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the deposit shall be equal to 20 percent of the contract value and may be applied to the final payment upon completion of the contract.

(2) REDUCTION FOR SMALL COMPANIES.—In the case of a company that holds less than 3 percent of the total estimated volume of timber standing within a forest managed by the Forest Service or the Bureau of Land Management, the amount of the required deposit shall be reduced to a level that the Secretary concerned considers appropriate.

(c) EXTENSIONS OF TIME.—Extensions of time for completion of the contract may be granted only upon receipt of a substantial additional cash deposit that the Secretary concerned determines is adequate to ensure timely completion of the contract during the period of the extension.

SEC. 134. LAND MANAGEMENT APPROPRIATIONS.

To ensure full implementation of this Act, it is the sense of Congress that annual appropriations for the Forest Service should be based on, and should not be less than, the average of the appropriations to the Forest Service during the preceding 10 fiscal years, as adjusted for inflation (except that the distribution of funds among programs may vary).

SEC. 135. LOG EXPORTS.

(a) IN GENERAL.—A State west of the 100th meridian from which unprocessed logs are exported may establish and implement export restrictions determined by the State to be necessary because of a temporary shortage in the supply of timber, which is caused by conserving an exhaustible natural resource. The restrictions may apply to private and public lands within the geographic boundaries of the State.

(b) TERMINATION OF RESTRICTIONS ON EXPORTS FROM PRIVATE LANDS.—

(1) IN GENERAL.—An export restriction established pursuant to subsection (a) on unprocessed logs harvested from private lands shall terminate in accordance with this subsection not later than 10 years after the date of enactment of this Act.

(2) PHASE-OUT.—Subject to paragraph (3), beginning 1 year after the date of enactment of this Act, a restriction described in paragraph (1) shall be reduced in equal annual increments such that by the year that begins 10 years after the date of enactment of this Act there is no restriction on the export of logs from private lands in the State.

(3) TERMINATION BY STATE.—A State may terminate a restriction described in paragraph (1) prior to the date that is 10 years after the date of enactment of this Act.

(c) EXPORTS TO CANADA.—No export restriction established pursuant to subsection (a) shall have the effect of reducing the proportion of total exports of unprocessed logs from the United States that is made available for export to Canada below the proportion of total exports of unprocessed logs from the United States that was exported to Canada during a representative period prior to the date of establishment of the restriction (as determined by the President).

(d) PRESIDENTIAL SUSPENSION.—After reasonable notice and a public comment period of not less than 120 days, the President may suspend a restriction established pursuant to subsection (a) if, pursuant to the adoption of a dispute settlement panel report by the Council of the General Agreement on Tariffs and Trade, the restriction is found to be in violation of, or inconsistent with, obligations of the United States under the Agreement.

SEC. 136. RED CEDAR LOG EXPORTS.

The Act of April 12, 1926 (44 Stat. 242, chapter 117; 16 U.S.C. 616) is amended by adding at the end the following new section:

"SEC. 3. WESTERN RED CEDAR LOGS.

"Western Red Cedar unprocessed logs from the Tongass National Forest may not be exported from the United States unless the Secretary of Agriculture determines that the logs are surplus to the needs of domestic processors when offered at fair market value (as determined by the Secretary of Agriculture).".

SEC. 137. PACIFIC YEW CONSERVATION AND MANAGEMENT.

(a) FINDINGS.—Congress finds that—

(1) each year, over 12,000 women die from ovarian cancer and 44,500 women die from breast cancer;

(2) taxol, a drug made from the Pacific yew (Taxus brevifolia), has been successful in treating ovarian cancer in clinical trials and shows promise in the treatment of breast cancer and other types of cancer;

(3) the production of small quantities of taxol currently requires the use of large numbers of Pacific yew;

(4) the Pacific yew is a slow-growing tree species found in the western United States;

(5) significant numbers of Pacific yew are found in old growth forests on federally owned lands in the Pacific Northwest;

(6) before the importance of taxol was discovered, the Pacific yew was considered a trash tree and was often burned in slash piles after timber operations;

(7) remaining Pacific yew resources must be carefully managed in order to ensure a steady supply of taxol for the treatment of cancer, while also providing for the long-term conservation of the species; and

(8) appropriate management guidelines must be implemented promptly in order to prevent any wasting of Pacific yew in current and future timber sales on federally owned lands while successful and affordable alternative methods of manufacturing taxol are being developed.

(b) PURPOSE.—The purpose of this section is to contribute to the successful treatment of cancer by ensuring that Pacific yew located on lands under the jurisdiction of the Secretaries are managed to—

(1) provide for the efficient collection and utilization of those parts of the Pacific yew that can be used in the manufacture of taxol for the treatment of cancer;

(2) provide for the sale of Pacific yew from the lands for the commercial production and subsequent sale of taxol at a reasonable cost to cancer patients;

(3) ensure the long-term conservation of the Pacific yew; and

(4) prevent the wasting of Pacific yew resources while successful and affordable alternative methods of manufacturing taxol are being developed.

(c) PACIFIC YEW CONSERVATION AND MANAGEMENT.—

(1) PACIFIC YEW POLICY.—With respect to lands that are under the jurisdiction of the Secretaries and that contain Pacific yew, the Secretaries shall pursue a conservation and management policy that provides for—

(A) the sustainable harvest of Pacific yew, or Pacific yew parts, for the manufacture of taxol, in accordance with relevant land and resource management plans; and

(B) the long-term conservation of the Pacific yew in the wild.

(2) CONTENT OF POLICY.—The conservation and management policy required by paragraph (1) shall ensure that—

(A) in planning harvests of Pacific yew, priority is given—

(i) first to those areas in which timber has been cut but Pacific yew have not been removed;

(ii) second to those areas in which timber is already sold but remains uncut;

(iii) third to those areas scheduled for timber sales in the near future; and

(iv) fourth to those areas (other than areas described in clauses (i) through (iii)) in which commercial and salvage timber sales are permitted under laws in existence on the date of the plan;

(B) individual Pacific yew are utilized with little or no waste;

(C) to the extent that the health and safety of timber harvesters will not be jeopardized, the bark is harvested from Pacific yew in timber sale areas before the harvest of other timber resources;

(D) when Pacific yew are harvested, they are—

(i) cut using methods designed to allow for resprouting from the stump; and

(ii) replanted where necessary to maintain the species in the ecosystem; and

(E) timber management and harvest activities are carried out in a manner that will minimize any adverse effects on the survival and regeneration of Pacific yew.

(3) APPLICATION OF POLICY TO TIMBER HARVESTING.—Each Secretary shall ensure that timber sales awarded after the date of enactment of this Act, and timber sales completed before that date but unharvested as of that date, are conducted in accordance with—

(A) the policy described in paragraph (1); and

(B) the relevant land and resource management plans.

(4) INVENTORY OF PACIFIC YEW.—Not later than 180 days after the date of enactment of this Act, each Secretary shall complete an inventory of Pacific yew on lands under the jurisdiction of the Secretary.

(d) RESEARCH.—The Secretaries shall encourage and, when appropriate, assist in research regarding—

(1) the ecology of the Pacific yew;

(2) the development of alternative methods of procuring taxol, including—

(A) the utilization of yew parts other than bark;

(B) the sustainable harvest of yew needles; and

(C) the utilization of other yew species; and

(3) the propagation of Pacific yew and other yew species in agricultural or commercial settings.

(e) COLLECTION AND SALE OF PACIFIC YEW RESOURCES.—

(1) ENFORCEMENT AND ACCESS.—Each Secretary shall ensure that—

(A) procedures for the collection and sale of Pacific yew resources that minimize the illegal harvest and sale of the resources are developed, implemented, and enforced; and

(B) access to Pacific yew resources is permitted in a timely manner to ensure that collection of Pacific yew parts can occur before the taxol properties of the parts are degraded.

(2) NEGOTIATED SALES.—

(A) FOREST SERVICE SALES.—Notwithstanding section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), the Secretary of Agriculture may negotiate sales of Pacific yew on lands under the jurisdiction of the Forest Service, at not less than appraised value, to persons that manufacture taxol in the United States for use in humans.

(B) DISPOSITION OF UNUTILIZED MATERIAL.—Each Secretary shall, to the extent practicable, make material unutilized by purchasers of Pacific yew available to other persons.

(C) LIMITS ON OTHER SALES.—Except as provided in subparagraphs (A) and (B), the Secretaries may not sell Pacific yew for commercial use.

(D) DISPOSITION OF RECEIPTS.—Not less than 25 percent of all monies received from the sale of Pacific yew shall be distributed in the manner provided in—

(i) the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine", approved May 23, 1908 (35 Stat. 260, chapter 192; 16 U.S.C. 500); and

(ii) section 13 of the Act of March 1, 1911 (36 Stat. 963, chapter 186; 16 U.S.C. 500).

(3) RECORDKEEPING.—Each Secretary shall keep accurate records of all sales, bark removal, or other harvest of Pacific yew. The records shall include—

(A) the date of sale (if applicable) and the date of harvest;

(B) the names of persons performing the harvest;

(C) the record of authorization for the harvest;

(D) the location and size of the area in which the harvest occurred; and

(E) the quantity of Pacific yew harvested, including, to the extent practicable—

(i) the number of trees harvested;

(ii) the volume of bark harvested; and

(iii) the weight of bark harvested.

(f) COST-SHARE ASSISTANCE TO OWNERS OF NONINDUSTRIAL PRIVATE FOREST LANDS.—Section 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103b) is amended—

(1) in subsection (b)(4), by adding at the end the following new subparagraph:

"(C) COST-SHARE ASSISTANCE TO OWNERS OF NONINDUSTRIAL PRIVATE FOREST LANDS.—The Secretary shall provide cost-share assistance to owners of nonindustrial private forest lands that contain Pacific yew. The rate of reimbursement shall be in accordance with this section and regulations issued by the Secretary."; and

(2) in subsection (e)—

(A) in paragraph (5), by striking "and";

(B) in paragraph (6), by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) the existence of Pacific yew on nonindustrial private forest lands.".

(g) RELATION TO OTHER LAWS.—Nothing in this section is intended to modify—

(1) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); or

(3) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(h) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, each Secretary shall submit a report containing the information described in paragraph (2) to—

(A) the Committee on Agriculture of the House of Representatives; and

(B) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) CONTENTS.—A report required under paragraph (1) shall contain—

(A) a determination as to whether sufficient quantities of Pacific yew have been harvested, and can continue to be harvested in the next year, to supply necessary quantities of taxol required for medicinal purposes, together with a summary of the information on which the determination is based; and

(B) the results of the Pacific yew inventory required by subsection (c)(4).

(i) TERMINATION OF REQUIREMENTS.—

(1) DETERMINATION BY THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall determine when quantities of taxol sufficient to satisfy medicinal demands are available from sources other than Pacific yew harvested from Federal lands, and notify each Secretary upon making the determination.

(2) CONCURRENCE BY THE SECRETARIES.—If each Secretary concurs in the determination made pursuant to paragraph (1), the Secretaries shall jointly notify the congressional committees listed in subsection (h)(1) of their concurrence.

(3) TERMINATION.—Upon notification in accordance with paragraph (2), the requirements of this section shall terminate.

SEC. 138. WOOD RESIDUE UTILIZATION.

Section 8 of the Wood Residue Utilization Act of 1980 (16 U.S.C. 1687) is amended—

(1) by inserting "(a)" after "8."; and

(2) by adding at the end the following new subsection:

"(b)(1) There are authorized to be appropriated—

"(A) $5,500,000 for the construction of a pilot wood residue utilization project in Siskiyou County, California, to demonstrate the commercial viability of cement fiber board products for use in the construction industry, of which $500,000 shall be used for the construction of a process technology transfer center to be located at the College of the Siskiyous;

"(B) $2,000,000 for the construction of a pilot wood residue utilization project to be located in the State of Washington to demonstrate the commercial viability of recycled panel boards for use in the construction industry; and

"(C) $1,000,000 for the construction of a pilot wood residue utilization project to be located in Lane County, Oregon, to develop processes for the extraction of medically beneficial products from yew trees without inflicting permanent damage to the trees.

"(2) There are authorized to be appropriated not more than $300,000 for administrative expenses necessary to carry out the pilot projects described in paragraph (1)."

SEC. 139. REGULATIONS.

The Secretary of Agriculture and the Secretary of the Interior shall issue such regulations, within their respective jurisdictions, as are necessary to carry out this title and the amendments made by this title.

SEC. 140. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title and the amendments made by this title.

TITLE II—FOREST ECOSYSTEM CONSERVATION

SEC. 201. PURPOSES.

The purposes of this title are—

(1) to establish a sound ecosystem approach to the management of Federal forests in order to—

(A) maintain viable populations of native and desired non-native vertebrate species in each Federal forest;

(B) preserve fisheries, wildlife, water quality, soil quality, and other natural resources within these ecosystems; and

(C) ensure the production of timber and wood products, and employment associated with the production, on a long-term basis;

(2) to establish forest ecosystem management direction and practices for Westside forests;

(3) to require the Secretaries to—

(A) conduct an inventory of Eastside forests;

(B) conduct a study to determine which management strategies would best restore, maintain, and protect the health of Eastside forests, including the forests' late-successional/old-growth components and the forests' associated ecological elements, functions, and successional processes; and

(C) manage Eastside forests in accordance with interim protection prescriptions pending completion of the study described in subparagraph (B); and

(4) to establish Forest Ecosystem Advisory Committees for each Forest Service Region and Bureau of Land Management State Office to assist the agencies in implementing forest ecosystem management on all forests managed by these agencies throughout the United States.

SEC. 202. DEFINITIONS.

As used in this title:

(1) COMMITTEE.—The term "Committee" means a Forest Ecosystem Advisory Committee established by section 231.

(2) EASTSIDE FOREST.—The term "Eastside forest" means a Federal forest in the ecoregion provinces of the Columbia Forest, Rocky Mountain Forest, Palouse Grassland, Intermountain Sagebrush, Sierran Forest, or California Chaparral.

(3) EASTSIDE LATE-SUCCESSIONAL/OLD-GROWTH FOREST.—Except as otherwise provided in section 221, the term "Eastside late-successional/old-growth forest" means a forest that is an Eastside forest and is referred to as "old-growth timber" on pages 3-40 through 3-42 of the document of the Pacific Northwest Region of the Forest Service entitled "Regional Guide for the Pacific Northwest Region", dated May 1984.

(4) ECOREGION PROVINCE.—The term "ecoregion province" means that level of ecosystem classification defined in the Forest Service document entitled "Delineation of Ecosystem Regions", prepared by R.G. Bailey of the Rocky Mountain Forest and Range Experiment Station, Fort Collins, Colorado, dated 1979.

(5) FOREST RESOURCES.—The term "forest resources" means the various amenities, commodities, and services available in Federal forests such as timber, water quality and quantity, soils, forage, minerals, outdoor recreation, and fish and wildlife and their habitats.

(6) LAND DISTURBANCE.—The term "land disturbance" means an alteration of the natural characteristics of a Federal forest due to a management activity or procedure, regardless of the effect on the forest ecosystem.

(7) MOST SIGNIFICANT LATE-SUCCESSIONAL/OLD-GROWTH FOREST.—The term "most significant late-successional/old-growth forest" has the same meaning as is provided for the term in the Panel Report.

(8) REGION.—The term "Region" means each forest region of the United States established by the Forest Service and State Office of the United States established by the Bureau of Land Management.

(9) SIGNIFICANT LATE-SUCCESSIONAL/OLD-GROWTH FOREST.—The term "significant late-successional/old-growth forest" has the same meaning as is provided for the term in the Panel Report.

(10) WATERSHED.—The term "watershed" has the same meaning as is provided for the term in the Panel Report.

(11) WATERSHED AND FISH HABITAT EMPHASIS OPTION.—The term "Watershed and Fish Habitat Emphasis Option" has the same meaning as is provided for the term on pages 4 and 5 of the Panel Report and in table 5 of the Panel Report.

(12) WESTSIDE FOREST.—The term "Westside forest" means a Federal forest in the ecoregion provinces of Pacific Forest and Willamette-Puget Forest.

(13) OTHER TERMS.—Except as otherwise provided in this title, a term defined in the Panel Report and used in this title has the same meaning as is provided for the term in the Panel Report.

Subtitle A—Westside Forests

SEC. 211. MANAGEMENT OF LATE-SUCCESSIONAL/OLD-GROWTH WESTSIDE FORESTS.

(a) IN GENERAL.—Effective on the date of enactment of this Act, the Secretaries shall manage Westside forests that are most significant late-successional/old-growth or significant late-successional/old-growth forests to—

(1) maintain viable populations of native and desired non-native vertebrate species in each Federal forest; and

(2) protect and restore biological diversity within wetlands, riparian corridors, and estuaries for anadromous fish and other communities of plants and animals associated with the forests.

(b) MANAGEMENT.—

(1) IN GENERAL.—In carrying out subsection (a), the Secretaries shall—

(A) implement the prescriptions contained in Alternative 12, Management Option C, as described in the Panel Report; and

(B) implement the management practices described in paragraph (2).

(2) PRACTICES.—

(A) PROHIBITIONS.—The Secretaries shall prohibit timber harvesting and road construction (except as necessary to protect and restore aquatic habitat).

(B) PUBLIC USES.—The Secretaries shall provide for public uses that are consistent with the protection of late-successional/old-growth forests and the purposes of this Act, including fishing, hunting, trapping, scientific research, and maintenance of trails in existence on the date of enactment of this Act.

(C) FIRE, INSECTS, AND DISEASE CONTROL.—

(i) IN GENERAL.—Subject to clause (ii), the Secretaries shall carry out such fire, insect, and disease suppression and control programs as are necessary—

(I) to protect human life and private property within or immediately adjacent to most significant late-successional/old-growth and significant late-successional/old-growth forests; and

(II) to protect and restore the natural ecological components, functions, and processes of most significant late-successional/old-growth and significant late-successional/old-growth forests.

(ii) PRIOR DETERMINATION.—A Secretary may not carry out a suppression or control program described in clause (i) for a native insect, plant, or disease unless—

(I) the Secretary makes a determination that success is likely and that the program is necessary; and

(II) the determination is made in a proceeding that complies with applicable statutes and treaties.

(c) RELATIONSHIP TO WATERSHED MANAGEMENT.—The Secretaries shall carry out this section in a manner that is consistent with the Watershed and Fish Habitat Emphasis Option. If, in carrying out this section, this Option conflicts with the prescriptions for most significant late-successional/old-growth and significant late-successional/old-growth forest management established under this section, the more restrictive management practices shall take precedence.

(d) MANAGEMENT AREA DESCRIPTIONS.—As soon as practicable after the date of enactment of this Act, the Secretaries shall develop management area descriptions that describe those areas to be managed under this section.

SEC. 212. WATERSHED MANAGEMENT EMPHASIS.

(a) IN GENERAL.—Effective on the date of enactment of this Act, the Secretaries shall manage key watersheds in Westside forests (as identified in subsection (b)) to—

(1) restore, maintain, and protect ecological elements, functions, and successional processes of the forests; and

(2) restore, maintain, and protect the habitat of potentially threatened and endangered fish species and stocks of anadromous salmonoids.

(b) KEY WATERSHEDS.—The Secretaries shall identify as key watersheds in Westside forests those watersheds that—

(1)(A) contain threatened or potentially threatened species or stocks of anadromous salmonoids or other potentially threatened fish; or

(B) are larger than 6 square miles and have high quality water and fish habitat; and

(2) contain other key riparian areas or wetlands.

(c) MANAGEMENT.—The Secretaries shall manage key watersheds in Westside forests (as identified in subsection (b)) in a manner that is consistent with the Watershed and Fish Habitat Emphasis Option.

(d) MANAGEMENT AREA DESCRIPTIONS.—As soon as practicable after the date of enactment of this Act, the Secretaries shall develop management area descriptions that describe those areas to be managed under this section.

SEC. 213. MANAGEMENT OF OTHER WESTSIDE FORESTS.

(a) IN GENERAL.—The Secretaries shall manage those Westside forests, and portions of Westside forests, that are not managed as most significant late-successional/old-growth or significant late-successional/old-growth forests pursuant to section 211 to facilitate movement of biological organisms between and among late-successional/old-growth forests and to foster reestablishment of structurally diverse forests in cutover areas.

(b) MANAGEMENT PRACTICES.—In carrying out subsection (a), the Secretaries shall comply with—

(1) Management Option C, as described in the Panel Report; and

(2) the Watershed and Fish Habitat Emphasis Option.

SEC. 214. AMENDMENT AND MODIFICATION OF PRESCRIPTIONS.

Prescriptions established under sections 211 through 213 may be—

(1) amended by an Act of Congress; or

(2) modified by the Secretaries pursuant to section 234(a).

SEC. 215. TIMBER HARVEST SUITABILITY AND CALCULATIONS.

(a) SUITABILITY FOR TIMBER HARVESTING.—A management area consisting of most significant late-successional/old-growth or significant late-successional/old-growth forests may not—

(1) be designated as available or suitable for timber harvest; or

(2) be included in any calculation of allowable sale quantities or annual timber sale targets of the Forest Service.

(b) ADJUSTMENT.—The Secretaries shall adjust any calculations of lands available or suitable for timber harvest, or any calculations of allowable sale quantity, to conform to the prescriptions established under sections 211 through 213.

Subtitle B—Eastside Forests

SEC. 221. EASTSIDE FOREST STUDY.

(a) IN GENERAL.—In cooperation with the Committee for Region 6, the Secretaries shall conduct a study of Eastside forests to determine forest ecosystem management strategies that will restore, maintain, and protect the health of forests and their associated ecological elements, functions, and processes.

(b) EVALUATIONS.—For Eastside forests in Region 6, the study shall—

(1) include and use a revised definition of "Eastside late-successional/old-growth forest" that shall be based on criteria designed to—

(A) retain an ecologically functional late-successional/old-growth network throughout Federal forests; and

(B) ensure habitats and environmental conditions on Federal forests for conserving well-distributed populations of fish and wildlife species associated with late-successional/old-growth forests;

(2) develop and evaluate protection options for Eastside forests, including the forests' late-successional/old-growth components and the forests' associated ecological elements, functions, and processes;

(3) develop and evaluate options for the restoration, protection, and maintenance of viable populations of fish, wildlife, and plant species;

(4) grade Eastside late-successional/old-growth forests from most to least ecologically significant;

(5) assess the impact of the alternative management strategies described in subsection (a) on allowable timber sales quantities from historical and current perspectives;

(6) evaluate the impact of forest health problems on the long-term productivity of Eastside forests;

(7) provide a risk analysis scale for ranking the probabilities of restoring functioning Eastside forests, including the forests' late-successional/old-growth components and the forests' associated ecological elements, functions, and processes; and

(8) delineate and establish management standards for key watersheds.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretaries shall submit the study and written recommendations for the implementation of the study to Congress.

SEC. 222. INTERIM PROTECTION OF EASTSIDE WATERSHEDS AND LATE-SUCCESSIONAL/OLD-GROWTH FORESTS.

(a) WATERSHEDS.—The Secretaries shall manage key watersheds in Eastside forests (as identified in subsection (b)) to—

(1) restore, maintain, and protect ecological elements, functions, and successional processes of the forests; and

(2) restore, maintain, and protect the habitat of potentially threatened and endangered fish species and stocks of anadromous salmonoids.

(b) KEY WATERSHEDS.—The Secretaries shall identify as key watersheds in Eastside forests those watersheds that—

(1)(A) contain threatened or potentially threatened species or stocks of anadromous salmonoids or other potentially threatened fish; or

(B) are larger than 6 square miles and have high quality water and fish habitat; and

(2) contain other key riparian areas or wetlands.

(c) LAND DISTURBANCES.—Effective on the date of enactment of this Act and until the completion and implementation of the recommendations submitted to Congress in accordance with section 221(c), the Secretaries shall carry out the directions and prescriptions described in subsections (d) and (e) in all land disturbances in an Eastside watershed or forest.

(d) DIRECTIONS.—

(1) DIVERSITY REQUIREMENTS.—The Secretaries shall ensure compliance with the diversity requirements of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) in both short-term management activities and the design of future forest conditions.

(2) WATER QUALITY.—Because of the important role Eastside watersheds and forests have in ensuring adequate water quality and habitat for wild runs of anadromous fish, the restoration, maintenance, and protection of wetlands, seeps, springs, streams, lakes, and other bodies of water shall be a primary consideration.

(3) DEAD AND DYING MATERIAL.—Because of rapid deterioration, logistical constraints, and the desirability of ensuring adequate dead and dying material for natural ecosystem functioning in the future, not all dead and dying trees may be salvaged.

(e) PRESCRIPTIONS FOR WATERSHED AND FOREST PROTECTION.—

(1) LAND DISTURBANCES.—Notwithstanding any other provision of this Act, the Secretaries may not permit any land disturbance within the larger of—

(A) any area dominated by riparian vegetation; or

(B) any area within 100 feet (measured horizontally) from the side of any seep, spring, stream, lake, wetland, or riparian area.

(2) RESTRICTIONS ON TIMBER HARVESTING.—

(A) IN GENERAL.—The Secretaries may not permit timber harvest and salvage within—

(i) an area that is the larger of ¼ mile on each side of, or the width of the 100-year flood plain of, a river designated, or under study, as a wild, scenic, or recreational river under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) if water quality, fish, or another ecological value is one of the outstanding remarkable features of the river;

(ii) an area that is the larger of ⅛ mile on each side of, or the width of the 100-year flood plain of, a major stream that drains at least 30 square miles;

(iii) 300 feet on each side of a fish-bearing stream;

(iv) 150 feet on each side of a permanently flowing non-fish-bearing stream;

(v) 100 feet on each side of a seasonally flowing or intermittent stream in an area of moderate or high soil instability;

(vi) a roadless area identified in Appendix C of the final environmental impact statement for each land and resource management plan; and

(vii) a habitat occupied by a sensitive, threatened, or endangered species or by a species of special concern to the Secretaries, unless a Secretary, in consultation with the Director of the United States Fish and Wildlife Service, approves timber harvest and salvage within the habitat.

(B) MEASUREMENT OF AREAS AROUND RIVERS AND STREAMS.—The linear distances described in clauses (i) through (v) of subparagraph (A) shall be measured horizontally from the mean high water line of the river or stream.

(3) SALVAGE.—

(A) IN GENERAL.—Salvage activities shall be designed and implemented solely to recover long-term forest and watershed health. Except as necessary to provide minimum economic viability for salvage sales in accordance with regulations issued by the Secretaries, live trees shall be retained for shade, seed, forest structure, diversity, and to provide other resource values. All salvage sales shall count toward meeting annual timber sale targets, but the sales may not be included in the calculation of projected annual targets.

(B) OLD GROWTH CONIFER.—Notwithstanding subparagraph (A), harvest of coniferous trees that are 21 inches or greater in diameter (measured at breast height) shall not be permitted.

(C) RETENTION OF TREES.—Salvage of dead and dying trees shall retain sufficient standing and down dead trees and live replacement trees to maintain 100 percent of the potential population level of cavity excavating species, according to the best scientific information available.

(D) WILDLIFE AND COVER.—Maximum consideration shall be given to meeting fish and wildlife habitat and cover requirements pro-

vided in land and resource management plans.

(E) DEVELOPMENT OF STRATEGIES.—Access and travel management strategies shall be developed with full public involvement to mitigate any reduction in habitat and cover values.

(4) ROAD CONSTRUCTION.—No new roads may be constructed in roadless areas identified in Appendix C of the final environmental impact statement for each land and resource management plan. The construction of new roads in other areas shall be minimized. Spur roads and other nonessential roads shall be returned to a natural condition.

(5) GRAZING.—Notwithstanding any other provision of law, grazing allotment management plans shall be immediately updated to restore Eastside forest health, including the temporary and permanent exclusion of livestock from riparian areas to promote the reestablishment of shrubs, hardwoods, and fringe wetlands, and the maintenance of streambank integrity.

SEC. 223. FOREST INVENTORY AND ANALYSIS REPORT.

(a) INVENTORIES.—Not later than September 30, 1993, the Secretaries shall prepare an integrated inventory of, and publish an analysis report for, forest resources in Eastside forests in Washington, Oregon, and northern California, in order to provide consistent and reliable data necessary to achieve the purposes of this subtitle.

(b) REPORT.—Each inventory and analysis report shall—

(1) be modeled on the report entitled "Forest Inventory and Analysis" prepared under the Forest Service research program; and

(2) be conducted in accordance with the standardized protocols developed pursuant to section 236(a)(1).

Subtitle C—Miscellaneous

SEC. 231. FOREST ECOSYSTEM ADVISORY COMMITTEES.

(a) ESTABLISHMENT.—There is established for each Region a Forest Ecosystem Advisory Committee. The Committees shall provide—

(1) recommendations for forest ecosystem management on all forests managed by the Forest Service and the Bureau of Land Management throughout the United States; and

(2) oversight of the implementation by the agencies referred to in paragraph (1) of forest ecosystem management.

(b) MEMBERSHIP.—

(1) COMPOSITION.—Each Committee shall be composed of members appointed by the Secretary of Agriculture. The number of members shall be determined by the Secretary of Agriculture.

(2) TERM.—Each member of a Committee shall be appointed to serve until the termination of the Committee.

(3) VACANCIES.—A vacancy on a Committee shall be filled within 60 days by a majority vote of the remaining members of the Committee.

(4) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a member of a Committee shall be entitled to receive compensation at a rate not in excess of the rate of pay in effect for level IV of the Executive Schedule under section 5316 of title 5, United States Code, for the period during which the member is engaged in the actual performance of duties vested in the Committee, including travel time.

(B) EMPLOYEES OF THE UNITED STATES.—A member of a Committee who is a full-time officer or employee of the United States or of a State shall receive no additional pay by reason of the service of the member on the Committee.

(5) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for a Committee, members of a Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses pursuant to section 5703 of title 5, United States Code.

(c) STAFF.—

(1) IN GENERAL.—Subject to paragraph (2), a Committee may appoint and fix the compensation of such staff as is necessary to carry out the duties of the Committee.

(2) APPOINTMENT AND COMPENSATION.—Staff appointed by a Committee—

(A) shall be appointed subject to title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(d) DETAIL OF FEDERAL PERSONNEL.—Upon request of a Committee, the head of any department, agency, or instrumentality of the Executive branch of the Federal Government may detail any of its personnel to the Committee to assist the Committee in carrying out the duties of the Committee under this title.

(e) CONTRACTS FOR PERSONNEL.—A Committee may enter into a contract with a private or public organization to furnish the Committee with such administrative and technical personnel as the Committee considers necessary to carry out the duties of the Committee.

(f) INFORMATION FROM FEDERAL AGENCIES.—A Committee may secure directly from any department or agency of the United States such information as the Committee considers necessary to enable it to carry out this title. Upon request of the Committee, the head of the department or agency shall furnish the information to the Committee.

(g) TERMINATION.—Each Committee shall terminate upon the issuance by the Secretary of Agriculture and the Secretary of the Interior of final regulations implementing the recommendations and evaluations made pursuant to section 232.

SEC. 232. DUTIES OF COMMITTEES.

(a) DEVELOPMENT OF FOREST ECOSYSTEM MANAGEMENT OBJECTIVES.—Not later than 1 year after the date of enactment of this Act, each Committee shall develop forest ecosystem management objectives in accordance with section 233.

(b) REVIEW OF AGENCY STANDARDS.—Not later than 2 years after the date of enactment of this Act, each Committee shall—

(1) review and evaluate in light of the forest ecosystem management objectives developed by the Committee pursuant to subsection (a) the directions, standards, and guidelines used by the Bureau of Land Management and the Forest Service for the development and revision of land and resource management plans for the Region of the Committee; and

(2) prepare and submit to the Secretaries a report containing recommendations for additions or revisions to the directions, standards, and guidelines described in paragraph (1) on a watershed or ecoregion province basis as each Committee finds appropriate.

SEC. 233. FOREST ECOSYSTEM MANAGEMENT OBJECTIVES.

The forest ecosystem management objectives developed by each Committee pursuant to section 232(a) shall take into consideration—

(1) the restoration and maintenance of biological diversity;

(2) the productivity on a long-term sustainable basis of all forest resources in all forests managed by the Forest Service and the Bureau of Land Management and located within the Region of the Committee;

(3) the protection, conservation, and restoration of all natural ecological elements, functions, and successional processes;

(4) the maintenance of viable populations of native and desired non-native vertebrate species in each Federal forest;

(5) the preservation of the integrity of genetic stocks of native communities of plants and animals;

(6) the restoration and maintenance of water quality to meet, at a minimum, water quality standards in effect on the date of enactment of this Act;

(7) the restoration and maintenance of instream flows necessary for recovery and sustained natural production of fish and aquatic species;

(8) the maintenance of biological diversity between and among ecoregion provinces; and

(9) the restoration of biological diversity and ecosystem health, using various techniques such as extended rotations, selective harvest, administrative reserves, reforestation, thinning, prescribed fire, restoration of habitat effectiveness, and elimination and reconstruction of roads.

SEC. 234. ACTION BY THE SECRETARIES ON COMMITTEE RECOMMENDATIONS.

(a) IN GENERAL.—As soon as practicable after the submission by a Committee of a report required under section 232(b)(2), the Secretaries shall revise the directions, standards, and guidelines for land and resource management plans for forests managed by the Forest Service and the Bureau of Land Management, giving full consideration to the recommendations of the Committee.

(b) FAILURE TO ADOPT RECOMMENDATIONS.—

(1) IN GENERAL.—If, in carrying out subsection (a), a Secretary fails to adopt any of the recommendations of a Committee, the Secretary shall make a finding as to the reasons for the rejection or modification of the recommendation.

(2) SUPPORTING EVIDENCE.—Each finding made under paragraph (1) shall be accompanied by reasonable scientific supporting evidence.

(3) PUBLICATION.—Each finding made under paragraph (1), along with the proposed alternative direction, standard, or guideline, shall be published in the Federal Register.

(4) PUBLIC COMMENT.—The Secretary shall allow a period for public comment of not less than 60 days before taking final action on the proposed direction, standard, or guideline.

SEC. 235. DUTIES OF INSPECTORS GENERAL.

(a) IN GENERAL.—The Inspectors General of the Department of Agriculture and the Department of the Interior shall conduct, supervise, and coordinate audits and investigations of the implementation of directions, standards, and guidelines used by the Secretaries in the development and revision of land and resource management plans.

(b) REPORTS AND RECOMMENDATIONS.—The Inspectors General shall—

(1) keep the respective Secretaries and Congress fully and currently informed, by means of annual reports and otherwise, of serious problems, abuses, and deficiencies relating to the implementation of the directions, standards, and guidelines;

(2) recommend corrective action concerning the problems, abuses, and deficiencies; and

(3) report on the progress made in implementing any corrective action.

SEC. 236. FOREST ECOSYSTEM RESEARCH.

(a) EASTSIDE FOREST PROTOCOLS AND DEFINITIONS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall develop—

(1) standardized protocols for the inventories required to be prepared pursuant to section 223; and

(2) a definition for "dead and dying" tree as the term is used in section 222.

(b) PROGRAM.—Section 3 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642) is amended by adding at the end the following new subsection:

"(e)(1) The Secretary of Agriculture shall establish a program to undertake investigations and studies to facilitate implementation of an ecosystem based approach to the management of federally owned forests. The results of this program shall be subject to scientific peer review.

"(2) The investigations and studies described in paragraph (1) shall include—

"(A) validation monitoring of the assumptions, directions, standards, and guidelines used by the Secretaries in preparing land and resource management plans;

"(B) the development of standardized protocols for the analysis of the direct, indirect, and cumulative effects on forest resources of—

"(i) timber harvesting, salvage operations, road construction and maintenance, grazing, mining, and other land disturbance activities; and

"(ii) land and water management on State and private lands and waters, especially within watersheds;

"(C) review and evaluation of the effectiveness of the Research Natural Area Program of the Forest Service in light of the ecosystem management objectives developed pursuant to section 232(a) of the Rural Development and Ancient Forest Ecosystem Conservation Act, especially for low-elevation plant and animal communities;

"(D) the determination of the role and effects of fire, insects, and disease in the maintenance of biological diversity and forest ecosystem health; and

"(E) the identification and prioritization of land acquisition and exchanges to facilitate the implementation of an ecosystem based approach to the management of federally owned forests.

"(3) Not later than 2 years after the date of enactment of this subsection, and every 2 years thereafter, the Secretary of Agriculture shall submit a report to Congress on the status of activities conducted under this subsection during the period since the submission of any previous report.".

SEC. 237. PLANNING GUIDANCE.

This title is intended to constitute additional planning guidance and requirements for the preparation of timber and salvage sales and grazing allotment management plans in federally owned forests. Any activity consistent with this title, or with a law or plan in existence on the date of enactment of this title and modified by this title, may be carried out pending the revision of plans in accordance with section 234.

SEC. 238. REGULATIONS.

The Secretary of Agriculture and the Secretary of the Interior shall issue such regulations, within their respective jurisdictions, as are necessary to carry out this title.

SEC. 239. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

RISK-ANALYSIS SCALE [1]

Risk rating	Description
VH—Very high (very reliable).	Denotes a very high likelihood of retaining ecologically functional LS/OG forests and associated species for a century or longer; ensuring habitats and environmental conditions for conserving well-distributed LS/OG species and fish considered to be at risk. Provides broad latitude for natural catastrophes and uncertainties in knowledge.
H—High (reliable)	Denotes a high likelihood of retaining ecologically functional LS/OG forests and associated species for a century or longer; ensuring habitats and environmental conditions for conserving well-distributed LS/OG species and fish considered to be at risk. Provides some latitude for natural catastrophes and uncertainties in knowledge.
MH—Medium high (somewhat reliable).	Denotes a moderately high likelihood of retaining ecologically functional LS/OG forests and associated species for a century or longer; ensuring habitats and environmental conditions for conserving well-distributed LS/OG species and fish considered to be at risk. Provides limited latitude for natural catastrophes and uncertainties in knowledge.
M—Medium (uncertain)	Denotes a roughly 50/50 likelihood of retaining ecologically functional LS/OG forests and associated species for a century or longer; ensuring habitats and environmental conditions for conserving well-distributed LS/OG species and fish considered to be at risk. Provides extremely limited latitude for natural catastrophes and uncertainties in knowledge; catastrophic events are likely to cause local extirpations of LS/OG-associated species. Does not meet the criterion for well-distributed populations.
ML—Medium low (somewhat harmful).	Denotes less than 50/50 likelihood of retaining ecologically functional LS/OG forests and associated species for a century or longer; ensuring habitats and environmental conditions for conserving well-distributed LS/OG species and fish considered to be at risk. Provides almost no latitude for natural catastrophes and uncertainties in knowledge.
L—Low (harmful)	Denotes a highly unlikely chance of retaining ecologically functional LS/OG forests and associated species for a century or longer; ensuring habitats and environmental conditions for conserving well-distributed LS/OG species and fish considered to be at risk. Provides no latitude for natural catastrophes and uncertainties in knowledge. Local extirpation of LS/OG-associated species or habitats and fish considered to be at risk due to natural catastrophes and uncertainties in knowledge is probable.
VL—Very low (very harmful).	Denotes a very highly unlikely chance of retaining ecologically functional LS/OG forests and associated species for a century or longer; ensuring habitats and environmental conditions for conserving well-distributed LS/OG species and fish considered to be at risk. Provides no latitude for natural catastrophes and uncertainties in knowledge. Local or regional extirpation of LS/OG-associated species or habitats and fish considered to be at risk due to natural catastrophes and uncertainties in knowledge is highly likely.

[1] Risk-analysis scale for ranking the probability of retaining a functional LS/OG forest network; ensuring viable populations of northern spotted owls; and providing habitat on federal land for marbeled murrelet nesting, other LS/OG-associated species, and sensitive fish species and stocks.

Mr. ADAMS. Mr. President, today I am joined by Senator PAT LEAHY, chairman of the Committee on Agriculture, Nutrition, and Forestry, in introducing a bill to bring to a close the long and painful debate about the management of Federal forests in the Pacific Northwest.

This debate has been characterized on the Senate floor in several different ways. It has been said that it is a case of owls versus jobs, hikers versus loggers, and preservation versus economic devastation.

It is none of these. This is a debate over how much of our forest resources we can extract without destroying the health of our forest ecosystems. How many golden eggs we can squeeze out without killing the goose that lays them.

We have had more than a decade of record high timber harvest from Federal forests. However, all of the recent evidence from Federal forest managers indicates that the intensity of that harvest is severely degrading the ability of the natural systems to sustain multiple use management.

This debate over the management of Federal forests is not new to us. It began in the early 1970's and came to a head following the Monongahela and Zieske court decisions in 1975 which outlawed clearcutting on national forests. These court decisions spawned an extensive public debate over the proper management of Federal forests, culminating with the passage of the National Forest Management Act of 1976.

With the passage of that act, Congress set out the mandates for Federal agencies to follow in managing the national forests. The language of the committee report clearly indicated that economic return from the harvest of old-growth forests was not to outweigh other values required on public lands. The committee report stated:

The rapid, widespread cutting of currently mature trees may well be an advisable practice on privately-held lands where the basic management objective is maximizing short-term economic returns. The Committee believes, however, that such practices are incompatible with the management of the National Forests, where decisions must be based on the numerous public values of the forest, in addition to economic returns.* * *

The Committee concluded that managing the timber resource on a sustained yield basis is the most advisable means of guaranteeing a continuous flow of timber and related resources to meet the needs of the American people as called for by the 1897 and 1960 Acts. This approach also provides the best assurance that the other forest resources will not be subjected to sudden potentially adverse changes or disruptions.

The National Forest Management Act provided us with not only the mandate but also the opportunity to manage our Federal forests for a sustained yield of all of the multiple uses available from the forests. This opportunity was quickly squandered, however, when the Reagan-Bush administration took office in 1981 and rejected the scientifically based regulations that had been adopted under the new act. The new Assistant Secretary of Agriculture for Natural Resources, John Crowell, announced the administration's intention to double timber outputs from the national forests and maintain such levels in perpetuity.

The pursuit of this policy was clearly outside the law and in only a very short time the Federal courts handed down the first major injunction shutting down a timber sale program. That

occurred in 1984 on the Mapleton Ranger District of the Siuslaw National Forest in Oregon where the intensity of timber harvest was found to be destroying water quality and salmon habitat.

That first major injunction should have served as adequate notice to the administration that it could not continue its unlawful policies, that the forests could not sustain the intense disruption of its natural systems.

But the Reagan administration, and now the Bush administration, continued to pursue shortsighted policies to maximize timber outputs and paid only lipservice to the other public values that the National Forest Management Act required to be maintained on the national forests.

In case after case, Federal court judges appointed by President Reagan have repeatedly found the administration to have systematically violated the Federal forest management laws. Time and time again, the courts have ordered the administration to bring its forest management plans into compliance with the laws.

Congress has even gone so far, as in 1988, to completely insulate the timber sale program from any review by the courts so that the administration could prepare lawful forest management plans. To date, the administration has failed to comply with the courts, and increasingly strict court orders have followed.

Mr. President, I urge Members of the Senate to carefully examine the facts presented to them about this issue. It is my hope that the Senate will be able to penetrate the veil of rhetoric that has masked serious flaws in the management of our national forests for almost two decades. We must do so if we are to restore the health of the forest ecosystems that sustain our rural economies and way of life.

With this bill, we are not arguing about preservation for preservation's sake. We are not saying that owls or salmon are more important than people. We are not trying to end timber harvest on Federal forests. We are simply trying to restore the balance of multiple uses that is required on Federal forests.

We have known since the 1970's that most private forest lands were being harvested at higher than sustainable rates. The industry reaped profits from its own lands and counted on being able to harvest trees from the Federal forests at the same rate until the trees on the private lands had grown to merchantable size. But even then there were some professionals who said there would not be enough timber from the Federal forests to bridge the gap in supply.

Each year the Forest Service and the Bureau of Land Management would appear before Congress and promise that they could get out higher and higher cuts to satisfy the demands of industry and the public. Each year Congress would fund a larger timber program and more and more roads. The agencies would assure the Congress and the public that it was successfully protecting and even enhancing other uses in the forests.

Beginning in the early 1980's, reality began to set in. It was not only the court decision in the Mapleton lawsuit that had an effect; it was also the growing realization by on-the-ground managers that the forests could not withstand the intensity of timber harvesting and road building. In the beginning, it was discussed only among field level personnel who were uncomfortable with what they were being asked to do. Eventually it took the form of open letters from forest supervisors to the Chief.

The greatest evidence of the failure of the administration's policies is in the declining health of the Federal forests in eastern Washington and Oregon. Here the Forest Service has acknowledged that years of intensive timber management have caused massive devastation of the forests. Harvest of old-growth Ponderosa pine and the suppression of periodic fires have created conditions conducive to epidemic infestations of disease and insects and catastrophic fires.

After years of denial, Forest Service executives are now acknowledging that past practices have been too narrowly focused and too commodity oriented. The Forest Service recently announced that it will adopt the concept of ecosystem management, and that timber harvest levels must be reduced in order to maintain healthy, productive ecosystems over the long term.

There is no question that the reduction in Federal timber harvest will further reduce the number of jobs dependent upon Federal timber. However, this reduction is also occurring because of social and economic factors unrelated to the debate over what constitutes multiple use. It has been occurring for some time and is reflected in the administration's own forest plans.

For example, during the 1980's, Federal timber harvests in the Pacific Northwest increased from 3.6 to 5.5 billion board feet per year, but timber-related employment fell by more than 26,000 jobs.

From 1978 to 1990, the country's seven largest timber companies reduced their mill capacity in the Northwest by one-third and raised it in Southern States by 121 percent.

From 1969 to 1989, the number of raw logs exported from the Northwest would have built 7.5 million homes here. Those exports would have been worth some 417,000 American jobs.

Increased automation in mills reduced the number of workers needed to produce 1 million board feet of lumber by 1½. Increased productivity is projected to eliminate 33,000 additional jobs over the next two decades, regardless of other factors.

A Seattle newspaper reported that Weyerhaeuser was closing a 285-employee pulp mill north of Seattle, citing a cost of $35-$40 million to install air and water pollution control equipment. Similar new environmental requirements were mentioned in connection with the possible closure of other mills in the region.

Tax breaks for the timber industry have also accelerated the harvest. A 1984 law allows companies, through the creation of a Foreign Sales Corporation, to defer Federal taxes on up to 30 percent of their export sales. Weyerhaeuser and other companies have used this provision to ship raw logs overseas for processing in foreign mills.

A 1987 provision intended to promote Alaskan oil exploration enables limited partnerships that derive 90 percent of their revenue from natural resources to pay no Federal income taxes. Burlington Resources, International Paper, and ITT cleverly used this to form limited partnerships whose income from timber harvest is totally exempt from all Federal income taxes.

In the face of this overharvesting, mismanagement, and unfair tax breaks, it is no surprise the timber industry and the administration have joined forces to pin the blame for the timber crisis and the resulting loss of jobs on the spotted owl and preservationists.

The reality is quite different. Timber jobs have already been lost due to automation of mills to satisfy the economic goals of timber employers. More jobs have been lost and will continue to be lost as technology improves. Many more jobs have been lost as logs have been exported to highly lucrative foreign markets. And jobs have been lost as forest plans were adjusted to meet changing public needs.

The issue now is whether the region should incur the additional job loss necessary to restore and maintain healthy ecosystems capable of producing multiple uses, or abandon multiple use in favor of a tree farm approach to Federal forest management.

Make no mistake about this. All of the talk about trees being a renewable resource is true, but if you seek to maintain more than just a supply of commercially valuable trees for harvest, then you must manage quite differently.

Imagine for a moment if all of the trees on the Capitol Grounds and in Rock Creek Parkway were cut down and hauled away; and all of the remaining stumps and material burned until the ground was clear of vegetation; and then a single species of tree planted in place of the diversity of species that exist there now. Then imagine that every few years the entire area was

sprayed with herbicide to kill competing vegetation until the new crop of trees was able to dominate. And then when the trees reached a size capable of producing merchantable timber, they were all cut down and we started all over again burning, spraying, and cultivating one favored species.

Would the Capitol Grounds be the same? Would the same diversity and number of birds and mammals be able to exist? Would Rock Creek run clear and cold? Would fish and wildlife favor such places? Would people?

If we were to attempt to maintain the employment levels we experienced prior to the changes in the timber industry, and prior to the export of logs, and prior to the lessons we have learned about the needs of ecosystems, then all of our Federal forests would eventually become such relatively sterile tree farms.

That, however, was not the choice that Congress made when it passed the National Forest Management Act in 1976, nor do I believe it is the choice we should make today.

The administration's intransigence in the Pacific Northwest has presented this choice to Congress. I urge my colleagues to choose in favor of restoring the balance among the various components of the forest ecosystem—trees, water, soils, wildlife—in order to restore its health. A healthy ecosystem will assure sustainable use of the forests for all purposes.

I believe there is a solution that will both restore the health of our forest ecosystem and provide for the creation of as many jobs as may be lost through Federal forest protection.

The optimal solution will preserve both the old growth and jobs. Automation and mill closures have already made retraining of some workers for other employment an imperative. Such retraining is necessary regardless of the spotted owl. Much more must also be done to assure logs are processed by American workers here rather than shipped to support the thousands of mills in Japan.

This solution will not require amendment or revocation of the Endangered Species Act. Doing so would not stop the deterioration of Federal forest ecosystems.

Nor does this bill limit judicial review, either directly or through the artifice of sufficiency. Such a limitation on judicial review is too drastic an action and is completely unnecessary to resolve the crisis. Once the agencies' management programs are brought back into compliance with the forest management laws, the violations of law that are the bases of the injunctions will have been removed and greater economic certainty restored for timber dependent communities.

The court's enforcement of existing forest management laws should not be used as an excuse for the timber industry to gain an exemption from the environmental laws passed over the last 20 years. Even if the timber sale program were insulated from judicial review, the health of the ecosystems would not be insulated from the harmful effects we are currently experiencing. We would eventually have to pay the price in terms of lost productivity of other resources, such as water and soil quality, fish and wildlife, recreation, or even—as in the east-side forests—loss of the forest itself.

This bill I am introducing with Senator LEAHY today is designed to restore the health and productivity of the forests necessary to provide long-term social, economic, and environmental stability to the region. It makes some very difficult political choices, but the public is tired of political solutions that address only transitory short-term political needs, not sound long-term public policy.

We have been making promises our forests cannot keep. Promises to timber workers. Promises to the salmon fishing industries. Promises to future generations who will want multiple uses in Federal forests. It is time Congress directed the agencies to alter their management practices so as not to exceed the natural productivity of the forest ecosystem. That is the only way we will be able to keep our promises.

The Rural Development and Ancient Forest Ecosystem Conservation Act I am introducing today combines new rural development initiatives and timber worker protection measures with an updated version of the bill I introduced last July to protect watersheds and old growth forests. The bill also sets up a process of ecosystem management on Federal forests to minimize future resource conflicts. Through a combination of rural development, worker retraining and domestic wood processing incentives, the bill can result in no net loss of jobs.

Title I establishes a commission in each of the three States of Washington, Oregon, and California to administer a revolving fund to provide loans and grants for economic development and diversification in rural communities hurt by changes in the Pacific Northwest timber industry.

The revolving fund will be financed with an annual deposit of 5 percent of revenues from Federal timber sales on a national basis over a period of 6 years.

Title I also establishes another fund to provide grants to dislocated workers from various forest industries for income supplements, job search and relocation allowances, and vocational retraining.

This fund is separate from the revolving fund for rural communities so that workers and communities need not compete for funds from the same source. Funds will be allocated to commissions in each State based on a formula considering: the number of dislocated workers in timber harvesting, saw mills, log hauling and transportation; along with the number of dislocated workers in wood product secondary manufacturing industries in the State; in proportion to the total jobs lost in each industry.

In addition, title I includes a sense-of-the-Congress resolution calling for annual appropriations for the agencies to remain at a minimum of the average funding levels for the past 10 years—despite reductions in funding needs for timber sale programs. Other resource programs will require increased funding in order to conduct integrated inventories and to perform other ecosystem management activities.

Under title I, States are authorized to impose temporary restrictions on the export of unprocessed logs. Any such restrictions must be phased out over a 10-year period.

Title II implements alternative 12C developed by the Scientific Panel on Late-Successional Forest Ecosystems—the Gang of Four—which was convened by the House Agriculture and Merchant Marine and Fisheries Committees.

Alternative 12C, according to the risk analysis done by the panel, outlines the minimum management necessary to protect forest ecosystems and yet allow flexibility for natural catastrophes and uncertainties in knowledge while at the same time minimizing employment impact.

Alternative 12C is most likely to provide long-term stability for the ecosystem and therefore the greatest economic, social and environmental stability for our timber dependent communities and salmon fishermen in the Pacific Northwest.

This approach is consistent with the new ecosystem management approach announced by the Chief of the Forest Service last month. In his June 4, 1992 directive to regional foresters and station directors, Chief Robertson said:

> By ecosystem management, we mean that an ecological approach will be used to achieve the multiple-use management of the National Forests and Grasslands. It means we must blend the needs of people and environmental values in such a way that the National Forests and Grasslands represent diverse, healthy, productive, and sustainable ecosystems.

Alternative 12C also emphasizes protecting watershed and fish habitats in order to avoid future conflicts with salmon populations and water quality concerns. The scientists predict these conflicts will occur under current policies and practices.

The bill also addresses the severe forest health problems in the Federal forests in the eastern parts of the Pacific Northwest. The legislation calls for a 1-year study to develop alternative strategies to restore ecosystem health to eastside forests. Until the study is

completed, the bill provides temporary protections for the most sensitive ecosystem components.

The bill also establishes regional Forest Ecosystem Advisory Committees for each Forest Service Region and BLM State office to oversee the new ecosystem management approach announced by the Forest Service.

After reviewing the agencies' existing direction, standards and guidelines, the committees will recommend to the Secretary of the Interior and the Secretary of Agriculture the revisions necessary to achieve ecosystem management and to minimize conflict between timber production and other resource values, such as water quality, fish and wildlife, and recreation.

This is particularly important because the inadequacy of the agencies' direction, standards and guidelines has been the legal basis for the injunctions against timber sales in the Pacific Northwest.

By bringing agency direction, standards, and guidelines back into compliance with current forest management laws, the timber program will have greater certainty and fewer lawsuits. The bill also authorizes the inspectors general to monitor agency compliance with the direction, standards, and guidelines.

In addition, the bill also establishes a national forest ecosystem research program to provide Federal forest managers with the tools necessary to implement ecosystem management objectives.

Mr. President this is a relatively complex piece of legislation, but Senator LEAHY and I believe it provides the most balanced and realistic approach to resolving both the short-term needs of the Pacific Northwest ancient forests and timber workers as well as the need for sound ecosystem management to avoid future resource conflicts.

I respectfully request my colleagues to consider the bill very carefully and to help us in resolving the crisis we have endured for so long in the Federal forests of the Pacific Northwest.

Mr. LEAHY. Mr. President, in Vermont, the Green Mountains are the backbone of our State, running north and south, from Canada to the Massachusetts border.

When Europeans first came to Vermont, the Green Mountains were covered with ancient forests of white pine and looked far different than they do today.

Harvesting the forests in the late 1800's produced an economic boom for Vermont. Burlington became the largest timber port in America. But by the early 1900's, the tall trees were gone. The boom turned into decades of declining population and stagnant economic growth.

Far too late to save Vermont's ancient forests, a budding conservation movement grew in our State and across the Nation. The forests were replanted and the Green Mountains were saved. Right now, most of Vermont is forested.

While our Vermont forests are precious, they are not filled with the old-growth white pines that once blanketed our State. And it will be scores of years before Vermont's trees are the size of the old giants that used to cover the hills.

Just as in Vermont, the ancient forests that once covered so many other parts of the United States are largely gone today. How much so? Not even the experts know for sure. They guess that only 5 to 15 percent is left.

But we do know one thing—that the remaining strands of old growth are being cut at an alarming rate.

And not only are environmentalists sounding the warning cry. Even Ronald Reagan's Chief of the U.S. Forest Service, Max Peterson, has said the current logging rate of ancient forests is not sustainable.

Those who have never seen old-growth forests may consider the effort to save them nothing more than a naive exercise in good government. Why save the trees they ask?; we will ruin local economies, hurt corporate profits, and increase our trade deficit.

The same sort of logic would suggest we fill the Grand Canyon with garbage meant for landfills, chip down Yosemite's Half Dome to make lawn ornaments, and plug Old Faithful so we can sell its water in fancy bottles.

The Grand Canyon, Yosemite's Half Dome, and Old Faithful belong to all Americans. They are not the property of one State or one community. They are part of our national heritage and are preserved and protected for our children and our children's children.

The last remaining ancient forest are part of that same national heritage that includes the Grand Canyon, Yosemite's Half Dome, and Old Faithful. The old-growth forest and unique and special. Once they are logged, they are gone forever. They cannot be replaced.

Those who oppose efforts to protect ancient forests want the public to think this is a fight between those who want to protect jobs and those who want to protect the small, northern spotted owl.

They know it is hard to tell anyone that a bird cost them their job.

But this is not a fight between jobs and the spotted owl. This is a fight between those who want to destroy a national treasure and those who want to save it.

The fight to protect the ancient forests is more than just a fight to save trees or the owl. It is a fight to protect a special and unique ecosystem, which houses a diversity of plants and animals, some of which are found no where else in the world.

For example, the salmon industry—which supports the economies of many rural communities in the Pacific Northwest—is threatened because of the decline of ancient and other forests.

And the ancient forests in the Pacific Northwest saved the life of a Vermonter from Rutland. The Pacific Yew, grows in these forests. Its bark contains the active chemical that is used to produce Taxol—a drug proven effective in treating ovarian cancer.

Nearly 3 years ago, this Vermonter was diagnosed with ovarian cancer and told she had 3 to 9 months to live. When other treatments at the National Institute of Health failed, her doctors put her on Taxol. Taxol reduced her tumor, allowing it to be removed. She is now free of cancer and alive today because of this wonder drug.

How many others like her are there? How many other undiscovered cures for cancer are now growing in our ancient forests? Once the old growth disappears, we will never know.

Unfortunately both this administration and the last seem more intent on playing politics than in finding workable solutions to protect the environment and preserve rural communities.

For 30 years, forest scientists predicted shortages of timber in the Pacific Northwest and northern California. Instead of slowing down in the 1980's, administration policies pushed harvests on private and public lands to near record levels.

Administration forest policy was—and is—a train wreck ready to happen.

To have a sustainable ecosystem on Federal forest land, timber harvests should have been decreased—not increased—in the 1980's. But the administration refused to acknowledge any of the warning signs. It just stepped on the gas.

Because of this excessive logging, the administration's own scientists warned in 1987 that high harvest levels threatened the spotted owl's existence. The response? The administration tried to block its scientists' report. When it leaked, the administration was forced to list the owl as a threatened species.

For the last 3 years, the administration has tried to find every angle to avoid ordering the timber harvest reductions required to comply with the law and protect a threatened species.

In 1990, the administration asked Congress to weaken the Endangered Species Act—an effort the Senate overwhelmingly rejected.

Then the administration used the god squad—a panel almost entirely made up of administration officials—to override parts of the Endangered Species Act.

And now the administration is trying to limit citizen's rights to appeal decisions instead of complying with the law. If it succeeds, it will probably have to defend more—not less—lawsuits.

And that is where we are now—frozen in limbo because the administration still refuses to follow the law.

The administration cannot have it both ways. At the same time it issues press releases touting its environmental achievements, it is quietly working to undercut laws designed to protect our Nation's forests and environment.

Every time scientists tell the administration that its policies are endangering our ancient forests, it scrambles to create yet another panel which it hopes will support its destructive policies.

The administration also knows its plan to speed up cutting means two things—the long-term loss of jobs and the extinction of the ancient forests.

The administration is playing a cynical game of election-year politics. It's not the owl versus people; it's science versus politics as usual.

The country can no longer wait for the administration to do the right thing.

I have long been involved in efforts to change forest policy. In 1989, I engaged in a colloquy with Senator HATFIELD regarding ancient forest rider on the fiscal year 1990 appropriations bill. Senator HATFIELD's rider would have mandated harvest levels and limited citizens access to the courts.

Also in 1989, the Senate Agriculture, Nutrition, and Forestry Committee held hearings with the Energy and Natural Resources Committee on issues relating to the National Forest Management Act and ancient forests.

I have criticized the administration's owl management plans because they are politically, not scientifically, based. And in 1990, 1991, and 1992, I wrote letters opposing any appropriations riders relating to ancient forest issues.

In November 1991, Senator ADAMS and I announced we would work together to develop ancient forest legislation. We have done that, and today are introducing the Rural Development and Ancient Forest Ecosystem Conservation Act.

The Adams-Leahy Act is based on the best science available and implements the recommendations of the scientific panel on late successional forest ecosystems. Commissioned by the House Agriculture and Merchant Marine Committees, the scientific panel and was comprised of four eminent forest scientists. Hundreds of Federal forestry professionals helped these four prepare the final report.

The Adams-Leahy Act will protect 8 million acres of ecologically significant ancient forests on the westside of the Cascade Mountains in California, Oregon, and Washington. The remaining westside forests will be managed on an ecologically sustainable basis to protect fish and wildlife habitat, water quality, and biological diversity.

For all forests on the eastside of the Cascade Mountains, the U.S. Forest Service and Bureau of Land Management will study and report on forest health problems. Interim protection of eastside forests will be provided during the study and salvage of dead and dying timber from the catastrophic forest health problems will be allowed.

The act provides for public and private forest management programs focusing on the Pacific yew. It also establishes independent scientific advisory committees in each Forest Service and BLM region to oversee implementation of this act and the new ecosystem management direction that both agencies recently established.

But the administration is now playing its final trump card and raising the specter of massive job losses should a meaningful ancient forest bill be passed. We expect them to raise this same argument against our legislation.

Scare tactics may make good press, but they are not honest and do not solve problems.

Despite the controversy that has been generated over timber harvest levels in meaningful ancient forest bills, there is a consensus on the need to recognize the human dimension in this debate. Every one in timber-dependent counties in the Pacific Northwest are under extreme economic strain because of administration policies and there is no question that whatever the outcome of this debate, we must do something to alleviate the stress that has been caused by governmental actions.

We have attempted to address this by including major economic and rural development proposals in Adams-Leahy. I have heard from counties in the Pacific Northwest, such as Siskiyou County, CA, about the need for such programs as the only means to offer real hope and a future for their citizens.

Siskiyou County, in particular, has acknowledged that this legislation is the first step toward alleviating the special hardships that have been created by the judicial and administrative decisions in the last few years. Siskiyou recognizes that this legislation is a tangible sign of our responsibility to the people of the Pacific Northwest to provide them with a chance to diversify their economic base and provide new employment opportunities in the region.

While I understand that every one of the counties of the Northwest do not agree with every aspect of my proposal, I expect to work with them on the economic, rural development, and harvest level portions of the legislation. I believe together we can fashion a bill which will achieve the critical balance between protection of both our human and natural resources.

Change is coming to the Pacific Northwest—change similar to that which devastated Vermont 100 years ago. When the resources are gone, change is inevitable.

What is our responsibility in the face of this inevitable change? Is it to promise that the future will be like the past, when it cannot be? Is it to pit one faction against another with promises that cannot be kept? Or is it—like the Luddites—to take to the streets, railing against progress?

Of course, it is none of these.

Instead, in the face of inevitable change—with inevitable human consequences—our responsibility is twofold.

First, we must develop a sensible transition that eases the impact on both workers and their communities.

Second, we must invest in the future, so that the decline of the old ways does not mean the death of hope and the demise of communities.

This bill does both.

First, it eases the transition through a ban on log exports. The export ban is phased down as more workers voluntarily leave the industry. It simply makes sense to keep jobs here instead of exporting them to Japan. This will allow attrition to take care of most of the job decline in the region.

Second, we must plan for and invest in the future. That is why this bill will invest as much as $123 million a year for 6 years, allowing States to invest in rural development and new job creation.

In the end, I believe that the rural and economic development aspects of Adams/Leahy means that there will be no net loss of jobs. This legislation will minimize the loss of jobs and adverse economic impact in Washington, Oregon, and northern California by:

Allowing States to temporarily ban 100 percent of the logs exported from State and private lands. The log export ban would be reduced at 10 percent per year over 10 years when it would be eventually phased out.

Establishing a fund to compensate and retrain forest workers dislocated by the transition to sustainable harvest levels. To be funded at $41 million a year for 6 years, it will also prevent a large portion of secondary unemployment.

Establishing a fund to promote new businesses and help timber-affected communities improve their local economies. To be funded at $82 million per year for 6 years, this will support grants and revolving land funds to provide low-interest loans to communities, small businesses, and other entities.

Maintaining U.S. Forest Service payments at a 10-year rolling averages to timber towns to protect community budgets.

Creating additional jobs by employing people to restore, maintain, and protect forest resources instead of cutting them down.

In Vermont, we know what happened to the giant tree when we waited too long. Let us not make the same mistake in the Pacific Northwest before it's too late.

By Mr. ROCKEFELLER (for himself and Mr. LIEBERMAN):

S. 2896. A bill to ensure that consumer credit reports include information on any overdue child support obligations of the consumer; to the Committee on Banking, Housing, and Urban Affairs.

STRENGTHENING CHILD SUPPORT ENFORCEMENT

• Mr. ROCKEFELLER. Mr. President, I am proud to introduce a bill today aimed at strengthening child support enforcement.

Every parent as a legal and moral obligation to contribute to the economic well-being of their child, but tragically too many absent parents are ignoring their child support obligations.

And what's worse is that our child support enforcement system allows them to do so. Today, it seems to be less acceptable for an individual to miss a car payment than to build up thousands of dollars in overdue child support payments. An unpaid car loan is rapidly reported to credit bureaus, but unpaid child support payments might be reported in some States, but will go unnoticed in others. This sends the wrong signal to absent parents about the importance of paying child support.

Let me share just one example. A mother struggling to raise two children in Putnam County, WV, told me she is owed almost $9,000 in back child support payments plus other support, including the children's health insurance which was also ordered to be paid by the court. In this family, the mother was working until she injured her back and was forced to rely on unemployment benefits and food stamps to support her family. She has had to ask for a moratorium on her house payments, which will ruin her credit rating. The absent father hasn't paid the thousands of dollars he owes in back child support, and the amount that he owes in back child support is not required to be reported as part of his credit history. In the meantime, his children haven't received the support they deserve and their mother's credit rating is in jeopardy because without child support payments, she has not been able to keep up with mortgage payments. This simply doesn't seem fair.

The bill I am introducing today would help remedy this problem. The legislation would amend the Fair Credit Reporting Act to ensure that credit bureaus include information provided by a child support agency on the failure of a consumer to pay overdue child support. Hopefully, such action will push absent parents to pay the support they owe their children.

Over 30 States have some type of system to provide information to consumer credit bureaus about unpaid child support as a voluntary option allowed by the 1984 child support amendments. This bill would ensure that all States provide such information. Legally, entities extending credit will not be obligated to take direct action regarding the missed child support payments, but entities would have access to this additional information when they judge the credit history of consumers. I believe this will increase the pressure on absent parents to pay child support. This bill will send a clear signal about the importance of parents meeting their child support obligations.

According to the latest Census Bureau report, "Who's Supporting the Kids?" a total of $11.2 billion was collected in child support in 1989. Another $5.1 billion was owed to children in support, but never paid.

But these figures only tell part of the story. They only include about 58 percent of single mothers struggling to raise their children. The other 42 percent of single mothers do not have child support awards in place and therefore, do not receive any support. This means millions of families are left out of the system right now.

The National Commission on Children estimated that if all eligible women had child support awards linked to current state guidelines so that the support payment was adjusted for inflation, they would be entitled to at least $30 billion in child support payments. This means that we are letting $20 billion in child support go unpaid each year. This is a tragedy and the ultimate result is that one in three of these families live in poverty.

Recognizing this problem, the bipartisan National Commission on Children unanimously endorsed a bold recommendation for child support enforcement and a demonstration project on child support insurance.

Strengthening child support enforcement in all States must be part of an overall initiative to provide greater income security for children and families. Improving the reporting system for overdue child support is one simple but effective way. This bill is one piece that will help complete the current puzzle of our existing child support enforcement system.

There are other pieces that we also need to consider as well, including a child support insurance demonstration to test the positive impact in providing families who cooperate with the system with a Government-insured benefit when every effort to collect from the absent parent fails.

Ultimately, I believe that we should have a nationwide child support enforcement and insurance system. We must dramatically toughen regulations to collect child support payments. For those parents who simply cannot collect child support payments despite their best efforts, we need a minimum Government-insured benefit so innocent children do not become victims.

Also, a child support enforcement and insurance system would provide dramatic incentives for mothers receiving AFDC to go to work. Because a Government-insured child support benefit would continue to be paid, even when an AFDC-recipient went to work, there would be a much greater incentive for such parents to join the work force. Such a demonstration would reinforce fundamental values of hard work and parental responsibility.

I believe Congress should act on this bill this session. Under the leadership of Congressman LEVINE and bipartisan cosponsors, similar legislation is pending in the House of Representatives.

This bill is a simple step that could dramatically help single parents struggling to make ends meet without the full child support payments they deserve. Promoting strong child support enforcement regulations is a commonsense approach toward helping children and families.

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

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

S. 2896

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

SECTION 1. INCLUSION IN CONSUMER CREDIT REPORTS OF INFORMATION ON OVERDUE CHILD SUPPORT OBLIGATIONS OF THE CONSUMER.

(a) CONSUMER REPORTING AGENCIES REQUIRED TO INCLUDE IN CONSUMER CREDIT REPORTS INFORMATION ON OVERDUE CHILD SUPPORT OBLIGATIONS OF THE CONSUMER.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(1) by redesignating sections 614 through 622 as sections 615 through 623, respectively; and

(2) by inserting after section 613 the following new section:

"SEC. 614. REPORTING OF OVERDUE CHILD SUPPORT OBLIGATIONS.

"A consumer reporting agency shall include in any consumer report information (if any) provided by a State child support agency or verified by another government entity on the failure of the consumer to pay overdue support (as defined in section 466(e) of the Social Security Act).".

(b) PROVISION TO CONSUMER REPORTING AGENCIES OF INFORMATION ON OVERDUE CHILD SUPPORT OBLIGATIONS OF ABSENT PARENTS.—Section 466 of the Social Security Act (42 U.S.C. 666) is amended—

(1) in subsection (a)(7)—

(A) by striking "will" and inserting "shall";

(B) by striking "upon the request of such agency"; and

(C) by striking ", (C)" and all that follows through "State"; and

(2) in subsection (e)—

(A) by striking "minor" in the first sentence; and

(B) by striking "At the option" and all that follows through the final period.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the first calendar quarter that begins on or after the date of enactment of this Act.•

• Mr. LIEBERMAN. Mr. President, I am pleased to join with Senator ROCKE-

FELLER in introducing legislation to ensure that consumer credit reports include information on any overdue child support obligations owed by the consumer. In the United States today all too many parents neglect their child support obligations and get away with it. This bill will ensure that they cannot get too far. Under this bill, when they try to get a mortgage or a car loan or a new credit card, their credit report will show that they have bad debts in the amount of the child support they owe. Unpaid debts in a credit report are usually sufficient to prevent the person from obtaining credit.

Last year Connecticut enacted similar legislation, requiring that the State report child support debts of over $1,000 to credit agencies. Approximately 47,000 parents in Connecticut alone are affected by this legislation. The State has found that simply notifying individuals that the debt will be reported to a credit bureau has been sufficient to prompt some deadbeat parents to own up to their responsibilities and pay the support they owe.

This bill should be particularly important in helping States go after those who have moved and left no forwarding address. Your credit report follows you wherever you go. No matter where you are, when you try to get credit you will find that your bad debt has followed you and you must pay it off in order to get the credit you want. In Connecticut 25 to 30 percent of the caseload involves out-of-State parents and finding them and getting them to pay is a time-consuming and expensive process. But their credit report can find them anywhere they apply for credit, and all the States must do to initiate the search is report the child support debt to a credit agency.

It is unfortunate that we must go to these extremes to recover the child support that absentee parents owe their children. It is frustrating that we need to resort to interfering in someone's credit to get them to recognize their responsibility to support their children. But millions of children do not receive the support awarded to them by the courts and some of these children are now being supported by our national welfare system while others are being needlessly deprived of food, clothing, and adequate shelter. We owe it to these children to help them collect the money owed to them and we owe it to the taxpayers to take the burden for supporting these children off their shoulders.

I look forward to working with my colleagues to enact this legislation and to ensuring that the good work begun in Connecticut and at least 30 other States is extended across the country.•

By Mr. McCAIN:

S. 2898. A bill to authorize a project to identify, map, and assess transboundary aquifers along the border between the United States and Mexico, and for other purposes; to the Committee on Environment and Public Works.

TRANSBOUNDARY AQUIFER LEGISLATION

• Mr. McCAIN: Mr. President, we all agree that the United States and Mexico have a duty to protect the border environment, particularly the region's precious water resources.

Life in the arid border region depends upon clean and dependable ground water supplies. Today, I'm introducing legislation which calls on the U.S. Geological Survey to locate, map and qualitatively assess aquifers shared by the United States and Mexico.

The inventory will include information on the current uses of each transboundary aquifer. The bill requires the Geological Survey to identify those aquifers that are used for drinking water but do not meet EPA's safe drinking water standards; as well as those aquifers that connect with surface water but do not meet the affected State's approved water quality standards for rivers and streams.

Most importantly, the bill calls on the Environmental Protection Agency to review the findings of the USGS and take all cleanup and regulatory actions required by Federal environmental law, including the Comprehensive Environmental Response Compensation and Liability Act, the Safe Drinking Water Act, and the Clean Water Act.

The activities required by this legislation would be conducted with the full cooperation and partnership of Mexico. Information on the location and condition of ground water supplies will be useful to our two nations in terms of protecting public health and the environment, and for future planning.

Mr. President, I have received reports of ground water pollution migrating from Mexico into the United States within a vital aquifer shared by Nogales, AZ, and Nogales, Sonora. The program I'm recommending will enable us to identify and act on problems arising in Mexico which might affect the United States—something current Federal hazardous waste cleanup law does not provide.

As I said, clean and safe water is critical to the public health, the environment, and the economic future of the border region. The bill I'm introducing will provide us with the vital resource data collection and pollution cleanup program we need to secure a clean and sustainable future for the people of the region.

I hope the Senate will examine this proposal and find it worthy of expeditious approval. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2898

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

SECTION 1. TRANSBOUNDARY AQUIFERS.

(a) DEFINITIONS.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BORDER STATE.—The term "border State" means a State that shares a common border with Mexico.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRANSBOUNDARY GROUND WATER AQUIFER.—The term "transboundary ground water aquifer" means an aquifer that crosses the border between the United States and Mexico.

(b) IDENTIFICATION AND MAPPING.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Geological Survey, shall identify and map each transboundary aquifer. Aquifers in areas of high population density or environment sensitivity shall be identified and mapped prior to all other border areas.

(2) AVAILABILITY OF MAPS.—Upon completion of the identification and mapping activities under this subsection, the Secretary shall make available copies of the maps to appropriate committees of Congress and to appropriate officials of State and local governments and Indian tribes. The Secretary shall also make copies of the maps available to the general public at reasonable cost.

(c) QUALITATIVE ASSESSMENT AND STUDY.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Geological Survey, shall conduct a qualitative assessment and study of each transboundary aquifer identified pursuant to subsection (b).

(2) STUDY OF WATER USE.—In carrying out paragraph (1), the Secretary, acting through the Director of the Geological Survey, shall conduct a study of the uses of water from each transboundary aquifer identified pursuant to subsection (b).

(3) ANTHROPOGENIC POLLUTANTS.—

(A) DRINKING WATER.—In any case in which a transboundary ground water aquifer is used as a source of drinking water, the Secretary, acting through the Director of the Geological Survey, shall identify and quantify anthropogenic pollutants that are present in the aquifer in a quantity that exceeds an applicable standard under the Act commonly known as the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(B) SURFACE WATER.—In any case in which a transboundary aquifer connects with surface water, the secretary, acting through the Director of the Geological Survey, shall identify and quantify anthropogenic pollutants that are present in the aquifer and related surface waters in a quantity that exceeds an applicable standard promulgated pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(4) REPORT TO CONGRESS AND THE STATES.—Upon completion of the study under this subsection, the Secretary, acting through the Director of the Geological Survey, shall prepare a report that summarizes the results of the study, and submit a copy of the report to the appropriate committees of Congress, the Administrator, and each border State. The Secretary, acting through the Director of the Geological Survey, shall also publish the report and make copies available to the general public at reasonable cost.

(d) COOPERATIVE ACTIVITIES.—In carrying out the activities under this section, the Secretary and the Administrator shall consult with each other and with appropriate of-

ficials of State and local governments, Indian tribes, and the Government of Mexico.

(e) NEGOTIATIONS.—The Secretary of State, in consultation with the Secretary, is authorized and directed to enter into negotiations for an agreement with the Government of Mexico to facilitate cooperation between the United States and Mexico in ground water mapping and quality assessment, and remediation activities under this section (including facilitating mapping activities by the Geological Survey in Mexico and remediation activities in Mexico).

(f) REMEDIATION ACTIVITIES.—(1) The Administrator shall, to the extent possible, identify the sources of anthropogenic pollutants which are present in a transboundary aquifer in a quantity that exceeds an applicable standard under the Safe Drinking Water Act, the Federal Water Pollution Control Act or the Comprehensive, Environmental Response Compensation and Liability Act. (2) The Administrator shall take all actions necessary to ensure compliance with all applicable Federal environmental laws, including the Comprehensive Environmental Response, Compensation, and Liability act of 1980 (42 U.S.C. 9601 et seq.) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and the Act commonly known as the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(g) AUTHORIZATION.—There are authorized to be appropriated to the Department of the Interior and the Environmental Protection Agency such sums as may be necessary to carry out this section.•

By Mr. KENNEDY (for himself, Mr. ADAMS, Mr. INOUYE, and Mr. WELLSTONE):

S. 2899. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS

• Mr. KENNEDY. Mr. President, the legislation I am introducing today is a modified version of the NIH bill that was vetoed by President Bush. Yesterday, the House of Representatives failed to override the veto. It is essential that new legislation be sent to the President, and the Labor Committee intends to act expeditiously on the measure.

This legislation reauthorizes and improves a wide array of programs at the NIH that have led to major discoveries of causes, treatments and cures of a range of devastating diseases.

The principal modification in this legislation concerns that provision of the previous bill lifting the current ban on Federal support for fetal tissue transplantation research. The revised provision would require that a researcher initially attempt to obtain tissue from the tissue bank, recently established by the President's Executive order. If, after 14 days, the tissue bank has not provided tissue appropriate for the purposes of the transplantation research, then the researcher will be able to obtain tissue from other sources. The effective date of this provision is May 19, 1993, 1 year from the date of the President's Executive order. Under the administration's approach, the fetal tissue bank may obtain tissue only from spontaneous abortions and ectopic pregnancies. As a result of the compromise in this legislation, the administration's current ban on other sources of fetal tissue will continue until next May, in order to give the administration enough time to demonstrate that its tissue bank approach is an effective source of fetal tissue for research. After that date, researchers will be free to obtain tissue from other abortions, subject to specific safeguards, if the bank proves to be inadequate, as the vast majority of researchers feel it will be.

The bill maintains all the safeguards of the previous bill on fetal tissue transplantation research. It establishes clear protections, as recommended by the NIH task force appointed by President Reagan, to ensure the full separation between the research and any decision to perform an abortion.

The bill makes it a crime to sell fetal tissue. It makes it unlawful to purchase or donate tissue to a designated recipient. No family member or friend could benefit from a particular abortion. This bill prohibits payments for any costs associated with abortion. It provides criminal penalties for violations. It imposes even stricter standards than now apply for other types or organ donation.

The bill prohibits physicians or researchers from altering the timing, method, and procedure used to terminate a pregnancy for the purpose of collecting tissue for research. It requires that fetal tissue be obtained with written informed consent. The donor may not specify a recipient. The attending physician must certify that no request for donation of tissue was made and no consent for domation was obtained before consent was given for abortion.

Attending physicians must make full and complete disclosure to the donor of any direct involvement they have in the research. They must also disclose any known medical risks to the donor that may be associated with collection of the tissue during the abortion procedure.

All researchers and recipients involved in a research project must be informed that the tissue is human fetal tissue and that it may have been obtained pursuant to an abortion. The General Accounting Office must audit these safeguards within 2 years to ensure that they are being followed.

The provisions are designed to prohibit any possible abuse. They have been reinforced by incorporating the suggestions of many Senators, including those who oppose this measure. In my view, this modification offers a reasonable compromise on this issue, and I urge the administration to accept it.

A second modification of the earlier bill deletes the provision to authorize the acquisition of land by the NIH. In addition, the provision to renovate or replace the Warren Magnuson Clinical Center has been modified. Within 90 days of enactment of this legislation, the NIH must present a master plan for the replacement or refurbishment of inadequate buildings, and basis and clinical research facilities.

A third modification of the previous bill addresses the President's objection to the ethics advisory board. This bill would permit the Secretary of Health and Human Services to withhold funds for research if the recommendation of the ethics advisory board was arbitrary and capricious.

The fourth modification of the earlier bill addresses the President's objection that the authorization levels are excessive and that the total cost of the provisions could exceed his budget request. The earlier bill contained specific authorization levels for fiscal year 1993, and authorized "such sums as may be necessary" for fiscal years 1994 through 1996.

The authorization levels from the previous bill for fiscal year 1993 that have been modified were as follows:

National Cancer Institute, $2.2 billion;

National Heart, Lung and Blood Institute, $1.4 billion;

National Institute on Aging, $500 million;

National Research Service Awards, $375 million;

Biomedical Research Facilities Program, $100 million; and

National Library of Medicine, $100 million.

These authorization levels have been changed to "such sums as may be necessary" for fiscal year 1993.

Because of the special importance of certain high priority research, the following authorization levels for fiscal year 1993 in the earlier bill were not changed:

Breast cancer research, $325 million;

Other gynecological cancer research, $75 million;

Prostate cancer research, $72 million;

Osteoporosis, Paget's disease research, $40 million.

The remaining provisions of the bill are unchanged from the conference report. Among its most important provisions, this legislation will do the following:

It establishes new initiatives and expands existing endeavors in women's health. It also directs the National Cancer Institute to significantly increase research efforts on breast cancer, women's gynecological cancers and prostate cancer. It authorizes $400 million for research on breast and gynecological cancers and $72 million for prostate cancer research.

It requires the appropriate inclusion of women and minorities in research projects supported or conducted by the NIH. It establishes an Office of Re-

search on Women's Health, and charges it with overseeing clinical trials and monitoring the status of women's health research.

It authorizes a peer-review matching grant program for extramural facilities construction, in order to begin reversing over two decades of declining Federal support.

It extends the National Research Service Award Program, which provides training grants for scholars across the Nation, to assure a continuing supply of talented scientists for the future.

It authorizes vital research activities by the National Institute on Aging in an effort to determine the etiology and treatment of Alzheimer's disease, reduce the frailty and dependence of the elderly, develop a greater understanding of the aging process, and promote better health for senior citizens.

It reauthorizes the National Cancer Institute and the National Heart, Lung, and Blood Institute. These two Institutes oversee research on the two biggest killers in our society, cancer and heart disease.

It establishes a new program of Child Health Research Centers to speed the transfer of knowledge gained from basic research to clinical applications that will benefit the health of children.

It provides support for the development and implementation of a comprehensive strategy for the control and eventual eradication of the AIDS virus.

It authorizes a study of HIV vaccines for therapy and prevention of HIV infection in women, infants, and children, and to assess the safety and effectiveness of these vaccines for the treatment of HIV infection and the prevention of the infection in unborn infants of HIV-infected pregnant women.

It establishes sensible impartial procedures to address ethical concerns in medicine and medical research, so that meritorious research can proceed without undue ideological obstructions.

It establishes important and appropriate Federal policies on scientific misconduct, conflicts of interest, and retaliation against whistleblowers in connection with research supported by the NIH.

It establishes an experimental program to stimulate competitive research that will enhance research in States that have experienced low success rates in obtaining research awards from the NIH.

It establishes a children's vaccine initiative to develop affordable new and improved vaccines for the prevention of infectious diseases.

Today, we are on the threshold of breakthroughs unimaginable even a few years ago when we last reauthorized the NIH in 1988. Congress and the American people should be proud of the investment in NIH and its role in maintaining excellence in biomedical research. The goal of this legislation is to improve health status of all Americans and save lives.

The National Institutes of Health Reauthorization Act is comprehensive and important legislation that will advance our knowledge of medical science. There are few better investments in our future than the investment we make in biomedical research. The passage of this bill will mark the beginning of a new chapter of creative support for the Nation's scientists, and will ensure that the United States remains the world leader in biomedical research. This measure has bipartisan legislative support, and I urge its approval.

I ask unanimous consent that the text of the bill and a summary may be printed in the RECORD.

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

S. 2899

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Institutes of Health Revitalization Amendments of 1992".

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

Sec. 1. Short title and table of contents.
TITLE I—GENERAL PROVISIONS REGARDING TITLE IV OF PUBLIC HEALTH SERVICE ACT
Subtitle A—Research Freedom
PART I—REVIEW OF PROPOSALS FOR BIOMEDICAL AND BEHAVIORAL RESEARCH
Sec. 101. Establishment of certain provisions regarding research conducted or supported by National Institutes of Health.
PART II—RESEARCH ON TRANSPLANTATION OF FETAL TISSUE
Sec. 111. Establishment of authorities.
Sec. 112. Purchase of human fetal tissue; solicitation or acceptance of tissue as directed donation for use in transplantation.
Sec. 113. Nullification of moratorium.
Sec. 114. Report by General Accounting Office on adequacy of requirements.
Sec. 115. Effective dates.
PART III—MISCELLANEOUS REPEALS
Sec. 121. Repeals.
Subtitle B—Clinical Research Equity Regarding Women and Minorities
PART I—WOMEN AND MINORITIES AS SUBJECTS IN CLINICAL RESEARCH
Sec. 131. Requirement of inclusion in research.
Sec. 132. Peer review.
Sec. 133. Applicability.
PART II—OFFICE OF RESEARCH ON WOMEN'S HEALTH
Sec. 141. Establishment.
Subtitle C—Scientific Integrity
Sec. 151. Establishment of Office of Scientific Integrity.
Sec. 152. Commission on Scientific Integrity.
Sec. 153. Protection of whistleblowers.
Sec. 154. Requirement of regulations regarding protection against financial conflicts of interest in certain projects of research.
Sec. 155. Effective dates.
TITLE II—PROTECTION OF HEALTH FACILITIES
Sec. 201. Protection of facilities assisted under Public Health Service Act.
Sec. 202. Conforming amendments.
TITLE III—NATIONAL INSTITUTES OF HEALTH IN GENERAL
Sec. 301. Health promotion research dissemination.
Sec. 302. Programs for increased support regarding certain States and researchers.
Sec. 303. Children's vaccine initiative.
Sec. 304. Plan for use of animals in research.
Sec. 305. Increased participation of women and disadvantaged individuals in fields of biomedical and behavioral research.
Sec. 306. Requirements regarding surveys of sexual behavior.
Sec. 307. Discretionary fund of Director of National Institutes of Health.
Sec. 308. Miscellaneous provisions.
TITLE IV—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES
Sec. 401. Appointment and authority of Directors of national research institutes.
Sec. 402. Program of research on osteoporosis, Paget's disease, and related disorders.
Sec. 403. Establishment of interagency program for trauma research.
TITLE V—NATIONAL CANCER INSTITUTE
Sec. 501. Expansion and intensification of activities regarding breast cancer.
Sec. 502. Expansion and intensification of activities regarding prostate cancer.
Sec. 503. Authorization of appropriations.
TITLE VI—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE
Sec. 601. Education and training.
Sec. 602. Centers for the study of pediatric cardiovascular diseases.
Sec. 603. Authorization of appropriations.
TITLE VII—NATIONAL INSTITUTE ON DIABETES AND DIGESTIVE AND KIDNEY DISEASES
Sec. 701. Provisions regarding nutritional disorders.
TITLE VIII—NATIONAL INSTITUTE ON ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES
Sec. 801. Juvenile arthritis.
TITLE IX—NATIONAL INSTITUTE ON AGING
Sec. 901. Alzheimer's disease registry.
Sec. 902. Aging processes regarding women.
Sec. 903. Authorization of appropriations.
Sec. 904. Conforming amendment.
TITLE X—NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES
Sec. 1001. Tropical diseases.
Sec. 1002. Chronic fatigue syndrome.
TITLE XI—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT
Subtitle A—Research Centers With Respect to Contraception and Research Centers With Respect to Infertility
Sec. 1101. Grants and contracts for research centers.
Sec. 1102. Loan repayment program for research with respect to contraception and infertility.

Subtitle B—Program Regarding Obstetrics and Gynecology
Sec. 1111. Establishment of program.
Subtitle C—Child Health Research Centers
Sec. 1121. Establishment of centers.
Subtitle D—Study Regarding Adolescent Health.
Sec. 1131. Prospective longitudinal study.
TITLE XII—NATIONAL EYE INSTITUTE
Sec. 1201. Clinical research on diabetes eye care.
TITLE XIII—NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE
Sec. 1301. Research on multiple sclerosis.
TITLE XIV—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES
Sec. 1401. Applied Toxicological Research and Testing Program.
TITLE XV—NATIONAL LIBRARY OF MEDICINE
Subtitle A—General Provisions
Sec. 1501. Additional authorities.
Sec. 1502. Authorization of appropriations for general program.
Subtitle B—Financial Assistance
Sec. 1511. Establishment of program of grants for development of education technologies.
Sec. 1512. Authorization of appropriations.
Subtitle C—National Center for Biotechnology Information
Sec. 1521. Authorization of appropriations.
Subtitle D—National Information Center on Health Services Research and Health Care Technology
Sec. 1531. Establishment of Center.
Sec. 1532. Conforming provisions.
TITLE XVI—OTHER AGENCIES OF NATIONAL INSTITUTES OF HEALTH
Subtitle A—Division of Research Resources
Sec. 1601. Redesignation of Division as National Center for Research Resources.
Sec. 1602. Biomedical and behavioral research facilities.
Sec. 1603. Construction program for national primate research center.
Subtitle B—National Center for Nursing Research
Sec. 1611. Redesignation of National Center for Nursing Research as National Institute of Nursing Research.
Subtitle C—National Center for Human Genome Research
Sec. 1621. Purpose of Center.
TITLE XVII—AWARDS AND TRAINING
Subtitle A—National Research Service Awards
Sec. 1701. Requirement regarding women and individuals from disadvantaged backgrounds.
Subtitle B—Acquired Immune Deficiency Syndrome
Sec. 1711. Loan repayment program.
Subtitle C—Loan Repayment for Research Generally
Sec. 1721. Establishment of program.
Subtitle D—Scholarship and Loan Repayment Programs Regarding Professional Skills Needed by National Institutes of Health
Sec. 1731. Establishment of programs.
Sec. 1732. Funding.
Subtitle E—Funding for Awards and Training Generally
Sec. 1741. Authorization of appropriations.
TITLE XVIII—NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH
Sec. 1801. Miscellaneous provisions.
TITLE XIX—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME
Sec. 1901. Revision and extension of various programs.
TITLE XX—CERTAIN AUTHORITIES OF CENTERS FOR DISEASE CONTROL
Sec. 2001. Prevention of prostate cancer.
Sec. 2002. National program of cancer registries.
Sec. 2003. Traumatic brain injury.
TITLE XXI—STUDIES
Sec. 2101. Acquired immune deficiency syndrome.
Sec. 2102. Annual report concerning leading causes of death.
Sec. 2103. Malnutrition in the elderly.
Sec. 2104. Behavioral factors study.
Sec. 2105. Relationship between the consumption of legal and illegal drugs.
Sec. 2106. Research activities on chronic fatigue syndrome.
Sec. 2107. Report on medical uses of biological agents in development of defenses against biological warfare.
Sec. 2108. Evaluation of employee-transported contaminant releases.
Sec. 2109. Personnel study of recruitment, retention and turnover.
Sec. 2110. Procurement.
TITLE XXII—MISCELLANEOUS PROVISIONS
Sec. 2201. Designation of Senior Biomedical Research Service in honor of Silvio Conte, and limitation on number of members.
Sec. 2202. Technical corrections.
Sec. 2203. Prohibition against SHARP adult sex survey and the American teenage sex survey.
Sec. 2204. Biennial report on carcinogens.
Sec. 2205. National commission on sleep disorders research.
Sec. 2206. Master plan for physical infrastructure for research.
TITLE XXIII—EFFECTIVE DATE
Sec. 2301. Effective date.
TITLE I—GENERAL PROVISIONS REGARDING TITLE IV OF PUBLIC HEALTH SERVICE ACT
Subtitle A—Research Freedom
PART I—REVIEW OF PROPOSALS FOR BIOMEDICAL AND BEHAVIORAL RESEARCH
SEC. 101. ESTABLISHMENT OF CERTAIN PROVISIONS REGARDING RESEARCH CONDUCTED OR SUPPORTED BY NATIONAL INSTITUTES OF HEALTH.

Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 492 the following new section:

"CERTAIN PROVISIONS REGARDING REVIEW AND APPROVAL OF PROPOSALS FOR RESEARCH

"SEC. 492A. (a) REVIEW AS PRECONDITION TO RESEARCH.—

"(1) PROTECTION OF HUMAN RESEARCH SUBJECTS.—

"(A) In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to review under section 491(a) by an Institutional Review Board unless the application has undergone review in accordance with such section and has been recommended for approval by a majority of the members of the Board conducting such review.

"(B) In the case of research that is subject to review under procedures established by the Secretary for the protection of human subjects in clinical research conducted by the National Institutes of Health, the Secretary may not authorize the conduct of the research unless the research has, pursuant to such procedures, been recommended for approval.

"(2) PEER REVIEW.—In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to technical and scientific peer review under section 492(a) unless the application has undergone peer review in accordance with such section and has been recommended for approval by a majority of the members of the entity conducting such review.

"(b) ETHICAL REVIEW OF RESEARCH.—

"(1) PROCEDURES REGARDING WITHHOLDING OF FUNDS.—If research has been recommended for approval for purposes of subsection (a), the Secretary may not withhold funding for the research on ethical grounds unless—

"(A) the Secretary convenes an advisory board in accordance with paragraph (4) to study the ethical implications of the research; and

"(B)(i) the majority of the advisory board recommends that, on ethical grounds, the Secretary withhold funds for the research; or

(ii) the majority of such board recommends that the Secretary not withhold funds for the research on ethical grounds, but the Secretary finds, on the basis of the report submitted under paragraph (4)(B)(ii), that the recommendation is arbitrary and capricious.

"(2) APPLICABILITY.—The limitation established in paragraph (1) regarding the authority to withhold funds on ethical grounds shall apply without regard to whether the withholding of funds is characterized as a disapproval, a moratorium, a prohibition, or other description.

"(3) PRELIMINARY MATTERS REGARDING USE OF PROCEDURES.—

"(A) If the Secretary makes a determination that an advisory board should be convened for purposes of paragraph (1), the Secretary shall, through a statement published in the Federal Register, announce the intention of the Secretary to convene such a board.

"(B) A statement issued under subparagraph (A) shall include a request that interested individuals submit to the Secretary recommendations specifying the particular individuals who should be appointed to the advisory board involved. The Secretary shall consider such recommendations in making appointments to the board.

"(C) The Secretary may not make appointments to an advisory board under paragraph (1) until the expiration of the 30-day period beginning on the date on which the statement required in subparagraph (A) is made with respect to the board.

"(4) ETHICS ADVISORY BOARDS.—

"(A) Any advisory board convened for purposes of paragraph (1) shall be known as an ethics advisory board (hereafter in this paragraph referred to as an 'ethics board').

"(B)(i) An ethics board shall advise, consult with, and make recommendations to the Secretary regarding the ethics of the project of biomedical or behavioral research with respect to which the board has been convened.

"(ii) Not later than 180 days after the date on which the statement required in paragraph (3)(A) is made with respect to an ethics board, the board shall submit to the Secretary, and to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report describing the findings of the board regarding the project of research involved and making a recommendation under clause (i) of whether the Secretary should or should not withhold funds for the project. The report shall include the information considered in making the findings.

"(C) An ethics board shall be composed of no fewer than 14, and no more than 20, individuals who are not officers or employees of the United States. The Secretary shall make appointments to the board from among individuals with special qualifications and competence to provide advice and recommendations regarding ethical matters in biomedical and behavioral research. Of the members of the board—

"(i) no fewer than 1 shall be an attorney;

"(ii) no fewer than 1 shall be an ethicist;

"(iii) no fewer than 1 shall be a practicing physician;

"(iv) no fewer than 1 shall be a theologian; and

"(v) no fewer than one-third, and no more than one-half, shall be scientists with substantial accomplishments in biomedical or behavioral research.

"(D) The term of service as a member of an ethics board shall be for the life of the board. If such a member does not serve the full term of such service, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(E) A member of an ethics board shall be subject to removal from the board by the Secretary for neglect of duty or malfeasance or for other good cause shown.

"(F) The Secretary shall designate an individual from among the members of an ethics board to serve as the chair of the board.

"(G) In carrying out subparagraph (B)(i) with respect to a project of research, an ethics board shall conduct inquiries and hold public hearings.

"(H) With respect to information relevant to the duties described in subparagraph (B)(i), an ethics board shall have access to all such information possessed by the Department of Health and Human Services, or available to the Secretary from other agencies.

"(I) Members of an ethics board shall receive compensation for each day engaged in carrying out the duties of the board, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

"(J) The Secretary, acting through the Director of the National Institutes of Health, shall provide to each ethics board such staff and other assistance as may be necessary to carry out the duties of the board.

"(K) An ethics board shall terminate 30 days after the date on which the report required in subparagraph (B)(ii) is submitted to the Secretary and the congressional committees specified in such subparagraph.".

PART II—RESEARCH ON TRANSPLANTATION OF FETAL TISSUE

SEC. 111. ESTABLISHMENT OF AUTHORITIES.

Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 498 the following new section:

"RESEARCH ON TRANSPLANTATION OF FETAL TISSUE

"SEC. 498A. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary may conduct or support research on the transplantation of human fetal tissue for therapeutic purposes.

"(2) SOURCE OF TISSUE.—Human fetal tissue may be used in research carried out under paragraph (1) regardless of whether the tissue is obtained pursuant to a spontaneous or induced abortion or pursuant to a stillbirth.

"(3) REQUIREMENT WITH RESPECT TO OBTAINING TISSUE.—In research carried out under paragraph (1), human fetal tissue may be used only if the individual with the principal responsibility for conducting the research involved makes a statement, made in writing and signed by the individual, declaring that the individual—

"(A) obtained the tissue from the tissue bank established under Executive Order 12806 (issued May 19, 1992), if such bank is in operation during the period involved; or

"(B) obtained the tissue elsewhere, after having submitted a request for the tissue to such bank and 14 days having elapsed without the bank providing tissue that the individual finds appropriate for purposes of the research.

"(b) INFORMED CONSENT OF DONOR.—

"(1) IN GENERAL.—In research carried out under subsection (a), human fetal tissue may be used only if the woman providing the tissue makes a statement, made in writing and signed by the woman, declaring that—

"(A) the woman donates the fetal tissue for use in research described in subsection (a);

"(B) the donation is made without any restriction regarding the identity of individuals who may be the recipients of transplantations of the tissue; and

"(C) the woman has not been informed of the identity of any such individuals.

"(2) ADDITIONAL STATEMENT.—In research carried out under subsection (a), human fetal tissue may be used only if the attending physician with respect to obtaining the tissue from the woman involved makes a statement, made in writing and signed by the physician, declaring that—

"(A) in the case of tissue obtained pursuant to an induced abortion—

"(i) the consent of the woman for the abortion was obtained prior to requesting or obtaining consent for the tissue to be used in such research; and

"(ii) no alteration of the timing, method, or procedures used to terminate the pregnancy was made solely for the purposes of obtaining the tissue;

"(B) the tissue has been donated by the woman in accordance with paragraph (1); and

"(C) full disclosure has been provided to the woman with regard to—

"(i) such physician's interest, if any, in the research to be conducted with the tissue; and

"(ii) any known medical risks to the woman or risks to her privacy that might be associated with the donation of the tissue and that are in addition to risks of such type that are associated with the woman's medical care.

"(c) INFORMED CONSENT OF RESEARCHER AND DONEE.—In research carried out under subsection (a), human fetal tissue may be used only if the individual with the principal responsibility for conducting the research involved makes a statement, made in writing and signed by the individual, declaring that the individual—

"(1) is aware that—

"(A) the tissue is human fetal tissue;

"(B) the tissue may have been obtained pursuant to a spontaneous or induced abortion or subsequent to a stillbirth; and

"(C) the tissue was donated for research purposes;

"(2) has provided such information to other individuals with responsibilities regarding the research;

"(3) will require, prior to obtaining the consent of an individual to be a recipient of a transplantation of the tissue, written acknowledgment of receipt of such information by such recipient; and

"(4) has had no part in any decisions as to the timing, method, or procedures used to terminate the pregnancy made solely for the purposes of the research.

"(d) AVAILABILITY OF STATEMENTS FOR AUDIT.—

"(1) IN GENERAL.—In research carried out under subsection (a), human fetal tissue may be used only if the head of the agency or other entity conducting the research involved certifies to the Secretary that the statements required under subsections (a)(3), (b)(2), and (c) will be available for audit by the Secretary.

"(2) CONFIDENTIALITY OF AUDIT.—Any audit conducted by the Secretary pursuant to paragraph (1) shall be conducted in a confidential manner to protect the privacy rights of the individuals and entities involved in such research, including such individuals and entities involved in the donation, transfer, receipt, or transplantation of human fetal tissue. With respect to any material or information obtained pursuant to such audit, the Secretary shall—

"(A) use such material or information only for the purposes of verifying compliance with the requirements of this section;

"(B) not disclose or publish such material or information, except where required by Federal law, in which case such material or information shall be coded in a manner such that the identities of such individuals and entities are protected; and

"(C) not maintain such material or information after completion of such audit, except where necessary for the purposes of such audit.

"(e) APPLICABILITY OF STATE AND LOCAL LAW.—

"(1) RESEARCH CONDUCTED BY RECIPIENTS OF ASSISTANCE.—The Secretary may not provide support for research under subsection (a) conduct the research in accordance with applicable State and local law.

"(2) RESEARCH CONDUCTED BY SECRETARY.—The Secretary may conduct research under subsection (a) only in accordance with applicable State and local law.

"(f) DEFINITION.—For purposes of this section, the term 'human fetal tissue' means tissue or cells obtained from a dead human embryo or fetus after a spontaneous or induced abortion, or after a stillbirth.".

SEC. 112. PURCHASE OF HUMAN FETAL TISSUE; SOLICITATION OR ACCEPTANCE OF TISSUE AS DIRECTED DONATION FOR USE IN TRANSPLANTATION.

Part G of title IV of the Public Health Service Act, as amended by section 111 of this Act, is amended by inserting after section 498A the following new section:

"PROHIBITIONS REGARDING HUMAN FETAL TISSUE

"SEC. 498B. (a) PURCHASE OF TISSUE.—It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration if the transfer affects interstate commerce.

"(b) SOLICITATION OR ACCEPTANCE OF TISSUE AS DIRECTED DONATION FOR USE IN TRANSPLANTATION.—It shall be unlawful for any person to solicit or knowingly acquire, receive, or accept a donation of human fetal tissue for the purpose of transplantation of such tissue into another person if the donation affects interstate commerce, the tissue will be or is obtained pursuant to an induced abortion, and—

"(1) the donation will be or is made pursuant to a promise to the donating individual that the donated tissue will be transplanted into a recipient specified by such individual;

"(2) the donated tissue will be transplanted into a relative of the donating individual; or

"(3) the person who solicits or knowingly acquires, receives, or accepts the donation has provided valuable consideration for the costs associated with such abortion.

"(c) CRIMINAL PENALTIES FOR VIOLATIONS.—

"(1) IN GENERAL.—Any person who violates subsection (a) or (b) shall be fined in accordance with title 18, United States Code, subject to paragraph (2), or imprisoned for not more than 10 years, or both.

"(2) PENALTIES APPLICABLE TO PERSONS RECEIVING CONSIDERATION.—With respect to the imposition of a fine under paragraph (1), if the person involved violates subsection (a) or (b)(3), a fine shall be imposed in an amount not less than twice the amount of the valuable consideration received.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'human fetal tissue' has the meaning given such term in section 498A(f).

"(2) The term 'interstate commerce' has the meaning given such term in section 201(b) of the Federal Food, Drug, and Cosmetic Act.

"(3) The term 'valuable consideration' does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.".

SEC. 113. NULLIFICATION OF MORATORIUM.

(a) IN GENERAL.—Except as provided in subsection (c), no official of the executive branch may impose a policy that the Department of Health and Human Services is prohibited from conducting or supporting any research on the transplantation of human fetal tissue for therapeutic purposes. Such research shall be carried out in accordance with section 498A of the Public Health Service Act (as added by section 111 of this Act), without regard to any such policy that may have been in effect prior to the date of the enactment of this Act.

(b) PROHIBITION AGAINST WITHHOLDING OF FUNDS IN CASES OF TECHNICAL AND SCIENTIFIC MERIT.—

(1) IN GENERAL.—In the case of any proposal for research on the transplantation of human fetal tissue for therapeutic purposes, the Secretary of Health and Human Services may not withhold funds for the research if—

(A) the research has been approved for purposes of section 492A(a) of the Public Health Service Act (as added by section 101 of this Act);

(B) the research will be carried out in accordance with section 498A of such Act (as added by section 111 of this Act); and

(C) there are reasonable assurances that the research will not utilize any human fetal tissue that has been obtained in violation of section 498B(a) of such Act (as added by section 112 of this Act).

(2) STANDING APPROVAL REGARDING ETHICAL STATUS.—In the case of any proposal for research on the transplantation of human fetal tissue for therapeutic purposes, the issuance in December 1988 of the Report of the Human Fetal Tissue Transplantation Research Panel shall be deemed to be a report—

(A) issued by an ethics advisory board pursuant to section 492A(b)(4)(B)(ii) of the Public Health Service Act (as added by section 101 of this Act); and

(B) finding, on a basis that is neither arbitrary nor capricious, that there are no ethical grounds for withholding funds for the research.

(c) AUTHORITY FOR WITHHOLDING FUNDS FROM RESEARCH.—In the case of any research on the transplantation of human fetal tissue for therapeutic purposes, the Secretary of Health and Human Services may withhold funds for the research if any of the conditions specified in any of subparagraphs (A) through (C) of subsection (b)(1) are not met with respect to the research.

(d) DEFINITION.—For purposes of this section, the term "human fetal tissue" has the meaning given such term in section 498A(f) of the Public Health Service Act (as added by section 111 of this Act).

SEC. 114. REPORT BY GENERAL ACCOUNTING OFFICE ON ADEQUACY OF REQUIREMENTS.

(a) IN GENERAL.—With respect to research on the transplantation of human fetal tissue for therapeutic purposes, the Comptroller General of the United States shall conduct an audit for the purpose of determining—

(1) whether and to what extent such research conducted or supported by the Secretary of Health and Human Services has been conducted in accordance with section 498A of the Public Health Service Act (as added by section 111 of this Act); and

(2) whether and to what extent there have been violations of section 498B of such Act (as added by section 112 of this Act).

(b) REPORT.—Not later than May 19, 1995, the Comptroller General of the United States shall complete the audit required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made pursuant to the audit.

SEC. 115. EFFECTIVE DATES.

The amendments described in this part are made upon October 1, 1992, or upon the date of the enactment of this Act, whichever occurs later. Such amendments take effect upon May 19, 1993. This part otherwise takes effect upon May 19, 1993. With respect to conducting and supporting research on the transplantation of human fetal tissue for therapeutic purposes, the statutory authorities in effect on the day before the date of the enactment of this Act continue to be in effect until modified pursuant to the effective dates established in this section.

PART III—MISCELLANEOUS REPEALS

SEC. 121. REPEALS.

(a) CERTAIN BIOMEDICAL ETHICS BOARD.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 101(a) of Public Law 101-616, is amended—

(1) by striking part J; and

(2) by redesignating parts K through M as parts J through L, respectively.

(b) OTHER REPEALS.—Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended—

(1) in section 498, by striking subsection (c); and

(2) by striking section 499.

Subtitle B—Clinical Research Equity Regarding Women and Minorities

PART I—WOMEN AND MINORITIES AS SUBJECTS IN CLINICAL RESEARCH

SEC. 131. REQUIREMENT OF INCLUSION IN RESEARCH.

Part G of title IV of the Public Health Service Act, as amended by section 101 of this Act, is amended by inserting after section 492A the following new section:

"INCLUSION OF WOMEN AND MINORITIES IN CLINICAL RESEARCH

"SEC. 492B. (a) In conducting or supporting clinical research for purposes of this title, the Director of NIH shall, subject to subsection (b), ensure that—

"(1) women are included as subjects in each project of such research; and

"(2) members of minority groups are included as subjects in such research.

"(b) The requirement established in subsection (a) regarding women and members of minority groups shall not apply to a project of clinical research if the inclusion, as subjects in the project, of women and members of minority groups, respectively—

"(1) is inappropriate with respect to the health of the subjects;

"(2) is inappropriate with respect to the purpose of the research; or

"(3) is inappropriate under such other circumstances as the Director of NIH may designate.

"(c) In the case of any project of clinical research in which women or members of minority groups will under subsection (a) be included as subjects in the research, the Director of NIH shall ensure that the project is designed and carried out in a manner sufficient to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other subjects in the research.

"(d)(1) The Director of NIH, in consultation with the Director of the Office of Research on Women's Health, shall establish guidelines regarding—

"(A) the circumstances under which the inclusion of women and minorities in clinical research is inappropriate for purposes of subsection (b);

"(B) the manner in which projects of clinical research are required to be designed and carried out for purposes of subsection (c), including a specification of the circumstances in which the requirement of such subsection does not apply on the basis of impracticability; and

"(C) the conduct of outreach programs for the recruitment of women and members of minority groups as subjects in such research.

"(2) The guidelines established under paragraph (1)—

"(A) may not provide that the costs of including women and minorities in clinical research are a permissible consideration regarding the circumstances described in subparagraph (A) of such paragraph; and

"(B) may provide that such circumstances include circumstances in which there are scientific reasons for believing that the variables proposed to be studied do not affect women or minorities differently than other subjects in the research.

"(3) The guidelines required in paragraph (1) shall be established and published in the Federal Register not later than July 1, 1992.

"(4) For fiscal year 1993 and subsequent fiscal years, the Director of NIH may not approve any proposal of clinical research to be conducted or supported by any agency of the National Institutes of Health unless the pro-

posal specifies the manner in which the research will comply with subsection (a).

"(e) The advisory council of each national research institute shall annually submit to the Director of NIH and the Director of the institute involved a report describing the manner in which the agency has complied with subsection (a).".

SEC. 132. PEER REVIEW.

Section 492 of the Public Health Service Act (42 U.S.C. 289a) is amended by adding at the end the following new subsection:

"(c)(1) In technical and scientific peer review under this section of proposals for clinical research, the consideration of any such proposal (including the initial consideration) shall, except as provided in paragraph (2), include an evaluation of the technical and scientific merit of the proposal regarding compliance with section 492B(a).

"(2) Paragraph (1) shall not apply to any proposal for clinical research that, pursuant to subsection (b) of section 492B, is not subject to the requirement of subsection (a) of such section regarding the inclusion of women and members of minority groups as subjects in clinical research.".

SEC. 133. APPLICABILITY.

Section 492B of the Public Health Service Act, as added by section 131 of this Act, shall not apply with respect to projects of clinical research for which initial funding was provided prior to the date of the enactment of this Act. With respect to the inclusion of women and minorities as subjects in clinical research conducted or supported by the National Institutes of Health, any policies of the Secretary of Health and Human Services regarding such inclusion that are in effect on the day before the date of the enactment of this Act shall continue to apply to the projects referred to in the preceding sentence. Any such policies may apply for fiscal year 1993 and subsequent fiscal years to the extent not inconsistent with such section 492B.

PART II—OFFICE OF RESEARCH ON WOMEN'S HEALTH

SEC. 141. ESTABLISHMENT.

(a) IN GENERAL.—Title IV of the Public Health Service Act, as amended by section 2 of Public Law 101-613, is amended—

(1) by redesignating section 486 as section 485A;

(2) by redesignating parts F through H as parts G through I, respectively; and

(3) by inserting after part E the following new part:

"PART F—RESEARCH ON WOMEN'S HEALTH

"SEC. 486. OFFICE OF RESEARCH ON WOMEN'S HEALTH.

"(a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Research on Women's Health (in this part referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of NIH.

"(b) PURPOSE.—The Director of the Office shall—

"(1) identify projects of research on women's health that should be conducted or supported by the national research institutes;

"(2) identify multidisciplinary research relating to research on women's health that should be so conducted or supported;

"(3) carry out paragraphs (1) and (2) with respect to the aging process in women, with priority given to menopause;

"(4) promote coordination and collaboration among entities conducting research identified under any of paragraphs (1) through (3);

"(5) encourage the conduct of such research by entities receiving funds from the national research institutes;

"(6) recommend an agenda for conducting and supporting such research;

"(7) promote the sufficient allocation of the resources of the national research institutes for conducting and supporting such research;

"(8) assist in the administration of section 492B with respect to the inclusion of women as subjects in clinical research; and

"(9) prepare the report required in section 486B.

"(c) COORDINATING COMMITTEE.—

"(1) In carrying out subsection (b), the Director of the Office shall establish a committee to be known as the Coordinating Committee on Research on Women's Health (hereafter in this subsection referred to as the 'Coordinating Committee').

"(2) The Coordinating Committee shall be composed of the Directors of the national research institutes (or the designees of the Directors).

"(3) The Director of the Office shall serve as the chair of the Coordinating Committee.

"(4) With respect to research on women's health, the Coordinating Committee shall assist the Director of the Office in—

"(A) identifying the need for such research, and making an estimate each fiscal year of the funds needed to adequately support the research;

"(B) identifying needs regarding the coordination of research activities, including intramural and extramural multidisciplinary activities;

"(C) supporting the development of methodologies to determine the circumstances in which obtaining data specific to women (including data relating to the age of women and the membership of women in ethnic or racial groups) is an appropriate function of clinical trials of treatments and therapies;

"(D) supporting the development and expansion of clinical trials of treatments and therapies for which obtaining such data has been determined to be an appropriate function; and

"(E) encouraging the national research institutes to conduct and support such research, including such clinical trials.

"(d) ADVISORY COMMITTEE.—

"(1) In carrying out subsection (b), the Director of the Office shall establish an advisory committee to be known as the Advisory Committee on Research on Women's Health (hereafter in this subsection referred to as the 'Advisory Committee').

"(2) The Advisory Committee shall be composed of no fewer than 12, and not more than 18 individuals, who are not officers or employees of the Federal Government. The Director of the Office shall make appointments to the Advisory Committee from among physicians, practitioners, scientists, and other health professionals, whose clinical practice, research specialization, or professional expertise includes a significant focus on research on women's health. A majority of the members of the Advisory Committee shall be women.

"(3) The Director of the Office shall serve as the chair of the Advisory Committee.

"(4) The Advisory Committee shall—

"(A) advise the Director of the Office on appropriate research activities to be undertaken by the national research institutes with respect to—

"(i) research on women's health;

"(ii) research on gender differences in clinical drug trials, including responses to pharmacological drugs;

"(iii) research on gender differences in disease etiology, course, and treatment;

"(iv) research on obstetrical and gynecological health conditions, diseases, and treatments; and

"(v) research on women's health conditions which require a multidisciplinary approach;

"(B) report to the Director of the Office on such research;

"(C) provide recommendations to such Director regarding activities of the Office (including recommendations on the development of the methodologies described in subsection (c)(4)(C) and recommendations on priorities in carrying out research described in subparagraph (A)); and

"(D) assist in monitoring compliance with section 492B regarding the inclusion of women in clinical research.

"(5)(A) The Advisory Committee shall prepare a biennial report describing the activities of the Committee, including findings made by the Committee regarding—

"(i) compliance with section 492B;

"(ii) the extent of expenditures made for research on women's health by the agencies of the National Institutes of Health; and

"(iii) the level of funding needed for such research.

"(B) The report required in subparagraph (A) shall be submitted to the Director of NIH for inclusion in the report required in section 403.

"(e) REPRESENTATION OF WOMEN AMONG RESEARCHERS.—The Secretary, acting through the Assistant Secretary for Personnel and in collaboration with the Director of the Office, shall determine the extent to which women are represented among senior physicians and scientists of the national research institutes and among physicians and scientists conducting research with funds provided by such institutes, and as appropriate, carry out activities to increase the extent of such representation.

"(f) DEFINITIONS.—For purposes of this part:

"(1) The term 'women's health conditions', with respect to women of all age, ethnic, and racial groups, means all diseases, disorders, and conditions (including with respect to mental health)—

"(A) unique to, more serious, or more prevalent in women;

"(B) for which the factors of medical risk or types of medical intervention are different for women, or for which it is unknown whether such factors or types are different for women; or

"(C) with respect to which there has been insufficient clinical research involving women as subjects or insufficient clinical data on women.

"(2) The term 'research on women's health' means research on women's health conditions, including research on preventing such conditions.

"SEC. 486A. NATIONAL DATA SYSTEM AND CLEARINGHOUSE ON RESEARCH ON WOMEN'S HEALTH.

"(a) DATA SYSTEM.—

"(1) The Director of NIH, in consultation with the Director of the Office, shall establish a data system for the collection, storage, analysis, retrieval, and dissemination of information regarding research on women's health that is conducted or supported by the national research institutes. Information from the data system shall be available through information systems available to health care professionals and providers, researchers, and members of the public.

"(2) The data system established under paragraph (1) shall include a registry of clin-

ical trials of experimental treatments that have been developed for research on women's health. Such registry shall include information on subject eligibility criteria, sex, age, ethnicity or race, and the location of the trial site or sites. Principal investigators of such clinical trials shall provide this information to the registry within 30 days after it is available. Once a trial has been completed, the principal investigator shall provide the registry with information pertaining to the results, including potential toxicities or adverse effects associated with the experimental treatment or treatments evaluated.

"(b) CLEARINGHOUSE.—The Director of NIH, in consultation with the Director of the Office and with the National Library of Medicine, shall establish, maintain, and operate a program to provide information on research and prevention activities of the national research institutes that relate to research on women's health.

"SEC. 486B. BIENNIAL REPORT.

"(a) IN GENERAL.—With respect to research on women's health, the Director of the Office shall, not later than February 1, 1994, and biennially thereafter, prepare a report—

"(1) describing and evaluating the progress made during the preceding 2 fiscal years in research and treatment conducted or supported by the National Institutes of Health;

"(2) describing and analyzing the professional status of women physicians and scientists of such Institutes, including the identification of problems and barriers regarding advancements;

"(3) summarizing and analyzing expenditures made by the agencies of such Institutes (and by such Office) during the preceding 2 fiscal years; and

"(4) making such recommendations for legislative and administrative initiatives as the Director of the Office determines to be appropriate.

"(b) INCLUSION IN BIENNIAL REPORT OF DIRECTOR OF NIH.—The Director of the Office shall submit each report prepared under subsection (a) to the Director of NIH for inclusion in the report submitted to the President and the Congress under section 403.".

(b) REQUIREMENT OF SUFFICIENT ALLOCATION OF RESOURCES OF INSTITUTES.—Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (10), by striking "and" after the semicolon at the end;

(2) in paragraph (11), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (11) the following new paragraph:

"(12) after consultation with the Director of the Office of Research on Women's Health, shall ensure that resources of the National Institutes of Health are sufficiently allocated for projects of research on women's health that are identified under section 486(b).".

Subtitle C—Scientific Integrity

SEC. 151. ESTABLISHMENT OF OFFICE OF SCIENTIFIC INTEGRITY.

(a) IN GENERAL.—Section 493 of the Public Health Service Act (42 U.S.C. 289b) is amended to read as follows:

"OFFICE OF SCIENTIFIC INTEGRITY

"SEC. 493. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary shall establish an office to be known as the Office of Scientific Integrity (hereafter referred to in this section as the 'Office'), which shall be established as an independent entity in the Department of Health and Human Services.

"(2) DIRECTOR.—The Office shall be headed by a Director, who shall be appointed by the Secretary, be experienced and specially trained in the conduct of research, and have experience in the conduct of investigations of scientific misconduct. The Secretary shall carry out this section acting through the Director of the Office. The Director shall report to the Secretary.

"(b) EXISTENCE OF ADMINISTRATIVE PROCESSES AS CONDITION OF FUNDING FOR RESEARCH.—The Secretary shall by regulation require that each entity that applies for a grant, contract, or cooperative agreement under this Act for any project or program that involves the conduct of biomedical or behavioral research submit in or with its application for such grant, contract, or cooperative agreement assurances satisfactory to the Secretary that such entity—

"(1) has established (in accordance with regulations which the Secretary shall prescribe) an administrative process to review reports of scientific misconduct in connection with biomedical and behavioral research conducted at or sponsored by such entity; and

"(2) will report to the Director any investigation of alleged scientific misconduct in connection with projects for which funds have been made available under this Act that appears substantial.

"(c) PROCESS FOR RESPONSE OF DIRECTOR.—The Secretary shall establish by regulation a process to be followed by the Director for the prompt and appropriate—

"(1) response to information provided to the Director respecting scientific misconduct in connection with projects for which funds have been made available under this Act;

"(2) receipt of reports by the Director of such information from recipients of funds under this Act;

"(3) conduct of investigations, when appropriate; and

"(4) taking of other actions, including appropriate remedies, with respect to such misconduct.

"(d) MONITORING BY DIRECTOR.—The Secretary shall by regulation establish procedures for the Director to monitor administrative processes and investigations that have been established or carried out under this section.

"(e) EFFECT ON PRESENT INVESTIGATIONS.—Nothing in this section shall affect investigations which have been or will be commenced prior to the promulgation of final regulations under this section.".

(b) ESTABLISHMENT OF DEFINITION OF SCIENTIFIC MISCONDUCT.—Not later than 90 days after the date on which the report required under section 152(d) is submitted to the Secretary of Health and Human Services, such Secretary shall by regulation establish a definition for the term "scientific misconduct" for purposes of section 493 of the Public Health Service Act, as amended by subsection (a) of this section.

SEC. 152. COMMISSION ON SCIENTIFIC INTEGRITY.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a commission to be known as the Commission on Scientific Integrity (in this section referred to as the "Commission").

(b) DUTIES.—The Commission shall develop recommendations for the Secretary of Health and Human Services on the administration of section 493 of the Public Health Service Act (as amended and added by section 151 of this Act).

(c) COMPOSITION.—The Commission shall be composed of 12 members to be appointed by the Secretary of Health and Human Services from among individuals who are not officers or employees of the United States. Of the members appointed to the Commission—

(1) three shall be scientists with substantial accomplishments in biomedical or behavioral research;

(2) three shall be individuals with experience in investigating allegations of misconduct with respect to scientific research;

(3) three shall be representatives of institutions of higher education at which biomedical or behavioral research is conducted; and

(4) three shall be individuals who are not described in paragraphs (1), (2), or (3), at least one of whom shall be an attorney and at least one of whom shall be an ethicist.

(d) REPORT.—Not later than 120 days after the date of enactment of this section, the Commission shall prepare and submit to the Secretary of Health and Human Services, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report containing the recommendations developed under subsection (b).

SEC. 153. PROTECTION OF WHISTLEBLOWERS.

Section 493 of the Public Health Service Act, as amended by section 151 of this Act, is amended by adding at the end the following new subsection:

"(f) PROTECTION OF WHISTLEBLOWERS.—

"(1) IN GENERAL.—In the case of any entity required to establish administrative processes under subsection (b), the Secretary shall by regulation establish standards for preventing, and for responding to the occurrence of retaliation by such entity, its officials or agents, against an employee in the terms and conditions of employment in response to the employee having in good faith—

"(A) made an allegation that the entity, its officials or agents, has engaged in or failed to adequately respond to an allegation of scientific misconduct; or

"(B) cooperated with an investigation of such an allegation.

"(2) MONITORING BY SECRETARY.—The Secretary shall establish by regulation procedures for the Director to monitor the implementation of the standards established by an entity under paragraph (1) for the purpose of determining whether the procedures have been established, and are being utilized, in accordance with the standards established under such paragraph.

"(3) NONCOMPLIANCE.—The Secretary shall by regulation establish remedies for noncompliance by an entity, its officials or agents, which has engaged in retaliation in violation of the standards established under paragraph (1). Such remedies may include termination of funding provided by the Secretary for such project or recovery of funding being provided by the Secretary for such project, or other actions as appropriate.

"(4) FINAL RULE FOR REGULATIONS.—The Secretary shall issue a final rule for the regulations required in paragraph (1) not later than 180 days after the date of the enactment of the National Institutes of Health Revitalization Amendments of 1992.

"(5) REQUIRED AGREEMENTS.—For any fiscal year beginning after the date on which the regulations required in paragraph (1) are issued, the Secretary may not provide a grant, cooperative agreement, or contract under this Act for biomedical or behavioral research unless the entity seeking such financial assistance agrees that the entity—

"(A) will maintain the procedures described in the regulations; and

"(B) will otherwise be subject to the regulations.".

SEC. 154. REQUIREMENT OF REGULATIONS REGARDING PROTECTION AGAINST FINANCIAL CONFLICTS OF INTEREST IN CERTAIN PROJECTS OF RESEARCH.

Part H of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act, is amended by inserting after section 493 the following new section:

"PROTECTION AGAINST FINANCIAL CONFLICTS OF INTEREST IN CERTAIN PROJECTS OF RESEARCH

"SEC. 493A. (a) ISSUANCE OF REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall define by regulation, the specific circumstances that constitute the existence of a financial interest in a project on the part of an entity or individual that will, or may be reasonably expected to, create a bias in favor of obtaining results in such project that are consistent with such financial interest. Such definition shall apply uniformly to each entity or individual conducting a research project under this Act. In the case of any entity or individual receiving assistance from the Secretary for a project of research described in paragraph (2), the Secretary shall by regulation establish standards for responding to, including managing, reducing, or eliminating, the existence of such a financial interest. The entity may adopt individualized procedures for implementing the standards.

"(2) RELEVANT PROJECTS.—A project of research referred to in paragraph (1) is a project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment and for which such entity is receiving assistance from the Secretary.

"(3) IDENTIFYING AND REPORTING TO THE DIRECTOR.—The Secretary shall ensure that the standards established under paragraph (1) specify that as a condition of receiving assistance from the Secretary for the project involved, an entity described in such subsection is required—

"(A) to have in effect at the time the entity applies for the assistance and throughout the period during which the assistance is received, a process for identifying such financial interests as defined in paragraph (1) that exist regarding the project; and

"(B) to report to the Director such financial interest as defined in paragraph (1) identified by the entity and how any such financial interest identified by the entity will be managed or eliminated such that the project in question will be protected from bias that may stem from such financial interest.

"(4) MONITORING OF PROCESS.—The Secretary shall monitor the establishment and conduct of the process established by an entity pursuant to paragraph (1).

"(5) RESPONSE.—In any case in which the Secretary determines that an entity has failed to comply with paragraph (3) regarding a project of research described in paragraph (1), the Secretary—

"(A) shall require that, as a condition of receiving assistance, the entity disclose the existence of a financial interest as defined in paragraph (1) in each public presentation of the results of such project; and

"(B) may take such other actions as the Secretary determines to be appropriate.

"(6) DEFINITION.—As used in this section:

"(A) The term 'financial interest' includes the receipt of consulting fees or honoraria and the ownership of stock or equity.

"(B) The term 'assistance', with respect to conducting a project of research, means a grant, contract, or cooperative agreement.

"(b) FINAL RULE FOR REGULATIONS.—The Secretary shall issue a final rule for the regulations required in subsection (a) not later than 180 days after the date of the enactment of the National Institutes of Health Revitalization Amendments of 1992.".

SEC. 155. EFFECTIVE DATES.

(a) IN GENERAL.—The amendments made by this subtitle shall become effective on the date that occurs 180 days after the date on which the final rule required under section 493(f)(4) of the Public Health Service Act, as amended by sections 151 and 153, is published in the Federal Register.

(b) AGREEMENTS AS A CONDITION OF FUNDING.—The requirements of subsection (f)(5) of section 493 of the Public Health Service Act, as amended by sections 151 and 153, with respect to agreements as a condition of funding shall not be effective in the case of projects of research for which initial funding under the Public Health Service Act was provided prior to the effective date described in subsection (a).

TITLE II—PROTECTION OF HEALTH FACILITIES

SEC. 201. PROTECTION OF FACILITIES ASSISTED UNDER PUBLIC HEALTH SERVICE ACT.

The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 101 of Public Law 101-381 and section 304 of Public Law 101-509, is amended—

(1) by transferring sections 2701 through 2714 to title II;

(2) by redesignating such sections as sections 231 through 244, respectively;

(3) by inserting such sections, in the appropriate sequence, after section 228;

(4) by inserting before section 201 the following new heading:

"PART A—ADMINISTRATION";

(5) by inserting before section 231 (as redesignated by paragraph (2) of this subsection) the following new heading:

"PART B—MISCELLANEOUS PROVISIONS"; and

(6) by adding at the end of title II (as amended by paragraphs (1) through (5) of this subsection) the following new part:

"PART C—PROTECTION OF HEALTH FACILITIES

"SEC. 251. ESTABLISHMENT OF PROTECTIONS.

"With respect to any health facility receiving financial assistance under this Act, a person shall not—

"(1) embezzle, steal, purloin, or knowingly engage in conversion of any personal property of the health facility, including, without authorization of the health facility—

"(A) knowingly releasing or otherwise causing the loss from the health facility of any animal held for research purposes by the facility;

"(B) knowingly injuring any animal held for such purposes; or

"(C) knowingly destroying or altering records held by the facility;

"(2) knowingly damage any real property of the health facility;

"(3) knowingly deter, through any degree of physical restraint, any individual from entering or exiting the health facility;

"(4) by force and violence take from the person or presence of an officer or employee of the health facility any personal property of the health facility (including any animal held for research purposes by the facility); or

"(5) break or enter into the health facility with the intent to carry out any of the actions prohibited in any of paragraphs (1) through (4).

"SEC. 252. ENFORCEMENT.

"(a) CRIMINAL PENALTY.—

"(1) IN GENERAL.—Any person who violates section 251 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"(2) RESTITUTION.—In sentencing a defendant convicted of a violation of section 251, the court involved may order the defendant to make restitution to the health facility involved. Sections 3663 and 3664 of title 18, United States Code, shall apply to such an order to the same extent and in the same manner as such sections apply to any order of restitution made pursuant to a conviction of any felony under such title 18.

"(3) LIMITATION ON ACTION.—Section 3282 of title 18, United States Code, shall apply to proceedings under paragraph (1).

"(b) PRIVATE CIVIL ACTION.—

"(1) IN GENERAL.—Any health facility aggrieved as a result of a violation of any of paragraphs (1) through (3) of section 251 by any person may, in any court of competent jurisdiction, commence a civil action against such person to obtain appropriate relief, including actual and punitive damages, equitable relief, and a reasonable attorney's fee and costs.

"(2) STATE OPTION WITH RESPECT TO OFFSET.—To the extent provided by the law of the State in which the violation of section 251 occurred, any pecuniary relief recovered by a health facility in a civil action under paragraph (1) shall be offset against any pecuniary relief recovered by the health facility in a civil action authorized under the law of such State with respect to activities described in section 251.

"(3) LIMITATION ON ACTION.—Proceedings under paragraph (1) may not be commenced against a person after the expiration of the 2-year period beginning on the date on which the person allegedly engaged in the violation of section 251.

"SEC. 253. RULES OF CONSTRUCTION.

"With respect to penalties and remedies established in this part regarding any health facility receiving financial assistance under this Act—

"(1) this part may not be construed to limit or otherwise affect any other penalty or remedy under Federal or State law; and

"(2) this part may not be construed to supersede any law of any State.".

SEC. 202. CONFORMING AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in the heading for title II, by inserting "AND MISCELLANEOUS PROVISIONS" after "ADMINISTRATION";

(2) in section 406(a)(2), by striking "2701" and inserting "231";

(3) in section 465(f), by striking "2701" and inserting "231";

(4) in section 480(a)(2), by striking "2701" and inserting "231";

(5) in section 485(a)(2), by striking "2701" and inserting "231";

(6) in section 497, by striking "2701" and inserting "231";

(7) in section 505(a)(2), by striking "2701" and inserting "231";

(8) in section 926(b), by striking "2711" each place such term appears and inserting "241"; and

(9) in title XXVII, by striking the heading for such title.

TITLE III—NATIONAL INSTITUTES OF HEALTH IN GENERAL

SEC. 301. HEALTH PROMOTION RESEARCH DISSEMINATION.

Section 402(f) of the Public Health Service Act (42 U.S.C. 282(f)) is amended by striking "other public and private entities." and all

that follows through the end and inserting "other public and private entities, including elementary, secondary, and post-secondary schools. The Associate Director shall—

"(1) annually review the efficacy of existing policies and techniques used by the national research institutes to disseminate the results of disease prevention and behavioral research programs;

"(2) recommend, coordinate, and oversee the modification or reconstruction of such policies and techniques to ensure maximum dissemination, using advanced technologies to the maximum extent practicable, of research results to such entities; and

"(3) annually prepare and submit to the Director of NIH a report concerning the prevention and dissemination activities undertaken by the Associate Director, including—

"(A) a summary of the Associate Director's review of existing dissemination policies and techniques together with a detailed statement concerning any modification or restructuring, or recommendations for modification or restructuring, of such policies and techniques; and

"(B) a detailed statement of the expenditures made for the prevention and dissemination activities reported on and the personnel used in connection with such activities.".

SEC. 302. PROGRAMS FOR INCREASED SUPPORT REGARDING CERTAIN STATES AND RESEARCHERS.

Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended by adding at the end the following new subsection:

"(g)(1)(A) In the case of entities described in subparagraph (B), the Director of NIH, acting through the Director of the National Center for Research Resources, shall establish a program to enhance the competitiveness of such entities in obtaining funds from the national research institutes for conducting biomedical and behavioral research.

"(B) The entities referred to in subparagraph (A) are entities that conduct biomedical and behavioral research and are located in a State in which the aggregate success rate for applications to the national research institutes for assistance for such research by the entities in the State has historically constituted a low success rate of obtaining such funds, relative to such aggregate rate for such entities in other States.

"(C) With respect to enhancing competitiveness for purposes of subparagraph (A), the Director of NIH, in carrying out the program established under such subparagraph, may—

"(i) provide technical assistance to the entities involved, including technical assistance in the preparation of applications for obtaining funds from the national research institutes;

"(ii) assist the entities in developing a plan for biomedical or behavioral research proposals; and

"(iii) assist the entities in implementing such plan.

"(2) The Director of NIH shall establish a program of supporting projects of biomedical or behavioral research whose principal researchers are individuals who have not previously served as the principal researchers of such projects supported by the Director.".

SEC. 303. CHILDREN'S VACCINE INITIATIVE.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following new section:

"CHILDREN'S VACCINE INITIATIVE

"SEC. 404. (a) DEVELOPMENT OF NEW VACCINES.—The Secretary, in consulation with the Director of the National Vaccine Program under title XXI and acting through the Directors of the National Institute for Allergy and Infectious Diseases, the National Institute for Child Health and Human Development, the National Institute for Aging, and other public and private programs, shall carry out activities, which shall be consistent with the global Children's Vaccine Initiative, to develop affordable new and improved vaccines to be used in the United States and in the developing world that will increase the efficacy and efficiency of the prevention of infectious diseases. In carrying out such activities, the Secretary shall, to the extent practicable, develop and make available vaccines that require fewer contacts to deliver, that can be given early in life, that provide long lasting protection, that obviate refrigeration, needles and syringes, and that protect against a larger number of diseases.

"(b) REPORT.—In the report required in section 2104, the Secretary, acting through the Director of the National Vaccine Program under title XXI, shall include information with respect to activities and the progress made in implementing the provisions of this section and achieving its goals.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated for activities of the type described in this section, there are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 304. PLAN FOR USE OF ANIMALS IN RESEARCH.

(a) IN GENERAL.—Part A of title IV of the Public Health Service Act, as amended by section 303 of this Act, is amended by adding at the end the following new section:

"PLAN FOR USE OF ANIMALS IN RESEARCH

"SEC. 404A. (a) The Director of NIH, after consultation with the committee established under subsection (e), shall prepare a plan—

"(1) for the National Institutes of Health to conduct or support research into—

"(A) methods of biomedical research and experimentation that do not require the use of animals;

"(B) methods of such research and experimentation that reduce the number of animals used in such research; and

"(C) methods of such research and experimentation that produce less pain and distress in such animals;

"(2) for establishing the validity and reliability of the methods described in paragraph (1);

"(3) for encouraging the acceptance by the scientific community of such methods that have been found to be valid and reliable; and

"(4) for training scientists in the use of such methods that have been found to be valid and reliable.

"(b) Not later than October 1, 1993, the Director of NIH shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, the plan required in subsection (a) and shall begin implementation of the plan.

"(c) The Director of NIH shall periodically review, and as appropriate, make revisions in the plan required under subsection (a). A description of any revision made in the plan shall be included in the first biennial report under section 403 that is submitted after the revision is made.

"(d) The Director of NIH shall take such actions as may be appropriate to convey to scientists and others who use animals in biomedical or behavioral research or experimentation information respecting the methods found to be valid and reliable under subsection (a)(2).

"(e)(1) The Director of NIH shall establish within the National Institutes of Health a committee to be known as the Interagency Coordinating Committee on the Use of Animals in Research (hereafter in this subsection referred to as the 'Committee').

"(2) The Committee shall provide advice to the Director of NIH on the preparation of the plan required in subsection (a).

"(3) The Committee shall be composed of—

"(A) the Directors of each of the national research institutes (or the designees of such Directors); and

"(B) representatives of the Environmental Protection Agency, the Food and Drug Administration, the Consumer Product Safety Commission, the National Science Foundation, and such additional agencies as the Director of NIH determines to be appropriate.".

(b) CONFORMING AMENDMENT.—Section 4 of the Health Research Extension Act of 1985 (Public Law 99-158; 99 Stat. 880) is repealed.

SEC. 305. INCREASED PARTICIPATION OF WOMEN AND DISADVANTAGED INDIVIDUALS IN FIELDS OF BIOMEDICAL AND BEHAVIORAL RESEARCH.

Section 402 of the Public Health Service Act, as amended by section 302 of this Act, is amended by adding at the end the following new subsection:

"(h) The Secretary, acting through the Director of NIH and the Directors of the agencies of the National Institutes of Health, may conduct and support programs for research, research training, recruitment, and other activities to provide for an increase in the number of women and individuals from disadvantaged backgrounds in the fields of biomedical and behavioral research.".

SEC. 306. REQUIREMENTS REGARDING SURVEYS OF SEXUAL BEHAVIOR.

Part A of title IV of the Public Health Service Act, as amended by section 304 of this Act, is amended by adding at the end the following new section:

"REQUIREMENTS REGARDING SURVEYS OF SEXUAL BEHAVIOR

"SEC. 404B. With respect to any survey of human sexual behavior proposed to be conducted or supported through the National Institutes of Health, the survey may not be carried out unless—

"(1) the proposal has undergone review in accordance with any applicable requirements of sections 491 and 492; and

"(2) the Secretary, in accordance with section 492A, makes a determination that the information expected to be obtained through the survey will assist—

"(A) in reducing the incidence of sexually transmitted diseases, the incidence of infection with the human immunodeficiency virus, or the incidence of any other infectious disease; or

"(B) in improving reproductive health or other conditions of health.".

SEC. 307. DISCRETIONARY FUND OF DIRECTOR OF NATIONAL INSTITUTES OF HEALTH.

Section 402 of the Public Health Service Act, as amended by section 305 of this Act, is amended by adding at the end the following new subsection:

"(i)(1) There is established a fund, consisting of amounts appropriated under paragraph (3) and made available for the fund, for use by the Director of NIH to carry out the activities authorized in this Act for the National Institutes of Health. The purposes for which such fund may be expended include, but are not limited to—

"(A) providing for research on matters that have not received significant funding

relative to other matters, responding to new issues and scientific emergencies, and acting on research opportunities of high priority;

"(B) supporting research that is not exclusively within the authority of any single agency of such Institutes; and

"(C) purchasing or renting equipment and quarters for activities of such Institutes.

"(2) The Director of NIH shall provide to the Secretary an annual report describing the activities undertaken and expenditures made under this section. The Secretary shall submit such report, together with such comments regarding this section as the Secretary determines to be appropriate, to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

"(3) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 308. MISCELLANEOUS PROVISIONS.

(a) TERM OF OFFICE FOR MEMBERS OF ADVISORY COUNCILS.—Section 406(c) of the Public Health Service Act (42 U.S.C. 284a(c)) is amended in the second sentence by striking "until a successor has been appointed" and inserting the following: "for 180 days after the date of such expiration".

(b) LITERACY REQUIREMENTS.—Section 402(e) of the Public Health Service Act (42 U.S.C. 282(e)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) ensure that, after January 1, 1993, at least one-half of all new or revised health education and promotion materials developed or funded by the National Institutes of Health is in a form that does not exceed a level of functional literacy, as defined in the National Literacy Act of 1991 (Public Law 102-73).".

(c) DAY CARE REGARDING CHILDREN OF EMPLOYEES.—Section 402 of the Public Health Service Act, as amended by section 307 of this Act, is amended by adding at the end the following new subsection:

"(i)(1) The Director of NIH may establish a program to provide day care service for the employees of the National Institutes of Health similar to those services provided by other Federal agencies (including the availability of day care service on a 24-hour-a-day basis).

"(2) Any day care provider at the National Institutes of Health shall establish a sliding scale of fees that takes into consideration the income and needs of the employee.

"(3) For purposes regarding the provision of day care service, the Director of NIH may enter into rental or lease purchase agreements.".

TITLE IV—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

SEC. 401. APPOINTMENT AND AUTHORITY OF DIRECTORS OF NATIONAL RESEARCH INSTITUTES.

(a) ESTABLISHMENT OF GENERAL AUTHORITY REGARDING DIRECT FUNDING.—

(1) IN GENERAL.—Section 405(b)(2) of the Public Health Service Act (42 U.S.C. 284(b)(2)) is amended—

(A) in subparagraph (A), by striking "and" after the semicolon at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) shall receive from the President and the Office of Management and Budget directly all funds appropriated by the Congress for obligation and expenditure by the Institute.".

(2) CONFORMING AMENDMENT.—Section 413(b)(9) of the Public Health Service Act (42 U.S.C. 285a-2(b)(9)) is amended—

(A) by striking "(A)" after "(9)"; and

(B) by striking "advisory council;" and all that follows and inserting "advisory council.".

(b) APPOINTMENT AND DURATION OF TECHNICAL AND SCIENTIFIC PEER REVIEW GROUPS.—Section 405(c) of the Public Health Service Act (42 U.S.C. 284(c)) is amended—

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

"(3) may, in consultation with the advisory council for the Institute and with the approval of the Director of NIH—

"(A) establish technical and scientific peer review groups in addition to those appointed under section 402(b)(6); and

"(B) appoint the members of peer review groups established under subparagraph (A); and"; and

(2) by adding after and below paragraph (4) the following:

"The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under paragraph (3).".

SEC. 402. PROGRAM OF RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following new section:

"RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS

"SEC. 409. (a) ESTABLISHMENT.—The Directors of the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute on Aging, and the National Institute of Diabetes, Digestive and Kidney Diseases, shall expand and intensify the programs of such Institutes with respect to research and related activities concerning osteoporosis, Paget's disease, and related bone disorders.

"(b) COORDINATION.—The Directors referred to in subsection (a) shall jointly coordinate the programs referred to in such subsection and consult with the Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and the Interagency Task Force on Aging Research.

"(c) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—In order to assist in carrying out the purpose described in subsection (a), the Director of NIH shall provide for the establishment of an information clearinghouse on osteoporosis and related bone disorders to facilitate and enhance knowledge and understanding on the part of health professionals, patients, and the public through the effective dissemination of information.

"(2) ESTABLISHMENT THROUGH GRANT OR CONTRACT.—For the purpose of carrying out paragraph (1), the Director of NIH shall enter into a grant, cooperative agreement, or contract with a nonprofit private entity involved in activities regarding the prevention and control of osteoporosis and related bone disorders.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.".

SEC. 403. ESTABLISHMENT OF INTERAGENCY PROGRAM FOR TRAUMA RESEARCH.

(a) IN GENERAL.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended by adding at the end the following part:

"PART E—INTERAGENCY PROGRAM FOR TRAUMA RESEARCH

"SEC. 1251. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health (hereafter in this section referred to as the 'Director'), shall establish a comprehensive program of conducting basic and clinical research on trauma (hereafter in this section referred to as the 'Program'). The Program shall include research regarding the diagnosis, treatment, rehabilitation, and general management of trauma.

"(b) PLAN FOR PROGRAM.—

"(1) IN GENERAL.—The Director, in consultation with the Trauma Research Interagency Coordinating Committee established under subsection (g), shall establish and implement a plan for carrying out the activities of the Program, including the activities described in subsection (d). All such activities shall be carried out in accordance with the plan. The plan shall be periodically reviewed, and revised as appropriate.

"(2) SUBMISSION TO CONGRESS.—Not later than April 1, 1993, the Director shall submit the plan required in paragraph (1) to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, together with an estimate of the funds needed for each of the fiscal years 1994 through 1996 to implement the plan.

"(c) PARTICIPATING AGENCIES; COORDINATION AND COLLABORATION.—The Director—

"(1) shall provide for the conduct of activities under the Program by the Directors of the agencies of the National Institutes of Health involved in research with respect to trauma;

"(2) shall ensure that the activities of the Program are coordinated among such agencies; and

"(3) shall, as appropriate, provide for collaboration among such agencies in carrying out such activities.

"(d) CERTAIN ACTIVITIES OF PROGRAM.—The Program shall include—

"(1) studies with respect to all phases of trauma care, including prehospital, resuscitation, surgical intervention, critical care, infection control, wound healing, nutritional care and support, and medical rehabilitation care;

"(2) basic and clinical research regarding the response of the body to trauma and the acute treatment and medical rehabilitation of individuals who are the victims of trauma; and

"(3) basic and clinical research regarding trauma care for pediatric and geriatric patients.

"(e) MECHANISMS OF SUPPORT.—In carrying out the Program, the Director, acting through the Directors of the agencies referred to in subsection (c)(1), may make grants to public and nonprofit entities, including designated trauma centers.

"(f) RESOURCES.—The Director shall assure the availability of appropriate resources to carry out the Program, including the plan established under subsection (b) (including the activities described in subsection (d)).

"(g) COORDINATING COMMITTEE.—

"(1) IN GENERAL.—There shall be established a Trauma Research Interagency Coordinating Committee (hereafter in this section referred to as the 'Coordinating Committee').

"(2) DUTIES.—The Coordinating Committee shall make recommendations regarding—

"(A) the activities of the Program to be carried out by each of the agencies represented on the Committee and the amount of funds needed by each of the agencies for such activities; and

"(B) effective collaboration among the agencies in carrying out the activities.

"(3) COMPOSITION.—The Coordinating Committee shall be composed of the Directors of each of the agencies that, under subsection (c), have responsibilities under the Program, and any other individuals who are practitioners in the trauma field as designated by the Director of the National Institutes of Health.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'designated trauma center' has the meaning given such term in section 1231(1).

"(2) The term 'Director' means the Director of the National Institutes of Health.

"(3) The term 'trauma' means any serious injury that could result in loss of life or in significant disability and that would meet pre-hospital triage criteria for transport to a designated trauma center.".

(b) CONFORMING AMENDMENT.—Section 402 of the Public Health Service Act, as amended by section 308(c) of this Act, is amended by adding at the end the following new subsection:

"(k) The Director of NIH shall carry out the program established in part E of title XII (relating to interagency research on trauma).".

TITLE V—NATIONAL CANCER INSTITUTE

SEC. 501. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING BREAST CANCER.

Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following new section:

"BREAST AND GYNECOLOGICAL CANCERS

"SEC. 417. (a) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the Institute, in consultation with the National Cancer Advisory Board, shall expand, intensify, and coordinate the activities of the Institute with respect to research on breast cancer, ovarian cancer, and other cancers of the reproductive system of women.

"(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities of the Director under subsection (a) with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to breast cancer and other cancers of the reproductive system of women.

"(c) PROGRAMS FOR BREAST CANCER.—

"(1) IN GENERAL.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the cause of, and to find a cure for, breast cancer. Activities under such subsection shall provide for an expansion and intensification of the conduct and support of—

"(A) basic research concerning the etiology and causes of breast cancer;

"(B) clinical research and related activities concerning the causes, prevention, detection and treatment of breast cancer;

"(C) control programs with respect to breast cancer in accordance with section 412;

"(D) information and education programs with respect to breast cancer in accordance with section 413; and

"(E) research and demonstration centers with respect to breast cancer in accordance with section 414, including the development and operation of centers for breast cancer research to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention and treatment research and related activities on breast cancer.

Not less than six centers shall be operated under subparagraph (E). Activities of such centers should include supporting new and innovative research and training programs for new researchers. Such centers shall give priority to expediting the transfer of research advances to clinical applications.

"(2) IMPLEMENTATION OF PLAN FOR PROGRAMS.—

"(A) The Director of the Institute shall ensure that the research programs described in paragraph (1) are implemented in accordance with a plan for the programs. Such plan shall include comments and recommendations that the Director of the Institute considers appropriate, with due consideration provided to the professional judgment needs of the Institute as expressed in the annual budget estimate prepared in accordance with section 413(9). The Director of the Institute, in consultation with the National Cancer Advisory Board, shall periodically review and revise such plan.

"(B) Not later than February 1, 1993, the Director of the Institute shall submit a copy of the plan to the President's Cancer Panel, the Secretary and the Director of NIH.

"(C) The Director of the Institute shall submit any revisions of the plan to the President's Cancer Panel, the Secretary, and the Director of NIH.

"(D) The Secretary shall provide a copy of the plan submitted under subparagraph (A), and any revisions submitted under subparagraph (C), to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(d) OTHER CANCERS.—In carrying out subsection (a), the Director of the Institute shall conduct or support research on ovarian cancer and other cancers of the reproductive system of women. Activities under such subsection shall provide for the conduct and support of—

"(1) basic research concerning the etiology and causes of ovarian cancer and other cancers of the reproductive system of women;

"(2) clinical research and related activities into the causes, prevention, detection and treatment of ovarian cancer and other cancers of the reproductive system of women;

"(3) control programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 412;

"(4) information and education programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 413; and

"(5) research and demonstration centers with respect to ovarian cancer and cancers of the reproductive system in accordance with section 414.

"(e) REPORT.—The Director of the Institute shall prepare, for inclusion in the biennial report submitted under section 407, a report that describes the activities of the National Cancer Institute under the research programs referred to in subsection (a), that shall include—

"(1) a description of the research plan with respect to breast cancer prepared under subsection (c);

"(2) an assessment of the development, revision, and implementation of such plan;

"(3) a description and evaluation of the progress made, during the period for which such report is prepared, in the research programs on breast cancer and cancers of the reproductive system of women;

"(4) a summary and analysis of expenditures made, during the period for which such report is made, for activities with respect to breast cancer and cancers of the reproductive system of women conducted and supported by the National Institutes of Health; and

"(5) such comments and recommendations as the Director considers appropriate.".

SEC. 502. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING PROSTATE CANCER.

Subpart 1 of part C of title IV of the Public Health Service Act, as amended by section 501 of this Act, is amended by adding at the end the following new section:

"PROSTATE CANCER

"SEC. 417A. (a) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the Institute, in consultation with the National Cancer Advisory Board, shall expand, intensify, and coordinate the activities of the Institute with respect to research on prostate cancer.

"(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities of the Director under subsection (a) with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to prostate cancer.

"(c) PROGRAMS.—

"(1) IN GENERAL.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the cause of, and to find a cure for, prostate cancer. Activities under such subsection shall provide for an expansion and intensification of the conduct and support of—

"(A) basic research concerning the etiology and causes of prostate cancer;

"(B) clinical research and related activities concerning the causes, prevention, detection and treatment of prostate cancer;

"(C) prevention and control and early detection programs with respect to prostate cancer in accordance with section 412, particularly as it relates to intensifying research on the role of prostate specific antigen for the screening and early detection of prostate cancer;

"(D) an Inter-Institute Task Force, under the direction of the Director of the Institute, to provide coordination between relevant National Institutes of Health components of research efforts on prostate cancer;

"(E) control programs with respect to prostate cancer in accordance with section 412;

"(F) information and education programs with respect to prostate cancer in accordance with section 413; and

"(G) research and demonstration centers with respect to prostate cancer in accordance with section 414, including the development and operation of centers for prostate cancer research to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention and treatment research and related activities on prostate cancer.

Not less than six centers shall be operated under subparagraph (G). Activities of such centers should include supporting new and

innovative research and training programs for new researchers. Such centers shall give priority to expediting the transfer of research advances to clinical applications.

"(2) IMPLEMENTATION OF PLAN FOR PROGRAMS.—

"(A) The Director of the Institute shall ensure that the research programs described in paragraph (1) are implemented in accordance with a plan for the programs. Such plan shall include comments and recommendations that the Director of the Institute considers appropriate, with due consideration provided to the professional judgment needs of the Institute as expressed in the annual budget estimate prepared in accordance with section 413(9). The Director of the Institute, in consultation with the National Cancer Advisory Board, shall periodically review and revise such plan.

"(B) Not later than February 1, 1993, the Director of the Institute shall submit a copy of the plan to the President's Cancer Panel, the Secretary and the Director of NIH.

"(C) The Director of the Institute shall submit any revisions of the plan to the President's Cancer Panel, the Secretary, and the Director of NIH.

"(D) The Secretary shall provide a copy of the plan submitted under subparagraph (A), and any revisions submitted under subparagraph (C), to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subpart 1 of part C of title IV of the Public Health Service Act, as amended by section 502 of this Act, is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 417B. (a) ACTIVITIES GENERALLY.—For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.

"(b) BREAST CANCER AND GYNECOLOGICAL CANCERS.—

"(1) BREAST CANCER.—

"(A) For the purpose of carrying out subparagraph (A) of section 417(c)(1), there are authorized to be appropriated $225,000,000 for fiscal year 1993, and such sums as are necessary for each of the fiscal years 1994 through 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) and in section 301 with respect to the Director of the Institute carrying out such purpose.

"(B) For the purpose of carrying out subparagraphs (B) through (E) of section 417(c)(1), there are authorized to be appropriated $100,000,000 for fiscal year 1993, and such sums as are necessary for each of the fiscal years 1994 through 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) and in section 301 with respect to the Director of the Institute carrying out such purpose.

"(2) OTHER CANCERS.—For the purpose of carrying out subsection (d) of section 417, there are authorized to be appropriated $75,000,000 for fiscal year 1993, and such sums as are necessary for each of the fiscal years 1994 through 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) and in section 301 with respect to the Director of the Institute carrying out such purpose.

"(c) PROSTATE CANCER.—For the purpose of carrying out section 417A, there are authorized to be appropriated $72,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) and in section 301 with respect to the Director of the Institute carrying out such purpose.

"(d) ALLOCATION REGARDING CANCER CONTROL.—Of the amounts appropriated for the National Cancer Institute for a fiscal year, the Director of the Institute shall make available not less than 10 percent for carrying out the cancer control activities authorized in section 412 and for which budget estimates are made under section 413(b)(9) for the fiscal year.".

(b) SPECIAL RULE REGARDING FUNDS FOR SECTION 412 FOR FISCAL YEAR 1993.—Notwithstanding section 417B(d) of the Public Health Service Act, as added by subsection (a) of this section, the amount made available under such section for fiscal year 1993 for carrying out section 412 of such Act shall be an amount not less than an amount equal to 75 percent of the amount specified for activities under such section 412 in the budget estimate made under section 413(b)(9) of such Act for such fiscal year.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 408 of the Public Health Service Act (42 U.S.C. 284c) is amended—

(A) by striking subsection (a);

(B) by redesignating subsection (b) as subsection (a);

(C) by redesignating paragraph (5) of subsection (a) (as so redesignated) as subsection (b); and

(D) by amending the heading for the section to read as follows:

"CERTAIN USES OF FUNDS".

(2) CROSS-REFERENCE.—Section 464F of the Public Health Service Act (42 U.S.C. 285m-6) is amended by striking "section 408(b)(1)" and inserting "section 408(a)(1)".

TITLE VI—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

SEC. 601. EDUCATION AND TRAINING.

Section 421(b) of the Public Health Service Act (42 U.S.C. 285b-3(b)) is amended—

(1) in paragraph (3), by striking "and" after the semicolon at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) shall, in consultation with the advisory council for the Institute, conduct appropriate intramural training and education programs, including continuing education and laboratory and clinical research training programs.".

SEC. 602. CENTERS FOR THE STUDY OF PEDIATRIC CARDIOVASCULAR DISEASES.

Section 422(a)(1) of the Public Health Service Act (42 U.S.C. 285b-4(a)(1)) is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) three centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment (including genetic studies, intrauterine environment studies, postnatal studies, heart arrhythmias, and acquired heart disease and preventive cardiology) for cardiovascular diseases in children.".

SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

Subpart 2 of part C of title IV of the Public Health Service Act (42 U.S.C. 285b et seq.) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 424. (a) IN GENERAL.—For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.

"(b) ALLOCATION REGARDING PREVENTION AND CONTROL ACTIVITIES.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Director of the Institute shall make available not less than 10 percent for carrying out prevention and control activities authorized in section 419.".

TITLE VII—NATIONAL INSTITUTE ON DIABETES AND DIGESTIVE AND KIDNEY DISEASES

SEC. 701. PROVISIONS REGARDING NUTRITIONAL DISORDERS.

Subpart 3 of part C of title IV of the Public Health Service Act (42 U.S.C. 285c et seq.) is amended by adding at the end the following new section:

"NUTRITIONAL DISORDERS PROGRAM

"SEC. 434. (a) The Director of the Institute shall establish a program of conducting and supporting research, training, health information dissemination, and other activities with respect to nutritional disorders, including obesity.

"(b) In carrying out the program established under subsection (a), the Director of the Institute shall conduct and support each of the activities described in such subsection. The Director of NIH shall ensure that, as appropriate, the other national research institutes and agencies of the National Institutes of Health have responsibilities regarding such activities.

"(c) In carrying out the program established under subsection (a), the Director of the Institute shall carry out activities to facilitate and enhance knowledge and understanding of nutritional disorders, including obesity, on the part of health professionals, patients, and the public through the effective dissemination of information.".

(b) DEVELOPMENT AND EXPANSION OF RESEARCH AND TRAINING CENTERS.—Section 431 of the Public Health Service Act (42 U.S.C. 285c-5) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the development or substantial expansion of centers for research and training regarding nutritional disorders, including obesity.

"(2) The Director of the Institute shall carry out paragraph (1) in collaboration with the Director of the National Cancer Institute and with the Directors of such other agencies of the National Institutes of Health as the Director of NIH determines to be appropriate.

"(3) Each center developed or expanded under paragraph (1) shall—

"(A) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Director;

"(B) conduct basic and clinical research into the cause, diagnosis, early detection, prevention, control and treatment of nutritional disorders, including obesity and the

impact of nutrition and diet on child development;

"(C) conduct training programs for physicians and allied health professionals in current methods of diagnosis and treatment of such diseases and complications, and in research in such disorders; and

"(D) conduct information programs for physicians and allied health professionals who provide primary care for patients with such disorders or complications.".

TITLE VIII—NATIONAL INSTITUTE ON ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

SEC. 801. JUVENILE ARTHRITIS.

(a) PURPOSE.—Section 435 of the Public Health Service Act (42 U.S.C. 285d) is amended by striking "including sports-related disorders" and inserting "with particular attention to the effect of these diseases on children".

(b) PROGRAMS.—Section 436 (42 U.S.C. 285d-1) is amended—

(1) in subsection (a), by inserting after the second sentence, the following: "The plan shall place particular emphasis upon expanding research into better understanding the causes and the development of effective treatments for arthritis affecting children."; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) research into the causes of arthritis affecting children and the development, trial, and evaluation of techniques, drugs and devices used in the diagnosis, treatment (including medical rehabilitation), and prevention of arthritis in children.".

(c) CENTERS.—Section 441 of the Public Health Service Act (42 U.S.C. 286d-6) is amended by adding at the end thereof the following new subsection:

"(f) Not later than April 1, 1993, the Director shall establish a multipurpose arthritis and musculoskeletal disease center for the purpose of expanding the level of research into the cause, diagnosis, early detection, prevention, control, and treatment of, and rehabilitation of children with arthritis and musculoskeletal diseases.".

(d) ADVISORY BOARD.—Section 442 of the Public Health Service Act (42 U.S.C. 285d-7) is amended—

(1) in subsection (b)(1)(B)—

(A) by striking "six" and inserting "seven"; and

(B) by striking "one member" the second place such term appears and all that follows and inserting the following: "two members who are parents of children with arthritis."; and

(2) in subsection (j)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) contains recommendations for expanding the Institute's funding of research directly applicable to the cause, diagnosis, early detection, prevention, control, and treatment of, and rehabilitation of children with arthritis and musculoskeletal diseases.".

TITLE IX—NATIONAL INSTITUTE ON AGING

SEC. 901. ALZHEIMER'S DISEASE REGISTRY.

(a) IN GENERAL.—Section 12 of Public Law 99-158 (99 Stat. 885) is—

(1) transferred to subpart 5 of part C of title IV of the Public Health Service Act (42 U.S.C. 285e et seq.);

(2) redesignated as section 445G; and

(3) inserted after section 445F of such Act.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 445G of the Public Health Service Act, as transferred and inserted by subsection (a) of this section, is amended—

(1) by striking the section heading and all that follows through "may make a grant" in subsection (a) and inserting the following:

"ALZHEIMER'S DISEASE REGISTRY

"SEC. 445G. (a) IN GENERAL.—The Director of the Institute may make a grant"; and

(2) by striking subsection (c).

SEC. 902. AGING PROCESSES REGARDING WOMEN.

Subpart 5 of part C of title IV of the Public Health Service Act, as amended by section 901 of this Act, is amended by adding at the end the following new section:

"AGING PROCESSES REGARDING WOMEN

"SEC. 445H. The Director of the Institute, in addition to other special functions specified in section 444 and in cooperation with the Directors of the other national research institutes and agencies of the National Institutes of Health, shall conduct research into the aging processes of women, with particular emphasis given to the effects of menopause and the physiological and behavioral changes occurring during the transition from pre- to post-menopause, and into the diagnosis, disorders, and complications related to aging and loss of ovarian hormones in women.".

SEC. 903. AUTHORIZATION OF APPROPRIATIONS.

Subpart 5 of part C of title IV of the Public Health Service Act, as amended by section 902 of this Act, is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 445I. For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 904. CONFORMING AMENDMENT.

Section 445C of the Public Health Service Act (42 U.S.C. 285e-5(b)) is amended—

(1) in subsection (b)(1), in the first sentence, by inserting after "Council" the following: "on Alzheimer's Disease (hereafter in this section referred to as the 'Council')"; and

(2) by adding at the end the following new subsection:

"(d) For purposes of this section, the term 'Council on Alzheimer's Disease' means the council established in section 911(a) of Public Law 99-660.".

TITLE X—NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

SEC. 1001. TROPICAL DISEASES.

Section 446 of the Public Health Service Act (42 U.S.C. 285f) is amended by inserting before the period the following: ", including tropical diseases".

SEC. 1002. CHRONIC FATIGUE SYNDROME.

(a) RESEARCH CENTERS.—Subpart 6 of part C of title IV of the Public Health Service Act (42 U.S.C. 285f) is amended by adding at the end the following new section:

"RESEARCH CENTERS REGARDING CHRONIC FATIGUE SYNDROME

"SEC. 447. (a) The Director of the Institute, after consultation with the advisory council for the Institute, may make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct basic and clinical research on chronic fatigue syndrome.

"(b) Each center assisted under this section shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.".

(b) EXTRAMURAL STUDY SECTION.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall establish an extramural study section for chronic fatigue syndrome research.

(c) REPRESENTATIVES.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall ensure that appropriate individuals with expertise in chronic fatigue syndrome or neuromuscular diseases and representative of a variety of disciplines and fields within the research community are appointed to appropriate National Institutes of Health advisory committees and boards.

TITLE XI—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Subtitle A—Research Centers With Respect to Contraception and Research Centers With Respect to Infertility

SEC. 1101. GRANTS AND CONTRACTS FOR RESEARCH CENTERS.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 3 of Public Law 101-613, is amended by adding at the end the following new section:

"RESEARCH CENTERS WITH RESPECT TO CONTRACEPTION AND INFERTILITY

"SEC. 452A. (a) The Director of the Institute, after consultation with the advisory council for the Institute, shall make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct activities for the purpose of improving methods of contraception and centers to conduct activities for the purpose of improving methods of diagnosis and treatment of infertility.

"(b) In carrying out subsection (a), the Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the establishment of three centers with respect to contraception and for two centers with respect to infertility.

"(c)(1) Each center assisted under this section shall, in carrying out the purpose of the center involved—

"(A) conduct clinical and other applied research, including—

"(i) for centers with respect to contraception, clinical trials of new or improved drugs and devices for use by males and females (including barrier methods); and

"(ii) for centers with respect to infertility, clinical trials of new or improved drugs and devices for the diagnosis and treatment of infertility in males and females;

"(B) develop protocols for training physicians, scientists, nurses, and other health and allied health professionals;

"(C) conduct training programs for such individuals;

"(D) develop model continuing education programs for such professionals; and

"(E) disseminate information to such professionals and the public.

"(2) A center may use funds provided under subsection (a) to provide stipends for health

and allied health professionals enrolled in programs described in subparagraph (C) of paragraph (1), and to provide fees to individuals serving as subjects in clinical trials conducted under such paragraph.

"(d) The Director of the Institute shall, as appropriate, provide for the coordination of information among the centers assisted under this section.

"(e) Each center assisted under subsection (a) shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.

"(f) Support of a center under subsection (a) may be for a period not exceeding 5 years. Such period may be extended for one or more additional periods not exceeding 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(g) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 1102. LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY.

Part G of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act, is amended by inserting after section 487A the following new section:

"LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY

"SEC. 487B. (a) The Secretary, in consultation with the Director of the National Institute of Child Health and Human Development, shall establish a program of entering into agreements with qualified health professionals (including graduate students) under which such health professionals agree to conduct research with respect to contraception, or with respect to infertility, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(b) The provisions of sections 338B, 338C, and 338E shall apply to the program established in subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III.

"(c) Amounts appropriated for carrying out this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

Subtitle B—Program Regarding Obstetrics and Gynecology

SEC. 1111. ESTABLISHMENT OF PROGRAM.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 1101 of this Act, is amended by adding at the end the following new section:

"PROGRAM REGARDING OBSTETRICS AND GYNECOLOGY

"SEC. 452B. The Director of the Institute shall establish and maintain within the Institute an intramural laboratory and clinical research program in obstetrics and gynecology.".

Subtitle C—Child Health Research Centers

SEC. 1121. ESTABLISHMENT OF CENTERS.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 1111 of this Act, is amended by adding at the end the following new section:

"CHILD HEALTH RESEARCH CENTERS

"SEC. 452C. The Director of the Institute shall develop and support centers for conducting research with respect to child health. Such centers shall give priority to the expeditious transfer of advances from basic science to clinical applications and improving the care of infants and children.".

Subtitle D—Study Regarding Adolescent Health

SEC. 1131. PROSPECTIVE LONGITUDINAL STUDY.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 1121 of this Act, is amended by adding at the end the following new section:

"PROSPECTIVE LONGITUDINAL STUDY ON ADOLESCENT HEALTH

"SEC. 452D. (a) IN GENERAL.—The Director of the Institute shall conduct a study for the purpose of providing information on the general health and well-being of adolescents in the United States, including, with respect to such adolescents, information on—

"(1) the behaviors that promote health and the behaviors that are detrimental to health; and

"(2) the influence on health of factors particular to the communities in which the adolescents reside.

"(b) DESIGN OF STUDY.—

"(1) IN GENERAL.—The study required in subsection (a) shall be a longitudinal study in which a substantial number of adolescents participate as subjects. With respect to the purpose described in such subsection, the study shall monitor the subjects throughout the period of the study to determine the health status of the subjects and any change in such status over time.

"(2) POPULATION-SPECIFIC ANALYSES.—The study required in subsection (a) shall be conducted with respect to the population of adolescents who are female, the population of adolescents who are male, various socioeconomic populations of adolescents, and various racial and ethnic populations of adolescents. The study shall be designed and conducted in a manner sufficient to provide for a valid analysis of whether there are significant differences among such populations in health status and whether and to what extent any such differences are due to factors particular to the populations involved.

"(c) COORDINATION WITH WOMEN'S HEALTH INITIATIVE.—With respect to the national study of women being conducted by the Secretary and known as the Women's Health Initiative, the Secretary shall ensure that such study is coordinated with the component of the study required in subsection (a) that concerns adolescent females, including coordination in the design of the 2 studies.

"(d) ALLOCATION OF FUNDS FOR STUDY.—Of the amounts appropriated for each of the fiscal years 1993 through 1996 for the National Institute of Child Health and Human Development, the Secretary of Health and Human Services, acting through the Director of such Institute, shall reserve $3,000,000 to conduct the study required in subsection (a). The amounts so reserved shall remain available until expended.".

TITLE XII—NATIONAL EYE INSTITUTE

SEC. 1201. CLINICAL RESEARCH ON DIABETES EYE CARE.

Subpart 9 of part C of title IV of the Public Health Service Act (42 U.S.C. 285i) is amended by adding at the end the following new section:

"CLINICAL RESEARCH ON EYE CARE AND DIABETES

"SEC. 456. (a) PROGRAM OF GRANTS.—The Director of the Institute, in consultation with the advisory council for the Institute, may award not more than three grants for the establishment and support of centers for clinical research on eye care for individuals with diabetes.

"(b) AUTHORIZED EXPENDITURES.—The purposes for which a grant under subsection (a) may be expended include equipment for the research described in such subsection and the construction and modernization of facilities for such research.".

TITLE XIII—NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

SEC. 1301. RESEARCH ON MULTIPLE SCLEROSIS.

Subpart 10 of part C of title IV of the Public Health Service Act (42 U.S.C. 285j et seq.) is amended by adding at the end the following new section:

"RESEARCH ON MULTIPLE SCLEROSIS

"SEC. 460. The Director of the Institute shall conduct and support research on multiple sclerosis, especially research on effects of genetics and hormonal changes on the progress of the disease.".

TITLE XIV—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

SEC. 1401. APPLIED TOXICOLOGICAL RESEARCH AND TESTING PROGRAM.

(a) IN GENERAL.—Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285l) is amended by adding at the end the following new section:

"APPLIED TOXICOLOGICAL RESEARCH AND TESTING PROGRAM

"SEC. 463A. (a) There is established within the Institute a program for conducting applied research and testing regarding toxicology, which program shall be known as the Applied Toxicological Research and Testing Program.

"(b) In carrying out the program established under subsection (a), the Director of the Institute shall, with respect to toxicology, carry out activities—

"(1) to expand knowledge of the health effects of environmental agents;

"(2) to broaden the spectrum of toxicology information that is obtained on selected chemicals;

"(3) to develop and validate assays and protocols, including alternative methods that can reduce or eliminate the use of animals in acute or chronic safety testing;

"(4) to establish criteria for the validation and regulatory acceptance of alternative testing and to recommend a process through which scientifically validated alternative methods can be accepted for regulatory use;

"(5) to communicate the results of research to government agencies, to medical, scientific, and regulatory communities, and to the public; and

"(6) to integrate related activities of the Department of Health and Human Services.".

(b) TECHNICAL AMENDMENT.—Section 463 of the Public Health Service Act (42 U.S.C. 285l) is amended by inserting after "Sciences" the following: "(hereafter in this subpart referred to as the 'Institute')".

TITLE XV—NATIONAL LIBRARY OF MEDICINE

Subtitle A—General Provisions

SEC. 1501. ADDITIONAL AUTHORITIES.

(a) IN GENERAL.—Section 465(b) of the Public Health Service Act (42 U.S.C. 286(b)) is amended—

(1) by striking "and" after the semicolon at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (8); and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) publicize the availability from the Library of the products and services described in any of paragraphs (1) through (5);

"(7) promote the use of computers and telecommunications by health professionals (including health professionals in rural areas) for the purpose of improving access to biomedical information for health care delivery and medical research; and".

(b) LIMITATION REGARDING GRANTS.—Section 474(b)(2) of the Public Health Service Act (42 U.S.C. 286b-S(b)(2)) is amended by striking "$750,000" and inserting "$1,000,000".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REPEAL OF CERTAIN AUTHORITY.—Section 215 of the Department of Health and Human Services Appropriations Act, 1988, as contained in section 101(h) of Public Law 100-202 (101 Stat. 1329-275), is repealed.

(2) APPLICABILITY OF CERTAIN NEW AUTHORITY.—With respect to the authority established for the National Library of Medicine in section 465(b)(6) of the Public Health Service Act, as added by subsection (a) of this section, such authority shall be effective as if the authority had been established on December 22, 1987.

SEC. 1502. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PROGRAM.

Subpart 1 of part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 468. (a) For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996. Such authorizations of appropriations are in addition to any other authorization of appropriations that is available for such purpose.

"(b) Amounts appropriated under subsection (a) and made available for grants or contracts under any of sections 472 through 476 shall remain available until the end of the fiscal year following the fiscal year for which the amounts were appropriated.".

Subtitle B—Financial Assistance

SEC. 1511. ESTABLISHMENT OF PROGRAM OF GRANTS FOR DEVELOPMENT OF EDUCATION TECHNOLOGIES.

Section 473 of the Public Health Service Act (42 U.S.C. 286b-4) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall make grants to public or nonprofit private institutions for the purpose of carrying out projects of research on, and development and demonstration of, new education technologies.

"(2) The purposes for which a grant under paragraph (1) may be made include projects concerning—

"(A) computer-assisted teaching and testing of clinical competence at health professions and research institutions;

"(B) the effective transfer of new information from research laboratories to appropriate clinical applications;

"(C) the expansion of the laboratory and clinical uses of computer-stored research databases; and

"(D) the testing of new technologies for training health care professionals.

"(3) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees to make the projects available with respect to—

"(A) assisting in the training of health professions students; and

"(B) enhancing and improving the capabilities of health professionals regarding research and teaching.".

SEC. 1512. AUTHORIZATION OF APPROPRIATIONS.

Section 469 of the Public Health Service Act (42 U.S.C. 286b) is amended in the first sentence by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.".

Subtitle C—National Center for Biotechnology Information

SEC. 1521. AUTHORIZATION OF APPROPRIATIONS.

Section 478(c) of the Public Health Service Act (42 U.S.C. 286c(c)) is amended in the first sentence—

(1) by inserting after "appropriated" the following: ", in addition to the authorization of appropriations provided in section 468,"; and

(2) by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.".

Subtitle D—National Information Center on Health Services Research and Health Care Technology

SEC. 1531. ESTABLISHMENT OF CENTER.

Part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by adding at the end the following new subpart:

"Subpart 4—National Information Center on Health Services Research and Health Care Technology

"NATIONAL INFORMATION CENTER

"SEC. 478A. (a) There is established within the Library an entity to be known as the National Information Center on Health Services Research and Health Care Technology (hereafter in this section referred to as the 'Center').

"(b) The purpose of the Center is the collection, storage, analysis, retrieval, and dissemination of information on health services research and on health care technology, including the assessment of such technology. Such purpose includes developing and maintaining data bases and developing and implementing methods of carrying out such purpose.

"(c) The Secretary, acting through the Center, shall coordinate the activities carried out under this section through the Center with related activities of the Administrator for Health Care Policy and Research.

"(d) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 1532. CONFORMING PROVISIONS.

(a) IN GENERAL.—Section 904(c) of the Public Health Service Act (42 U.S.C. 299a-2(c)) is amended to read as follows:

"(c) REQUIRED INTERAGENCY AGREEMENT.—The Administrator and the Director of the National Library of Medicine shall enter into an agreement providing for the implementation of section 478A.".

(b) RULE OF CONSTRUCTION.—The amendments made by section 1531 and by subsection (a) of this section may not be construed to terminate the information center on health care technologies and health care technology assessment established under section 904 of the Public Health Service Act, as in effect on the day before the date of the enactment of this Act. Such center shall be considered to be the center established in section 478A of the Public Health Service Act, as added by section 1531 of this Act, and shall be subject to the provisions of such section 478A.

TITLE XVI—OTHER AGENCIES OF NATIONAL INSTITUTES OF HEALTH

Subtitle A—Division of Research Resources

SEC. 1601. REDESIGNATION OF DIVISION AS NATIONAL CENTER FOR RESEARCH RESOURCES.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) in section 401(b)(2)(B), by amending such subparagraph to read as follows:

"(B) The National Center for Research Resources."; and

(2) in part E—

(A) in the heading for subpart 1, by striking "Division of" and inserting "National Center for";

(B) in section 479, by striking "the Division of Research Resources" and inserting the following: "the National Center for Research Resources (hereafter in this subpart referred to as the 'Center')";

(C) in sections 480 and 481, by striking "the Division of Research Resources" each place such term appears and inserting "the Center"; and

(D) in sections 480 and 481, as amended by subparagraph (C), by striking "the Division" each place such term appears and inserting "the Center".

SEC. 1602. BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

Subpart 1 of part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

"BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

"SEC. 481A. (a) MODERNIZATION AND CONSTRUCTION OF FACILITIES.—

"(1) IN GENERAL.—The Director of NIH, acting through the Director of the Center, may make grants to public and nonprofit private entities to expand, remodel, renovate, or alter existing research facilities or construct new research facilities, subject to the provisions of this section.

"(2) CONSTRUCTION AND COST OF CONSTRUCTION.—For purposes of this section, the terms 'construction' and 'cost of construction' include the construction of new buildings and the expansion, renovation, remodeling, and alteration of existing buildings, including architects' fees, but do not include the cost of acquisition of land or off-site improvements.

"(b) SCIENTIFIC AND TECHNICAL REVIEW BOARDS FOR MERIT-BASED REVIEW OF PROPOSALS.—

"(1) IN GENERAL; APPROVAL AS PRECONDITION TO GRANTS.—

"(A) There is established within the Center a Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities (hereafter referred to in this section as the 'Board').

"(B) The Director of the Center may approve an application for a grant under subsection (a) only if the Board has under paragraph (2) recommended the application for approval.

"(2) DUTIES.—

"(A) The Board shall provide advice to the Director of the Center and the advisory council established under section 480 (hereafter in this section referred to as the 'Advisory Council') on carrying out this section.

"(B) In carrying out subparagraph (A), the Board shall make a determination of the

merit of each application submitted for a grant under subsection (a), after consideration of the requirements established in subsection (c), and shall report the results of the determination to the Director of the Center and the Advisory Council. Such determinations shall be conducted in a manner consistent with procedures established under section 492.

"(C) In carrying out subparagraph (A), the Board shall, in the case of applications recommended for approval, make recommendations to the Director and the Advisory Council on the amount that should be provided in the grant.

"(D) In carrying out subparagraph (A), the Board shall prepare an annual report for the Director of the Center and the Advisory Council describing the activities of the Board in the fiscal year for which the report is made. Each such report shall be available to the public, and shall—

"(i) summarize and analyze expenditures made under this section;

"(ii) provide a summary of the types, numbers, and amounts of applications that were recommended for grants under subsection (a) but that were not approved by the Director of the Center; and

"(iii) contain the recommendations of the Board for any changes in the administration of this section.

"(3) MEMBERSHIP.—

"(A) Subject to subparagraph (B), the Board shall be composed of such appointed and ex officio members as the Director of the Center may determine.

"(B) Not more than 3 individuals who are officers or employees of the Federal Government may serve as members of the Board.

"(C) Of the members of the Board—

"(i) 12 shall be appointed by the Director of the Center (without regard to the civil service laws); and

"(ii) 1 shall be an official of the National Science Foundation designated by the National Science Board.

"(4) CERTAIN REQUIREMENTS REGARDING MEMBERSHIP.—In selecting individuals for membership on the Board, the Director of the Center shall ensure that the members are individuals who, by the virtue of their training or experience, are eminently qualified to perform peer review functions. In selecting such individuals for such membership, the Director of the Center shall ensure that the members of the Board collectively—

"(A) are experienced in the planning, construction, financing, and administration of entities that conduct biomedical or behavioral research sciences;

"(B) are knowledgeable in making determinations of the need of entities for biomedical or behavioral research facilities, including such facilities for the dentistry, nursing, pharmacy, and allied health professions;

"(C) are knowledgeable in evaluating the relative priorities for applications for grants under subsection (a) in view of the overall research needs of the United States; and

"(D) are experienced with emerging centers of excellence, as described in subsection (c)(3).

"(5) CERTAIN AUTHORITIES.—

"(A) In carrying out paragraph (2), the Board may establish subcommittees, convene workshops and conferences, and collect data as the Board considers appropriate.

"(B) In carrying out paragraph (2), the Board may establish subcommittees within the Board. Such subcommittees may hold meetings as determined necessary to enable the subcommittee to carry out its duties.

"(6) TERMS.—

"(A) Except as provided in subparagraph (B), each appointed member of the Board shall hold office for a term of 4 years. 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 the term of the predecessor.

"(B) Of the initial members appointed to the Board (as specified by the Director of the Center when making the appointments)—

"(i) 3 shall hold office for a term of 3 years;

"(ii) 3 shall hold office for a term of 2 years; and

"(iii) 3 shall hold office for a term of 1 year.

"(C) No member is eligible for reappointment to the Board until 1 year has elapsed after the end of the most recent term of the member.

"(7) COMPENSATION.—Members of the Board who are not officers or employees of the United States shall receive for each day the members are engaged in the performance of the functions of the Board compensation at the same rate received by members of other national advisory councils established under this title.

"(c) REQUIREMENTS FOR GRANTS.—

"(1) IN GENERAL.—The Director of the Center may make a grant under subsection (a) only if the applicant for the grant meets the following conditions:

"(A) The applicant is determined by such Director to be competent to engage in the type of research for which the proposed facility is to be constructed.

"(B) The applicant provides assurances satisfactory to the Director that—

"(i) for not less than 20 years after completion of the construction, the facility will be used for the purposes of research for which it is to be constructed;

"(ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility;

"(iii) sufficient funds will be available, when construction is completed, for the effective use of the facility for the research for which it is being constructed; and

"(iv) the proposed construction will expand the applicant's capacity for research, or is necessary to improve or maintain the quality of the applicant's research.

"(C) The applicant meets reasonable qualifications established by the Director with respect to—

"(i) the relative scientific and technical merit of the applications, and the relative effectiveness of the proposed facilities, in expanding the capacity for biomedical or behavioral research and in improving the quality of such research;

"(ii) the quality of the research or training, or both, to be carried out in the facilities involved;

"(iii) the need of the applicant for such facilities in order to maintain or expand the applicant's research and training mission;

"(iv) the congruence of the research activities to be carried out within the facility with the research and investigator manpower needs of the United States; and

"(v) the age and condition of existing research facilities and equipment.

"(D) The applicant has demonstrated a commitment to enhancing and expanding the research productivity of the applicant.

"(2) CONSIDERATION OF CERTAIN FACTORS.—In making grants under subsection (a), the Director of the Center may, in addition to the requirements established in paragraph (1), consider the following factors:

"(A) To what extent the applicant has the capacity to broaden the scope of research and research training programs of the applicant by promoting—

"(i) interdisciplinary research;

"(ii) research on emerging technologies, including those involving novel analytical techniques or computational methods; or

"(iii) other novel research mechanisms or programs.

"(B) To what extent the applicant has broadened the scope of research and research training programs of qualified institutions by promoting genomic research with an emphasis on interdisciplinary research, including research related to pediatric investigations.

"(3) INSTITUTIONS OF EMERGING EXCELLENCE.—Of the amounts appropriated under subsection (i) for a fiscal year, the Director of the Center shall make available 25 percent for grants under subsection (a) to applicants that, in addition to meeting the requirements established in paragraph (1), have demonstrated emerging excellence in biomedical or behavioral research, as follows:

"(A) The applicant has a plan for research or training advancement and possesses the ability to carry out the plan.

"(B) The applicant carries out research and research training programs that have a special relevance to a problem, concern, or unmet health need of the United States.

"(C) The applicant has been productive in research or research development and training.

"(D) The applicant—

"(i) has been designated as a center of excellence under section 782;

"(ii) is located in a geographic area a significant percentage of whose population has a health-status deficit, and the applicant provides health services to such population; or

"(iii) is located in a geographic area in which a deficit in health care technology, services, or research resources may adversely affect health status of the population of the area in the future, and the applicant is carrying out activities with respect to protecting the health status of such population.

"(d) REQUIREMENT OF APPLICATION.—The Director of the Center may make a grant under subsection (a) only if an application for the grant is submitted to the Director and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(e) AMOUNT OF GRANT; PAYMENTS.—

"(1) AMOUNT.—The amount of any grant awarded under subsection (a) shall be determined by the Director of the Center, except that such amount shall not exceed—

"(A) 50 percent of the necessary cost of the construction of a proposed facility as determined by the Director; or

"(B) in the case of a multipurpose facility, 40 percent of that part of the necessary cost of construction that the Director determines to be proportionate to the contemplated use of the facility.

"(2) RESERVATION OF AMOUNTS.—On approval of any application for a grant under subsection (a), the Director of the Center shall reserve, from any appropriation available therefore, the amount of such grant, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with the construction progress, as the Director may determine appropriate. The reservation of the Director of any amount by the Director under this para-

graph may be amended by the Director, either on the approval of an amendment of the application or on the revision of the estimated cost of construction of the facility.

"(3) EXCLUSION OF CERTAIN COSTS.—In determining the amount of any grant under this subsection (a), there shall be excluded from the cost of construction an amount equal to the sum of—

"(A) the amount of any other Federal grant that the applicant has obtained, or is assured of obtaining, with respect to construction that is to be financed in part by a grant authorized under this section; and

"(B) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(4) WAIVER OF LIMITATIONS.—The limitations imposed by paragraph (1) may be waived at the discretion of the Director for applicants meeting the conditions described in paragraphs (1) and (2) of subsection (c).

"(f) RECAPTURE OF PAYMENTS.—If, not later than 20 years after the completion of construction for which a grant has been awarded under subsection (a)—

"(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private entity; or

"(2) the facility shall cease to be used for the research purposes for which it was constructed (unless the Director determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the current value (as determined by an agreement between the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction of such facility.

"(g) NONINTERFERENCE WITH ADMINISTRATION OF ENTITIES.—Except as otherwise specifically provided in this section, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to the administration of any entity funded under this part.

"(h) GUIDELINES.—Not later than 6 months after the date of the enactment of this section, the Director of the Center, after consultation with the Advisory Council, shall issue guidelines with respect to grants under subsection (a).

"(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 1603. CONSTRUCTION PROGRAM FOR NATIONAL PRIMATE RESEARCH CENTER.

Subpart 1 of part E of title IV of the Public Health Service Act, as amended by section 1602 of this Act, is amended by adding at the end the following new section:

"CONSTRUCTION OF REGIONAL CENTERS FOR RESEARCH ON PRIMATES

"SEC. 481B. (a) With respect to activities carried out by the National Center for Research Resources to support regional centers for research on primates, the Director of NIH shall, for each of the fiscal years 1993 through 1996, reserve from the amounts appropriated under section 481A(i) $7,000,000 for the purpose of making awards of grants and contracts to public or nonprofit private entities to construct, renovate, or otherwise improve such regional centers. The reservation of such amounts for any fiscal year is subject to the availability of qualified applicants for such awards.

"(b) The Director of NIH may not make a grant or enter into a contract under subsection (a) unless the applicant for such assistance agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such assistance.".

Subtitle B—National Center for Nursing Research

SEC. 1611. REDESIGNATION OF NATIONAL CENTER FOR NURSING RESEARCH AS NATIONAL INSTITUTE OF NURSING RESEARCH.

(a) IN GENERAL.—Subpart 3 of part E of title IV of the Public Health Service Act (42 U.S.C. 287c et seq.) is amended—

(1) in section 483—

(A) in the heading for the section, by striking "CENTER" and inserting "INSTITUTE"; and

(B) by striking "The general purpose" and all that follows through "is" and inserting the following: "The general purpose of the National Institute of Nursing Research (hereafter in this subpart referred to as the 'Institute') is";

(2) in section 484, by striking "Center" each place such term appears and inserting "Institute";

(3) in section 485—

(A) in subsection (a), in each of paragraphs (1) through (3), by striking "Center" each place such term appears and inserting "Institute";

(B) in subsection (b)—

(i) in paragraph (2)(A), by striking "Center" and inserting "Institute"; and

(ii) in paragraph (3)(A), in the first sentence, by striking "Center" and inserting "Institute"; and

(C) in subsections (d) through (g), by striking "Center" each place such term appears and inserting "Institute"; and

(4) in section 485A (as redesignated by section 141(a)(1) of this Act), by striking "Center" each place such term appears and inserting "Institute".

(b) CONFORMING AMENDMENTS.—

(1) ORGANIZATION OF NATIONAL INSTITUTE OF HEALTH.—Section 401(b) of the Public Health Service Act (42 U.S.C. 281(b)) is amended—

(A) in paragraph (1), by adding at the end the following new subparagraph:

"(Q) The National Institute of Nursing Research."; and

(B) in paragraph (2), by striking subparagraph (D).

(2) TRANSFER OF STATUTORY PROVISIONS.—Sections 483 through 485A of the Public Health Service Act, as amended by subsection (a) of this section—

(A) are transferred to part C of title IV of such Act;

(B) are redesignated as sections 464V through 464Y of such part; and

(C) are inserted, in the appropriate sequence, at the end of such part.

(3) HEADING FOR NEW SUBPART.—Title IV of the Public Health Service Act, as amended by the preceding provisions of this section, is amended—

(A) in part C, by inserting before section 464V the following new heading:

"Subpart 17—National Institute of Nursing Research"; and

(B) by striking the heading for subpart 3 of part E.

(4) CROSS-REFERENCES.—Title IV of the Public Health Service Act, as amended by the preceding provisions of this section, is amended in subpart 17 of part C—

(A) in section 464W, by striking "section 483" and inserting "section 464V";

(B) in section 464X(g), by striking "section 486" and inserting "section 464Y"; and

(C) in section 464Y, in the last sentence, by striking "section 485(g)" and inserting "section 464X(g)".

Subtitle C—National Center for Human Genome Research

SEC. 1621. PURPOSE OF CENTER.

Title IV of the Public Health Service Act, as amended by sections 141(a)(1) and 1611(b)(1)(B) of this Act, is amended—

(1) in section 401(b)(2), by adding at the end the following new subparagraph:

"(D) The National Center for Human Genome Research."; and

(2) in part E, by adding at the end the following new subpart:

"Subpart 4—National Center for Human Genome Research

"PURPOSE OF THE CENTER

"SEC. 485B. (a) The general purpose of the National Center for Human Genome Research (hereafter in this subpart referred to as the 'Center') is to characterize the structure and function of the human genome, including the mapping and sequencing of individual genes. Such purpose includes—

"(1) planning and coordinating the research goal of the genome project;

"(2) reviewing and funding research proposals;

"(3) developing training programs;

"(4) coordinating international genome research;

"(5) communicating advances in genome science to the public; and

"(6) reviewing and funding proposals to address the ethical issues associated with the genome project.

"(b)(1) Except as provided in paragraph (2), of the amounts appropriated to carry out subsection (a) for a fiscal year, the Director of the Center shall make available not less than 5 percent for carrying out paragraph (6) of such subsection.

"(2) With respect to providing funds under subsection (a)(6) for proposals to address the ethical issues associated with the genome project, paragraph (1) shall not apply for a fiscal year if the Director of the Center certifies to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, that the Director has determined that an insufficient number of such proposals meet the applicable requirements of sections 491 and 492.".

TITLE XVII—AWARDS AND TRAINING

Subtitle A—National Research Service Awards

SEC. 1701. REQUIREMENT REGARDING WOMEN AND INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Section 487(a) of the Public Health Service Act (42 U.S.C. 288(a)(4)) is amended by adding at the end the following paragraph:

"(4) The Secretary shall carry out paragraph (1) in a manner that will result in the recruitment of women, and individuals from disadvantaged backgrounds, into fields of biomedical or behavioral research and in the provision of research training to women and such individuals.".

Subtitle B—Acquired Immune Deficiency Syndrome

SEC. 1711. LOAN REPAYMENT PROGRAM.

Section 487A of the Public Health Service Act (42 U.S.C. 288-1) is amended to read as follows:

"LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"SEC. 487A. (a) IN GENERAL.—

"(1) AUTHORITY FOR PROGRAM.—Subject to paragraph (2), the Secretary shall carry out a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct, as employees of the National Institutes of Health, research with respect to acquired immune deficiency syndrome in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) LIMITATION.—The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B)(i) was not employed at the National Institutes of Health during the 1-year period preceding the date of the enactment of the Health Professions Reauthorization Act of 1988; or

"(ii) agrees to serve as an employee of such Institutes for purposes of paragraph (1) for a period of not less than 3 years.".

"(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(c) FUNDING; REIMBURSABLE TRANSFERS.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.

"(2) TRANSFERS FOR RELATED PROGRAM.—The Commissioner of Food and Drugs may carry out for the Food and Drug Administration a program similar to the program established in subsection (a), which program shall be carried out with respect to the review of applications concerning acquired immune deficiency syndrome that are submitted to such Commissioner. From the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may transfer amounts to the Commissioner for the purpose of carrying out such program. The Commissioner shall provide a reimbursement to the Secretary for the amount so transferred, and the reimbursement shall be available only for the program established in subsection (a). Any transfer and reimbursement made for purposes of this paragraph for a fiscal year shall be completed by April 1 of such year.".

Subtitle C—Loan Repayment for Research Generally

SEC. 1721. ESTABLISHMENT OF PROGRAM.

Part G of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act and as amended by section 1102 of this Act, is amended by inserting after section 487B the following new section:

"LOAN REPAYMENT PROGRAM FOR RESEARCH GENERALLY

"SEC. 487C. (a) IN GENERAL.—

"(1) AUTHORITY FOR PROGRAM.—Subject to paragraph (2), the Secretary shall carry out a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct research, as employees of the National Institutes of Health, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) LIMITATION.—The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B)(i) was not employed at the National Institutes of Health during the 1-year period preceding the date of the enactment of the Health Professions Reauthorization Act of 1988; or

"(ii) agrees to serve as an employee of such Institutes for purposes of paragraph (1) for a period of not less than 3 years.".

"(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section other than with respect to acquired immune deficiency syndrome, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.".

Subtitle D—Scholarship and Loan Repayment Programs Regarding Professional Skills Needed by Certain Agencies

SEC. 1731. ESTABLISHMENT OF PROGRAMS FOR NATIONAL INSTITUTES OF HEALTH.

Part G of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act and as amended by section 1721 of this Act, is amended by inserting after section 487C the following new sections:

"UNDERGRADUATE SCHOLARSHIP PROGRAM REGARDING PROFESSIONS NEEDED BY NATIONAL RESEARCH INSTITUTES

"SEC. 487D. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Subject to section 487(a)(1)(C), the Secretary, acting through the Director of NIH, may carry out a program of entering into contracts with individuals described in paragraph (2) under which—

"(A) the Director of NIH agrees to provide to the individuals scholarships for pursuing, as undergraduates at accredited institutions of higher education, academic programs appropriate for careers in professions needed by the National Institutes of Health; and

"(B) the individuals agree to serve as employees of the National Institutes of Health, for the period described in subsection (c), in positions that are needed by the National Institutes of Health and for which the individuals are qualified.

"(2) INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—The individuals referred to in paragraph (1) are individuals who—

"(A) are enrolled or accepted for enrollment as full-time undergraduates at accredited institutions of higher education; and

"(B) are from disadvantaged backgrounds.

"(b) FACILITATION OF INTEREST OF STUDENTS IN CAREERS AT NATIONAL INSTITUTES OF HEALTH.—In providing employment to individuals pursuant to contracts under subsection (a)(1), the Director of NIH shall carry out activities to facilitate the interest of the individuals in pursuing careers as employees of the National Institutes of Health.

"(c) PERIOD OF OBLIGATED SERVICE.—

"(1) DURATION OF SERVICE.—For purposes of subparagraph (B) of subsection (a)(1), the period of service for which an individual is obligated to serve as an employee of the National Institutes of Health is 12 months for each academic year for which the scholarship under such subsection is provided.

"(2) SCHEDULE FOR SERVICE.—

"(A) Subject to subparagraph (B), the Director of NIH may not provide a scholarship under subsection (a) unless the individual applying for the scholarship agrees that—

"(i) the individual will serve as an employee of the National Institutes of Health full-time for not less than 10 consecutive weeks of each year during which the individual is attending the educational institution involved and receiving such a scholarship;

"(ii) the period of service as such an employee that the individual is obligated to provide under clause (i) is in addition to the period of service as such an employee that the individual is obligated to provide under subsection (a)(1)(B); and

"(iii) not later than 60 days after obtaining the educational degree involved, the individual will begin serving full-time as such an employee in satisfaction of the period of service that the individual is obligated to provide under subsection (a)(1)(B).

"(B) The Director of NIH may defer the obligation of an individual to provide a period of service under subsection (a)(1)(B), if the Director determines that such a deferral is appropriate.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO APPOINTMENT AND COMPENSATION.—For any period in which an individual provides service as an employee of the National Institutes of Health in satisfaction of the obligation of the individual under subsection (a)(1)(B) or paragraph (2)(A)(i), the individual may be appointed as such an employee without regard to the provisions of title 5, United States Code, relating to appointment and compensation.

"(d) PROVISIONS REGARDING SCHOLARSHIP.—

"(1) APPROVAL OF ACADEMIC PROGRAM.—The Director of NIH may not provide a scholarship under subsection (a) for an academic year unless—

"(A) the individual applying for the scholarship has submitted to the Director a proposed academic program for the year and the Director has approved the program; and

"(B) the individual agrees that the program will not be altered without the approval of the Director.

"(2) ACADEMIC STANDING.—The Director of NIH may not provide a scholarship under subsection (a) for an academic year unless the individual applying for the scholarship agrees to maintain an acceptable level of academic standing, as determined by the educational institution involved in accordance with regulations issued by the Secretary.

"(3) LIMITATION ON AMOUNT.—The Director of NIH may not provide a scholarship under subsection (a) for an academic year in an amount exceeding $20,000.

"(4) AUTHORIZED USES.—A scholarship provided under subsection (a) may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attending the school involved.

"(5) CONTRACT REGARDING DIRECT PAYMENTS TO INSTITUTION.—In the case of an institution of higher education with respect to which a scholarship under subsection (a) is provided, the Director of NIH may enter into a contract with the institution under which the amounts provided in the scholarship for tuition and other educational expenses are paid directly to the institution. Payments to the institution under the contract may be made without regard to section 3324 of title 31, United States Code.

"(e) PENALTIES FOR BREACH OF SCHOLARSHIP CONTRACT.—The provisions of section 338E shall apply to the program established in subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in section 338B.

"(f) REQUIREMENT OF APPLICATION.—The Director of NIH may not provide a scholarship under subsection (a) unless an application for the scholarship is submitted to the Director and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(g) AVAILABILITY OF AUTHORIZATION OF APPROPRIATIONS.—Amounts appropriated for a fiscal year for scholarships under this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.

"LOAN REPAYMENT PROGRAM REGARDING CLINICAL RESEARCHERS FROM DISADVANTAGED BACKGROUNDS

"SEC. 487E. (a) IMPLEMENTATION OF PROGRAM.—

"(1) IN GENERAL.—Subject to section 487(a)(1)(C), the Secretary, acting through the Director of NIH may, subject to paragraph (2), carry out a program of entering into contracts with appropriately qualified health professionals who are from disadvantaged backgrounds under which such health professionals agree to conduct clinical research as employees of the National Institutes of Health in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of the health professionals.

"(2) LIMITATION.—The Director of NIH may not enter into a contract with a health professional pursuant to paragraph (1) unless such professional has a substantial amount of education loans relative to income.

"(3) APPLICABILITY OF CERTAIN PROVISIONS REGARDING OBLIGATED SERVICE.—Except to the extent inconsistent with this section, the provisions of sections 338C and 338E shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in section 338B.

"(b) AVAILABILITY OF AUTHORIZATION OF APPROPRIATIONS.—Amounts appropriated for a fiscal year for contracts under subsection (a) shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

SEC. 1732. FUNDING.

Section 487(a)(1) of the Public Health Service Act (42 U.S.C. 288(a)(1)) is amended—

(1) in subparagraph (A), by striking "and" after the semicolon at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) provide contracts for scholarships and loan repayments in accordance with sections 487D and 487E, subject to providing not more than an aggregate 50 such contracts during the fiscal years 1993 through 1996.".

Subtitle D—Funding

SEC. 1741. AUTHORIZATION OF APPROPRIATIONS.

Section 487(d) of the Public Health Service Act (42 U.S.C. 288(d)) is amended—

(1) in the first sentence, by amending the sentence to read as follows: "For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996."; and

(2) in paragraph (3)—

(A) by striking "one-half of one percent" each place such term appears and inserting "1 percent"; and

(B) by inserting "785," after "784,".

TITLE XVIII—NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH

SEC. 1801. MISCELLANEOUS PROVISIONS.

Section 499A of the Public Health Service Act (42 U.S.C. 289i) is amended—

(1) in the second sentence of subsection (c)(1)(A), by inserting ", except the ex officio members," after "Foundation"; and

(2) in subsection (i)(1), by striking "1995" and inserting "1996".

TITLE XIX—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 1901. REVISION AND EXTENSION OF VARIOUS PROGRAMS.

Title XXIII of the Public Health Service Act (42 U.S.C. 300cc et seq.) is amended—

(1) in section 2304(c)(1)—

(A) in the matter preceding subparagraph (A), by inserting after "Director of such Institute" the following: "(and may provide advice to the Directors of other agencies of the National Institutes of Health, as appropriate)"; and

(B) in subparagraph (A), by inserting before the semicolon the following: ", including recommendations on the projects of research with respect to diagnosing immune deficiency and with respect to predicting, diagnosing, preventing, and treating opportunistic cancers and infectious diseases";

(2) in section 2311(a)(1), by inserting before the semicolon the following: ", including evaluations of methods of diagnosing immune deficiency and evaluations of methods of predicting, diagnosing, preventing, and treating opportunistic cancers and infectious diseases";

(3) in section 2315—

(A) in subsection (a)(2), by striking "international research" and all that follows and inserting "international research and training concerning the natural history and pathogenesis of the human immunodeficiency virus and the development and evaluation of vaccines and treatments for acquired immune deficiency syndrome and opportunistic infections."; and

(B) in subsection (f), by striking "and 1991" and inserting "through 1996";

(4) in section 2318—

(A) in subsection (a)(1)—

(i) by inserting after "The Secretary" the following: ", acting through the Director of the National Institutes of Health and after consultation with the Administrator for Health Care Policy and Research,"; and

(ii) by striking "syndrome" and inserting "syndrome, including treatment and prevention of HIV infection and related conditions among women"; and

(B) in subsection (e), by striking "1991." and inserting the following: "1991, and such sums as may be necessary for each of the fiscal years 1993 through 1996.";

(5) in section 2320(b)(1)(A), by striking "syndrome" and inserting "syndrome and the natural history of such infection";

(6)(A) in section 2351(a)—

(i) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9); and

(ii) by inserting after paragraph (1) the following new paragraph:

"(2)(A) shall develop and implement a comprehensive plan for the conduct and support of such research by the agencies of the National Institutes of Health, which plan shall specify the objectives to be achieved, the date by which the objectives are expected to be achieved, and an estimate of the resources needed to achieve the objectives by such date; and

"(B) shall develop and implement a plan for evaluating the sufficiency of the plan developed under subparagraph (A) and for evaluating the extent to which activities of the National Institutes of Health have been in accordance with the plan;"; and

(B) in section 2301(b)(6), by inserting before the semicolon the following: ", including evaluations conducted under section 2351(a)(2)(B)";

(7) in section 2361, by striking "For purposes" and all that follows and inserting the following:

"For purposes of this title:

"(1) The term 'infection', with respect to the etiologic agent for acquired immune deficiency syndrome, includes opportunistic cancers and infectious diseases and any other conditions arising from infection with such etiologic agent.

"(2) The term 'treatment', with respect to the etiologic agent for acquired immune deficiency syndrome, includes primary and secondary prophylaxis.";

(8) in section 2315(f), by striking "there are authorized" and all that follows and inserting "there are authorized to be appropriated such sums as may be necessary for each fiscal year.";

(9) in section 2320(e)(1), by striking "there are authorized" and all that follows and inserting "there are authorized to be appropriated such sums as may be necessary for each fiscal year."; and

(10) in section 2341(d), by striking "there are authorized" and all that follows and inserting "there are authorized to be appropriated such sums as may be necessary for each fiscal year.".

TITLE XX—CERTAIN AUTHORITIES OF CENTERS FOR DISEASE CONTROL

SEC. 2001. PREVENTION OF PROSTATE CANCER.

Part B of title III of the Public Health Service Act is amended by inserting after section 317A (42 U.S.C. 247b-1) the following new section:

"PROSTATE CANCER MORTALITY PREVENTION

"SEC. 317B. (a) GRANTS.—The Secretary, acting through the Director of the Centers for Disease Control, may award grants to States and local health departments for the purpose of enabling such States and departments to carry out programs to—

"(1) screen men for prostate cancer as a preventive health measure;

"(2) provide appropriate referrals for medical treatment of men screened pursuant to paragraph (1) and to ensure, to the extent

practicable, the provision of appropriate follow-up services;

"(3) develop and disseminate public information and education programs for the detection and control of prostate cancer;

"(4) improve the education, training, and skills of health professionals (including appropriate allied health professionals) in the detection and control of prostate cancer;

"(5) establish mechanisms through which the States can monitor the quality of screening procedures for prostate cancer, including the interpretation of such procedures; and

"(6) evaluate activities conducted under paragraphs (1) through (5) through appropriate surveillance or program monitoring activities.

"(b) GRANT APPLICATIONS.—

"(1) REQUIREMENT.—No grant may be awarded under subsection (a), unless an application for such grant has been submitted to, and approved by, the Secretary. Such an application shall be in such form and submitted in such manner as the Secretary shall prescribe, and shall include—

"(A) a complete description of the program which is to be provided by or through the applicant;

"(B) assurances satisfactory to the Secretary that the program to be provided under the grant will include education programs designed to communicate to men, and local health officials the significance of the early detection of prostate cancer;

"(C) assurances satisfactory to the Secretary that the applicant will report, on a quarterly basis, the number of men screened for prostate cancer and the number of men who were found to have prostate cancer, the number and type of medical referral made with respect to such men, the outcome of such referrals, and other information to measure program effectiveness as required under paragraph (2);

"(D) assurances satisfactory to the Secretary that the applicant will make such reports respecting the program involved as the Secretary may require; and

"(E) such other information as the Secretary may prescribe.

"(2) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to this section.

"(c) MAINTENANCE OF EFFORT.—No grant may be awarded under subsection (a) unless the Secretary determines that there is satisfactory assurance that Federal funds made available under such a grant for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made, and will in no event supplant such State, local, and other non-Federal funds.

"(d) METHOD AND AMOUNT OF PAYMENT.—The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of the underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants. Not more than 10 percent of any grant may be obligated for administrative costs.

"(e) SUPPLIES, EQUIPMENT, AND EMPLOYEE DETAIL.—The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the grant recipient; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which any such grant is so reduced. Such amount shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(f) RECORDS.—Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(g) AUDIT AND EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of a grant under subsection (a), that are pertinent to such grant.

"(h) INDIAN TRIBES.—For purposes of this section, the term 'units of local government' includes Indian tribes.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section not more than $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(2) SET-ASIDE FOR TECHNICAL ASSISTANCE.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall reserve not more than 20 percent for carrying out activities under this section at the national level.".

SEC. 2002. NATIONAL PROGRAM OF CANCER REGISTRIES.

Title III of the Public Health Service Act, as amended by section 121(a)(2) of this Act, is amended by adding at the end the following new part:

"PART M—NATIONAL PROGRAM OF CANCER REGISTRIES

"SEC. 399H. NATIONAL PROGRAM OF CANCER REGISTRIES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States, or may make grants or enter into contracts with academic or nonprofit organizations designated by the State to operate the State's cancer registry in lieu of making a grant directly to the State, to support the operation of population-based, statewide cancer registries in order to collect, for each form of in-situ and invasive cancer (with the exception of basal cell and squamous cell carcinoma of the skin), data concerning—

"(1) demographic information about each case of cancer;

"(2) information on the industrial or occupational history of the individuals with the cancers, to the extent such information is available from the same record;

"(3) administrative information, including date of diagnosis and source of information;

"(4) pathological data characterizing the cancer, including the cancer site, stage of disease (pursuant to Staging Guide), incidence, and type of treatment; and

"(5) other elements determined appropriate by the Secretary.

"(b) MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State, or the academic or nonprofit private organization designated by the State to operate the cancer registry of the State, involved agrees, with respect to the costs of the program, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs or $1 for every $3 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION; MAINTENANCE OF EFFORT.—

"(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) With respect to a State in which the purpose described in subsection (a) is to be carried out, the Secretary, in making a determination of the amount of non-Federal contributions provided under paragraph (1), may include only such contributions as are in excess of the amount of such contributions made by the State toward the collection of data on cancer for the fiscal year preceding the first year for which a grant under subsection (a) is made with respect to the State. The Secretary may decrease the amount of non-Federal contributions that otherwise would have been required by this subsection in those cases in which the State can demonstrate that decreasing such amount is appropriate because of financial hardship.

"(c) ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—No grant shall be made by the Secretary under subsection (a) unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such a manner, and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and in accordance with the requirements of this section, that the application will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under subsection (a) of this section, and that the applicant will comply with the peer review requirements under sections 491 and 492.

"(2) ASSURANCES.—Each applicant, prior to receiving Federal funds under subsection (a), shall provide assurances satisfactory to the Secretary that the applicant will—

"(A) provide for the establishment of a registry in accordance with subsection (a);

"(B) comply with appropriate standards of completeness, timeliness, and quality of population-based cancer registry data;

"(C) provide for the annual publication of reports of cancer data under subsection (a); and

"(D) provide for the authorization under State law of the statewide cancer registry, including promulgation of regulations providing—

"(i) a means to assure complete reporting of cancer cases (as described in subsection (a)) to the statewide cancer registry by hospitals or other facilities providing screening, diagnostic or therapeutic services to patients with respect to cancer;

"(ii) a means to assure the complete reporting of cancer cases (as defined in subsection (a)) to the statewide cancer registry by physicians, surgeons, and all other health care practitioners diagnosing or providing treatment for cancer patients, except for cases directly referred to or previously admitted to a hospital or other facility providing screening, diagnostic or therapeutic services to patients in that State and reported by those facilities;

"(iii) a means for the statewide cancer registry to access all records of physicians and surgeons, hospitals, outpatient clinics, nursing homes, and all other facilities, individuals, or agencies providing such services to patients which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified patient;

"(iv) for the reporting of cancer case data to the statewide cancer registry in such a format, with such data elements, and in accordance with such standards of quality timeliness and completeness, as may be established by the Secretary;

"(v) for the protection of the confidentiality of all cancer case data reported to the statewide cancer registry, including a prohibition on disclosure to any person of information reported to the statewide cancer registry that identifies, or could lead to the identification of, an individual cancer patient, except for disclosure to other State cancer registries and local and State health officers;

"(vi) for a means by which confidential case data may in accordance with State law be disclosed to cancer researchers for the purposes of cancer prevention, control and research;

"(vii) for the authorization or the conduct, by the statewide cancer registry or other persons and organizations, of studies utilizing statewide cancer registry data, including studies of the sources and causes of cancer, evaluations of the cost, quality, efficacy, and appropriateness of diagnostic, therapeutic, rehabilitative, and preventative services and programs relating to cancer, and any other clinical, epidemiological, or other cancer research; and

"(viii) for protection for individuals complying with the law, including provisions specifying that no person shall be held liable in any civil action with respect to a cancer case report provided to the statewide cancer registry, or with respect to access to cancer case information provided to the statewide cancer registry.

"(d) RELATIONSHIP TO CERTAIN PROGRAMS.—

"(1) IN GENERAL.—This section may not be construed to act as a replacement for or diminishment of the program carried out by the Director of the National Cancer Institute and designated by such Director as the Surveillance, Epidemiology, and End Results Program (SEER).

"(2) SUPPLANTING OF ACTIVITIES.—In areas where both such programs exist, the Secretary shall ensure that SEER support is not supplanted and that any additional activities are consistent with the guidelines provided for in subsection (c)(2)(C) and (D) and are appropriately coordinated with the existing SEER program.

"(3) TRANSFER OF RESPONSIBILITY.—The Secretary may not transfer administration responsibility for such SEER program from such Director.

"(4) COORDINATION.—To encourage the greatest possible efficiency and effectiveness of Federally supported efforts with respect to the activities described in this subsection, the Secretary shall take steps to assure the appropriate coordination of programs supported under this part with existing Federally supported cancer registry programs.

"(e) REQUIREMENT REGARDING CERTAIN STUDY ON BREAST CANCER.—In the case of a grant under subsection (a) to any State specified in section 399K(b), the Secretary may establish such conditions regarding the receipt of the grant as the Secretary determines are necessary to facilitate the collection of data for the study carried out under section 399C.

"SEC. 399I. PLANNING GRANTS REGARDING REGISTRIES.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States for the purpose of developing plans that meet the assurances required by the Secretary under section 399B(c)(2).

"(2) OTHER ENTITIES.—For the purpose described in paragraph (1), the Secretary may make grants to public entities other than States and to nonprofit private entities. Such a grant may be made to an entity only if the State in which the purpose is to be carried out has certified that the State approves the entity as qualified to carry out the purpose.

"(b) APPLICATION.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary, the application contains the certification required in subsection (a)(2) (if the application is for a grant under such subsection), 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 section.

"SEC. 399J. TECHNICAL ASSISTANCE IN OPERATIONS OF STATEWIDE CANCER REGISTRIES.

"The Secretary, acting through the Director of the Centers for Disease Control, may, directly or through grants and contracts, or both, provide technical assistance to the States in the establishment and operation of statewide registries, including assistance in the development of model legislation for statewide cancer registries and assistance in establishing a computerized reporting and data processing system.

"SEC. 399K. STUDY IN CERTAIN STATES TO DETERMINE THE FACTORS CONTRIBUTING TO THE ELEVATED BREAST CANCER MORTALITY RATES.

"(a) IN GENERAL.—Subject to subsections (c) and (d), the Secretary, acting through the Director of the Centers for Disease Control, shall conduct a study for the purpose of determining the factors contributing to the fact that breast cancer mortality rates in the States specified in subsection (b) are elevated compared to rates in other States.

"(b) RELEVANT STATES.—The States referred to in subsection (a) are Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and the District of Columbia.

"(c) COOPERATION OF STATE.—The Secretary may conduct the study required in subsection (a) in a State only if the State agrees to cooperate with the Secretary in the conduct of the study, including providing information from any registry operated by the State pursuant to section 399H(a).

"(d) PLANNING, COMMENCEMENT, AND DURATION.—The Secretary shall, during each of the fiscal years 1993 and 1994, develop a plan for conducting the study required in subsection (a). The study shall be initiated by the Secretary not later than fiscal year 1994, and the collection of data under the study may continue through fiscal year 1998.

"(e) REPORT.—Not later than September 30, 1999, the Secretary shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and recommendations made as a result of the study.

"SEC. 399L. AUTHORIZATION OF APPROPRIATIONS.

"(a) REGISTRIES.—For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996. Out of any amounts appropriated for any such fiscal year, the Secretary may obligate not more than 25 percent for carrying out section 399I, and not more than 10 percent may be expended for assessing the accuracy, completeness and quality of data collected, and not more than 10 percent of which is to be expended under subsection 399J.

"(b) BREAST CANCER STUDY.—Of the amounts appropriated under subsection (a) for any fiscal year in which the study required in section 399K is being carried out, the Secretary shall expend not less than $1,000,000 for the study.".

SEC. 2003. TRAUMATIC BRAIN INJURY.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control—

(1) shall conduct a survey to determine which Federal and other entities collect data on traumatic brain injuries and the nature of the data collection systems of such entities; and

(2) may cooperate and enter into agreements with other Federal agencies and provide assistance to other entities with responsibility for data collection to establish traumatic brain injury as a specific reportable condition or disability in disease and injury reporting systems.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.

TITLE XXI—STUDIES

SEC. 2101. ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) CERTAIN DRUG-RELEASE MECHANISMS.—

(1) The Secretary of Health and Human Services shall, subject to paragraph (2), enter into a contract with a public or nonprofit private entity to conduct a study for the purpose of determining, with respect to acquired immune deficiency syndrome, the impact of parallel-track drug-release mechanisms on public and private clinical research, and on the activities of the Commissioner of Food and Drugs regarding the approval of drugs.

(2) The Secretary of Health and Human Services shall request the Institute of Medi-

cine of the National Academy of Sciences to enter into the contract under paragraph (1) to conduct the study described in such paragraph. If such Institute declines to conduct the study, the Secretary shall carry out paragraph (1) through another public or nonprofit private entity.

(b) THIRD-PARTY PAYMENTS REGARDING CERTAIN CLINICAL TRIALS.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of—

(1) determining the policies of third-party payors regarding the payment of the costs of appropriate health services that are provided incident to the participation of individuals as subjects in clinical trials conducted in the development of drugs with respect to acquired immune deficiency syndrome; and

(2) developing recommendations regarding such policies.

(c) ADVISORY COMMITTEES.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of determining—

(1) whether the activities of the various advisory committees established in the National Institutes of Health regarding acquired immune deficiency syndrome are being coordinated sufficiently; and

(2) whether the functions of any of such advisory committees should be modified in order to achieve greater efficiency.

(d) VACCINES FOR HUMAN IMMUNODEFICIENCY VIRUS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Institutes of Health, shall develop a plan for the appropriate inclusion of HIV-infected women, including pregnant women, HIV-infected infants, and HIV-infected children in studies conducted by or through the National Institutes of Health concerning the safety and efficacy of HIV vaccines for the treatment and prevention of HIV infection. Such plan shall ensure the full participation of other Federal agencies currently conducting HIV vaccine studies and require that such studies conform fully to the requirements of part 46 of title 45, Code of Federal Regulations.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report concerning the plan developed under paragraph (1).

(3) IMPLEMENTATION.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement the plan developed under paragraph (1), including measures for the full participation of other Federal agencies currently conducting HIV vaccine studies.

(4) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.

SEC. 2102. ANNUAL REPORT CONCERNING LEADING CAUSES OF DEATH.

(a) REPORT.—The Secretary of Health and Human Services shall, not later than September 1, 1992, and not later than March 31 of each year thereafter, prepare a report that lists—

(1) the 20 illnesses that, in terms of mortality, number of years of expected life lost, and of number of preventable years of life lost, are the leading causes of death in the United States and the number of deaths from each such cause, the age-specific and age-adjusted death rates for each such cause, the death rate per 100,000 population for each such cause, the percentage of change in cause specific death rates for each age group, and the percentage of total deaths for each such cause;

(2) the amount expended by the Department of Health and Human Services for research, prevention, and education with respect to each of the 20 illnesses described in paragraph (1) for the most recent year for which the actual expenditures are known;

(3) an estimate by the Secretary of the amount to be expended on research, prevention, and education with respect to each of the 20 illnesses described in paragraph (1) for the year for which the report is prepared; and

(4) with respect to the years specified in paragraphs (2) and (3), the percentage of the total of the annual expenditures for research, prevention, and education on the 20 illnesses described in paragraph (1) that are attributable to each illness.

(b) SUBMISSION TO CONGRESS.—The Secretary of Health and Human Services shall submit the report required under subsection (a), together with relevant budget information, to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate.

SEC. 2103. MALNUTRITION IN THE ELDERLY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary"), acting through the National Institute on Aging, coordinating with the Agency for Health Care Policy and Research and, to the degree possible, in consultation with the head of the National Nutrition Monitoring System established under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178), shall conduct a 3-year nutrition screening and intervention activities study of the elderly.

(2) EFFICACY AND COST-EFFECTIVENESS OF NUTRITION SCREENING AND INTERVENTION ACTIVITIES.—In conducting the study, the Secretary shall determine the efficacy and cost-effectiveness of nutrition screening and intervention activities conducted in the elderly health and long-term care continuum, and of a program that would institutionalize nutrition screening and intervention activities. In evaluating such a program, the Secretary shall determine—

(A) if health or quality of life is measurably improved for elderly individuals who receive routine nutritional screening and treatment;

(B) if federally subsidized home or institutional care is reduced because of increased independence of elderly individuals resulting from improved nutritional status;

(C) if a multidisciplinary approach to nutritional care is effective in addressing the nutritional needs of elderly individuals; and

(D) if reimbursement for nutrition screening and intervention activities is a cost-effective approach to improving the health status of elderly individuals.

(3) POPULATIONS.—The populations of elderly individuals in which the study will be conducted shall include populations of elderly individuals who are—

(A) living independently, including—

(i) individuals who receive home and community-based services or family support;

(ii) individuals who do not receive additional services and support;

(iii) individuals with low incomes; and

(iv) individuals who are minorities;

(B) hospitalized, including individuals admitted from home and from institutions; and

(C) institutionalized in residential facilities such as nursing homes and adult homes.

(b) MALNUTRITION STUDY.—The Secretary, acting through the National Institute on Aging, shall conduct a 3-year study to determine the extent of malnutrition in elderly individuals in hospitals and long-term care facilities and in elderly individuals who are living independently.

(c) REPORT.—The Secretary shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives containing the findings resulting from the studies described in subsections (a) and (b), including a determination regarding whether a program that would institutionalize nutrition screening and intervention activities should be adopted, and the rationale for the determination.

(d) ADVISORY PANEL.—

(1) ESTABLISHMENT.—The Secretary, acting through the Director of the National Institute on Aging, shall establish an advisory panel that shall oversee the design, implementation, and evaluation of the studies described in subsections (a) and (b).

(2) COMPOSITION.—The advisory panel shall include representatives appointed for the life of the panel by the Secretary from the Health Care Financing Administration, the Social Security Administration, the National Center for Health Statistics, the Administration on Aging, the National Council on the Aging, the American Dietetic Association, the American Academy of Family Physicians, and such other agencies or organizations as the Secretary determines to be appropriate.

(3) COMPENSATION AND EXPENSES.—

(A) COMPENSATION.—Each member of the advisory panel who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the advisory panel, including attendance at meetings and conferences of the panel, and travel to conduct the duties of the panel.

(B) TRAVEL EXPENSES.—Each member of the advisory panel shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(4) DETAIL OF FEDERAL EMPLOYEES.—On the request of the advisory panel, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the advisory panel to assist the advisory panel in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—On the request of the advisory panel, the head of a Federal agency shall provide such technical assistance to the advisory panel as the advisory panel determines to be necessary to carry out its duties.

(6) TERMINATION.—Notwithstanding section 15 of the Federal Advisory Committee Act (5 U.S.C. App.), the advisory panel shall termi-

nate 3 years after the date of enactment of this Act.

SEC. 2104. BEHAVIORAL FACTORS STUDY.

The Director of the National Institutes of Health shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report on the feasibility of developing a plan for the conduct of research at such Institutes on the prevention of traumatic injuries.

SEC. 2105. RELATIONSHIP BETWEEN THE CONSUMPTION OF LEGAL AND ILLEGAL DRUGS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall review and consider all existing relevant data and research concerning whether there is a relationship between an individual's receptivity to use or consume legal drugs and the consumption or abuse by the individual of illegal drugs. On the basis of such review, the Secretary shall determine whether additional research is necessary. If the Secretary determines additional research is required, the Secretary shall conduct a study of those subjects where the Secretary's review indicates additional research is needed, including, if necessary, a review of—

(1) the effect of advertising and marketing campaigns that promote the use of legal drugs on the public;

(2) the correlation of legal drug abuse with illegal drug abuse; and

(3) other matters that the Secretary determines appropriate.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and Committee on Labor and Human Resources of the Senate, a report containing the results of the review conducted under subsection (b). If the Secretary determines additional research is required, no later than 2 years after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and Committee on Labor and Human Resources of the Senate, a report containing the results of the additional research conducted under subsection (b).

(c) LIMITATION.—For purposes of this section, the terms "legal drugs" and "illegal drugs" do not include beverage alcohol or tobacco products.

SEC. 2106. RESEARCH ACTIVITIES ON CHRONIC FATIGUE SYNDROME.

The Secretary of Health and Human Services shall, not later than April 1, 1993, and annually thereafter for the next 3 years, prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that summarizes the research activities conducted or supported by the National Institutes of Health concerning chronic fatigue syndrome. Such report should include information concerning grants made, cooperative agreements or contracts entered into, intramural activities, research priorities and needs, and a plan to address such priorities and needs.

SEC. 2107. REPORT ON MEDICAL USES OF BIOLOGICAL AGENTS IN DEVELOPMENT OF DEFENSES AGAINST BIOLOGICAL WARFARE.

The Secretary of Health and Human Services, in consultation with other appropriate executive agencies, shall report to the House Energy and Commerce Committee and the Senate Labor and Human Resources Committee on the appropriateness and impact of the National Institutes of Health assuming responsibility for the conduct of all Federal research, development, testing, and evaluation functions relating to medical countermeasures against biowarfare threat agents. In preparing the report, the Secretary shall identify the extent to which such activities are carried out by agencies other than the National Institutes of Health, and assess the impact (positive and negative) of the National Institutes of Health assuming responsibility for such activities, including the impact under the Budget Enforcement Act and the Omnibus Budget Reconciliation Act of 1990 on existing National Institutes of Health research programs as well as other programs within the category of domestic discretionary spending. The Secretary shall submit the report not later than 12 months after the date of the enactment of this Act.

SEC. 2108. EVALUATION OF EMPLOYEE-TRANSPORTED CONTAMINANT RELEASES.

(a) IN GENERAL.—Not later than 18 months after the date on which amounts are first available under subsection (f), the Director of the National Institute for Occupational Safety and Health (hereafter in this section referred to as the "Director"), in cooperation with the Secretary of Labor, the Administrator of the Environmental Protection Agency, the Administrator of the Agency for Toxic Substances and Disease Registry, and the heads of other Federal Government agencies (such as the National Institutes of Health) as determined to be appropriate by the Director, shall conduct a study to evaluate the potential for, the prevalence of, and the issues related to the contamination of workers' homes with hazardous chemicals and substances, including infectious agents, transported from the workplaces of such workers.

(b) MATTERS TO BE EVALUATED.—In conducting the study and evaluation under subsection (a), the Director shall—

(1) conduct a review of past incidents of home contamination through the utilization of literature and of records concerning past investigations and enforcement actions undertaken by—

(A) the National Institute for Occupational Safety and Health;

(B) the Secretary of Labor to enforce the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(C) States to enforce occupational safety and health standards in accordance with section 18 of such Act (29 U.S.C. 667); and

(D) other government agencies (including the Department of Energy and the Environmental Protection Agency), as the Director may determine to be appropriate;

(2) evaluate current statutory, regulatory, and voluntary industrial hygiene or other measures used by small, medium and large employers to prevent or remediate home contamination;

(3) compile a summary of the existing research and case histories conducted on incidents of employee transported contaminant releases, including—

(A) the effectiveness of workplace housekeeping practices and personal protective equipment in preventing such incidents;

(B) the health effects, if any, of the resulting exposure on workers and their families;

(C) the effectiveness of normal house cleaning and laundry procedures for removing hazardous materials and agents from workers' homes and personal clothing;

(D) indoor air quality, as the research concerning such pertains to the fate of chemicals transported from a workplace into the home environment; and

(E) methods for differentiating exposure health effects and relative risks associated with specific agents from other sources of exposure inside and outside the home;

(4) identify the role of Federal and State agencies in responding to incidents of home contamination;

(5) prepare and submit to the Task Force established under subsection (c), the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report concerning the results of the matters studied or evaluated under paragraphs (1) through (4); and

(6) study home contamination incidents and issues and worker and family protection policies and practices related to the special circumstances of firefighters and prepare and submit to the committees specified in paragraph (5) a report concerning the findings with respect to such study.

(c) DEVELOPMENT OF INVESTIGATIVE STRATEGY.—

(1) TASK FORCE.—Not later than 12 months after the date on which amounts are first available under subsection (f), the Director shall establish a working group, to be known as the Workers' Family Protection Task Force. The Task Force shall—

(A) be composed of not more than 15 individuals to be appointed by the Director from among individuals who are representative of workers, industry, scientists, industrial hygienists, the National Research Council, and government agencies, except that not more than one such individual shall be from each appropriate government agency and the number of individuals appointed to represent industry and workers shall be equal in number;

(B) review the report submitted under subsection (b)(5);

(C) determine, with respect to such report, the additional data needs, if any, and the need for additional evaluation of the scientific issues related to and the feasibility of developing such additional data; and

(D) if additional data are determined by the Task Force to be needed, develop a recommended investigative strategy for use in obtaining such information.

(2) INVESTIGATIVE STRATEGY.—

(A) CONTENT.—The investigative strategy developed under paragraph (1)(D) shall identify gaps in data that can and cannot be filled, assumptions and uncertainties associated with various components of such strategy, a timetable for the implementation of such strategy, and methodologies used to gather any required data.

(B) PEER REVIEW.—The Director shall publish the proposed investigative strategy under paragraph (1)(D) for public comment and utilize other methods, including technical conferences or seminars for the purpose of obtaining comments concerning the proposed strategy.

(C) FINAL STRATEGY.—After peer review and public comment is conducted under subparagraph (B), the Director, in consultation with the heads of other government agencies, shall propose a final strategy for investigating issues related to home contamination that shall be implemented by the National Institute for Occupational Safety and Health and other Federal agencies for the period of time necessary to enable such agencies to obtain the information identified under paragraph (1)(C).

(D) CONSTRUCTION.—Nothing in this section shall be construed as precluding any govern-

ment agency from investigating issues related to home contamination using existing procedures until such time as a final strategy is developed or from taking actions in addition to those proposed in the strategy after its completion.

(d) IMPLEMENTATION OF INVESTIGATIVE STRATEGY.—Upon completion of the investigative strategy under subsection (c)(2)(C), each Federal agency or department shall fulfill the role assigned to it by the strategy.

(e) REGULATIONS.—

(1) IN GENERAL.—Not later than 4 years after the date on which amounts are first available under subsection (f), and periodically thereafter, the Secretary of Labor, based on the information developed under this section and on other information available to the Secretary, shall—

(A) determine if additional education about, emphasis on, or enforcement of existing regulations or standards is needed and will be sufficient, or if additional regulations or standards are needed to protect workers and their families from employee transported releases of hazardous materials; and

(B) prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report concerning the results of such determination.

(2) ADDITIONAL REGULATIONS OR STANDARDS.—If the Secretary of Labor determines that additional regulations or standards are needed under paragraph (1), the Secretary shall promulgate such regulations or standards as determined to be appropriate not later than 3 years after such determination.

(f) FUNDING.—If the amounts appropriated for a fiscal year for carrying out the activities of the National Institute of Occupational Safety and Health equal or exceed 105 percent of the amount appropriated for such activities for fiscal year 1992 (as such amount relating to fiscal year 1992 is adjusted to offset the effects of inflation occurring since fiscal year 1992), the Director of such Institute may expend such amounts for carrying out this section.

SEC. 2109. PERSONNEL STUDY OF RECRUITMENT, RETENTION AND TURNOVER.

(a) STUDY OF PERSONNEL SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study to review the retention, recruitment, vacancy and turnover rates of support staff, including firefighters, law enforcement, procurement officers, technicians, nurses and clerical employees, to ensure that the National Institutes of Health is adequately supporting the conduct of efficient, effective and high quality research for the American public. The Director of NIH shall work in conjunction with appropriate employee organizations and representatives in developing such a study.

(b) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report containing the study conducted under subsection (a) together with the recommendations of the Secretary concerning the enactment of legislation to implement the results of such study.

SEC. 2110. PROCUREMENT.

The Director of the National Institutes of Health and the Administrator of the General Services Administration shall jointly conduct a study to develop a streamlined procurement system for the National Institutes of Health that complies with the requirements of Federal law.

TITLE XXII—MISCELLANEOUS PROVISIONS

SEC. 2201. DESIGNATION OF SENIOR BIOMEDICAL RESEARCH SERVICE IN HONOR OF SILVIO CONTE, AND LIMITATION ON NUMBER OF MEMBERS.

(a) IN GENERAL.—Section 228(a) of the Public Health Service Act (42 U.S.C. 237(a)), as added by section 304 of Public Law 101-509, is amended to read as follows: "(a)(1) There shall be in the Public Health Service a Silvio Conte Senior Biomedical Research Service, not to exceed 750 members.

"(2) The authority established in paragraph (1) regarding the number of members in the Silvio Conte Senior Biomedical Research Service is in addition to any authority established regarding the number of members in the commissioned Regular Corps, in the Reserve Corps, and in the Senior Executive Service. Such paragraph may not be construed to require that the number of members in the commissioned Regular Corps, in the Reserve Corps, or in the Senior Executive Service be reduced to offset the number of members serving in the Silvio Conte Senior Biomedical Research Service (hereafter in this section referred to as the 'Service').".

(b) CONFORMING AMENDMENT.—Section 228 of the Public Health Service Act (42 U.S.C. 237), as added by section 304 of Public Law 101-509, is amended in the heading for the section by amending the heading to read as follows:

"SILVIO CONTE SENIOR BIOMEDICAL RESEARCH SERVICE".

SEC. 2202. TECHNICAL CORRECTIONS.

(a) TITLE IV.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) in section 406—

(A) in subsection (b)(2)(A), by striking "Veterans' Administration" each place such term appears and inserting "Department of Veterans Affairs"; and

(B) in subsection (h)(2)(A)(v), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(2) in section 408, in subsection (b) (as redesignated by section 501(c)(1)(C) of this Act), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(3) in section 421(b)(1), by inserting a comma after "may";

(4) in section 428(b), in the matter preceding paragraph (1), by striking "the the" and inserting "the";

(5) in section 430(b)(2)(A)(i), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(6) in section 439(b), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(7) in section 442(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(8) in section 464D(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(9) in section 464E—

(A) in subsection (d), in the first sentence, by inserting "Coordinating" before "Committee"; and

(B) in subsection (e), by inserting "Coordinating" before "Committee" the first place such term appears;

(10) in section 466(a)(1)(B), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(11) in section 480(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(12) in section 485(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(13) in section 487(d)(3), by striking "section 304(a)(3)" and inserting "section 304(a)"; and

(14) in section 496(a), by striking "Such appropriations," and inserting the following: "Appropriations to carry out the purposes of this title,".

(b) TITLE XXIII.—Part A of title XXIII of the Public Health Service Act (42 U.S.C. 300cc et seq.) is amended—

(1) in section 2304—

(A) in the heading for the section, by striking "**CLINICAL RESEARCH REVIEW COMMITTEE**" and inserting "**RESEARCH ADVISORY COMMITTEE**"; and

(B) in subsection (a), by striking "AIDS Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee";

(2) in section 2312(a)(2)(A), by striking "AIDS Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee";

(3) in section 2314(a)(1), in the matter preceding subparagraph (A), by striking "Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee";

(4) in section 2317(d)(1), by striking "Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee established under section 2304"; and

(5) in section 2318(b)(3), by striking "Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee".

SEC. 2203. PROHIBITION AGAINST SHARP ADULT SEX SURVEY AND THE AMERICAN TEENAGE SEX SURVEY.

The Secretary of Health and Human Services may not during fiscal year 1992 or any subsequent fiscal year conduct or support the SHARP survey of adult sexual behavior or the American Teenage Study of adolescent sexual behavior. This section becomes effective April 15, 1992.

SEC. 2204. BIENNIAL REPORT ON CARCINOGENS.

Section 301(b)(4) of the Public Health Service Act (42 U.S.C. 241(b)(4)) is amended by striking "an annual" and inserting in lieu thereof "a biennial".

SEC. 2205. NATIONAL COMMISSION ON SLEEP DISORDERS RESEARCH.

The Secretary of Health and Human Services shall, not later than 6 months after the submission of the final report of the National Commission on Sleep Disorders Research, prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that analyzes the findings and recommendations of the Commission and presents a plan for the conduct and support of sleep disorders research at the National Institutes of Health.

SEC. 2206. MASTER PLAN FOR PHYSICAL INFRASTRUCTURE FOR RESEARCH.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall present to the Congress a master plan to provide for the replacement or refurbishment of less than adequate buildings, utility equipment and distribution systems (including the resources that provide elec-

trical and other utilities, chilled water, air handling, and other services that the Secretary, acting through the Director, deems necessary), roads, walkways, parking areas, and grounds that underpin the laboratory and clinical facilities of the National Institutes of Health. Such plan may make recommendations for the undertaking of new projects that are consistent with the objectives of this section, such as encircling the National Institutes of Health Federal enclave with an adequate chilled water conduit.

TITLE XXIII—EFFECTIVE DATE

SEC. 2301. EFFECTIVE DATE.

Subject to sections 115 and 155, this Act and the amendments made by this Act take effect October 1, 1992, or upon the date of the enactment of this Act, whichever occurs later.●

● Mr. ADAMS. Mr. President, I want to go on record today in strong support of the NIH Revitalization Act. It is a tragedy that we have to do this bill a second time. The NIH is one of our Nation's most treasured assets. This bill, like the one before it, enhances the ability of the NIH to conduct high quality biomedical research. The provisions in this bill have great potential for saving lives and alleviating human suffering. Politics obstructed the passage of the first bill, let us not let it stop this one.

The NIH Revitalization Act that passed the Senate in April of this year garnered strong support on both sides of the aisle. It was adopted by an overwhelming margin in the House. Sadly, the President vetoed the bill, and the House barely failed to override that veto.

The veto was based on pure politics. It sent the harsh message that ideology comes before life-saving research. It dashed the hopes of millions of Americans.

During the debate to override the veto, we heard this bill called many things by its opponents. They called it a budget buster. They said that the authorization levels were too high—that there were too many line item authorizations. They accused members of pork barreling. And they said we did not need to lift the ban on fetal tissue transplantation research—that the President's tissue bank would work.

This bill responds to these accusations without sacrificing the essential provisions. The new NIH Revitalization Act is a much leaner version of the first bill.

Mr. President, the Congress is meeting you half way.

This new NIH bill allows the President's fetal tissue bank, containing tissue from spontaneous abortions and ectopic pregnancies, to operate for a year. After that time, all researchers using fetal tissue for transplantation research must first apply to the President's NIH bank for tissue. If, however, the bank cannot supply suitable tissue promptly, the federally funded research may be carried out with tissue from other sources, including tissue from induced abortions.

All the safeguards from the first bill are in this bill. These are the safeguards recommended by the Reagan-appointed expert panel to separate the abortion decision and the donation of the fetal tissue. The strong penalties for selling fetal tissue or designating a donor recipient also remain in the bill. These protections provide Federal oversight of both private and public research—oversight that will not be in place if we do not enact this legislation.

Some opponents of the original NIH bill stated that if the President's tissue bank could not provide the tissue necessary to allow the research to go forward—they would support lifting the ban on the use of tissue from elective abortions. This is exactly what this bill does. If the tissue bank can supply the necessary tissue—fine. But if the tissue is infected or damaged, as many researchers say it will be, or the supply is inadequate, then after a year, the research will proceed with tissue from elective abortions.

Millions of Americans find hope in this research. Americans with Parkinson's disease, Alzheimer's disease, juvenile diabetes, spinal cord injuries, and genetic disorders look to this research for a cure. This bill allows the research to go forward—either with tissue from the President's bank or, if that is not successful, with tissue from induced abortions.

As in the original, this new NIH bill also directs the NIH to conduct essential research on women's health. The funding levels for diseases more prevalent in women remain: an additional $325 million for breast cancer research, $75 million for ovarian cancer, and $40 million for osteoporosis.

These are diseases that touch the lives of so many women. One out of nine women will get breast cancer; one-third to one-half of all postmenopausal women will be affected by osteoporosis. Yet we have not adequately funded these research areas. For too long researchers have ignored diseases unique to women.

The NIH has failed to include women in studies of conditions that affect everyone—women as well as men, such as studies looking at heart disease or aging. Heart disease is the number one killer of women, yet the two most recent trials in the area of heart disease included no women. To address this inequity, the bill authorizes an Office of Research on Women's Health and establishes guidelines to ensure the inclusion of women in clinical trials at NIH. Until we close the gender gap in research, women will receive substandard health care.

The authorizations for research on conditions unique to women and a $92 million authorization for research on prostate cancer are the only specific authorization levels in the bill. All other authorization is "such sums as necessary"; funding levels are left to the discretion of the appropriations committee.

The first NIH bill had strong bipartisan support. It is now time for the President to meet Congress half way. I urge my colleagues to support this bill, and I urge the President to sign it. The programs in this bill are too important. We cannot allow politics to continue to obstruct life-saving research.●

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. BENTSEN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 4, a bill to amend titles IV, V, and XIX of the Social Security Act to establish innovative child welfare and family support services in order to strengthen families and avoid placement in foster care, to promote the development of comprehensive substance abuse programs for pregnant women and caretaker relatives with children, to provide improved delivery of health care services to low-income children, and for other purposes.

S. 686

At the request of Mr. BAUCUS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 686, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of enterprise zones, and for other purposes.

S. 781

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 781, a bill to authorize the Indian-American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 866

At the request of Mr. BREAUX, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 866, a bill to amend the Internal Revenue Code of 1986 to clarify that certain activities of a charitable organization in operating an amateur athletic event do not constitute unrelated trade or business activities.

S. 1231

At the request of Mr. BENTSEN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1231, a bill to amend title XVIII of the Social Security Act to provide for coverage of colerectal screening examinations and certain immunizations under part B of the medicare program, and for other purposes.

S. 1451

At the request of Mr. BIDEN, the names of the Senator from Virginia [Mr. WARNER], the Senator from Georgia [Mr. NUNN], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 1451, a bill to provide for the minting of coins in commemo-

ration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1872

At the request of Mr. BENTSEN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1872, a bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes.

S. 1877

At the request of Mr. BOND, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1877, a bill to require the use of child restraint systems on commercial aircraft.

S. 2103

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2103, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2109

At the request of Mr. BAUCUS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2109, a bill to amend the Internal Revenue Code of 1986 to permit certain entities to elect taxable years other than taxable years required by the Tax Reform Act of 1986, and for other purposes.

S. 2643

At the request of Mr. BENTSEN, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 2643, a bill to amend title XVIII of the Social Security Act to limit modification of the methodology for determining the amount of time that may be billed for anesthesia services under such title, and for other purposes.

S. 2794

At the request of Mr. DOLE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2794, a bill to relieve the regulatory burden on depository institutions, particularly on small depository institutions, and for other purposes.

S. 2870

At the request of Mr. RUDMAN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 2870, a bill to authorize appropriations for the Legal Services Corporation, and for other purposes.

SENATE JOINT RESOLUTION 224

At the request of Mr. BUMPERS, his name was added as a cosponsor of Senate Joint Resolution 224, a joint resolution designating March 1992 as "Irish-American Heritage Month."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 262

At the request of Mr. KASTEN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Joint Resolution 262, a joint resolution designating July 4, 1992, as "Buy American Day."

SENATE JOINT RESOLUTION 287

At the request of Mr. SIMON, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Joint Resolution 287, a joint resolution to designate the week of October 4, 1992, through October 10, 1992, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 308

At the request of Mr. GORE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 308, a joint resolution adopting certain principles on general rights and obligations with respect to the environment, to be known as the "Earth Charter," and urging the United Nations Conference on Environment and Development, meeting in June 1992, to adopt the same.

SENATE JOINT RESOLUTION 318

At the request of Mr. KERRY, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Indiana [Mr. COATS], the Senator from Maine [Mr. MITCHELL], the Senator from Colorado [Mr. BROWN], the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. HEFLIN], the Senator from Illinois [Mr. DIXON], the Senator from Alabama [Mr. SHELBY], the Senator from Arkansas [Mr. PRYOR], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Michigan [Mr. LEVIN], the Senator from Illinois [Mr. SIMON], the Senator from Georgia [Mr. FOWLER], the Senator from North Carolina [Mr. SANFORD], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from North Dakota [Mr. BURDICK], the Senator from Hawaii [Mr. AKAKA], the Senator from New Jersey [Mr. BRADLEY], the Senator from Ohio [Mr. GLENN], the Senator from New York [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. PELL], the Senator from Ohio [Mr. METZENBAUM], the Senator from Tennessee [Mr. SASSER], the Senator from Wisconsin [Mr. KOHL], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Mr. SARBANES], the Senator from Michigan [Mr. RIEGLE], the Senator from North Dakota [Mr. CONRAD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Washington [Mr. ADAMS], the Senator from Nevada [Mr. REID], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Arizona [Mr. DECONCINI], the Senator from Vermont [Mr. JEFFORDS], the Senator from Oregon [Mr. PACKWOOD], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Nevada [Mr. BRYAN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. HATCH], the Senator from Virginia [Mr. WARNER], the Senator from Pennsylvania [Mr. SPECTER], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from South Carolina [Mr. THURMOND], the Senator from Kansas [Mr. DOLE], the Senator from Arizona [Mr. MCCAIN], the Senator from Utah [Mr. GARN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Wisconsin [Mr. KASTEN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Alaska [Mr. STEVENS], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 318, a joint resolution designating November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day."

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

AMENDMENT NO. 2447

At the request of Mr. NICKLES the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of amendment No. 2447 proposed to S. 2733, an original bill to improve the regulation of Government-sponsored enterprises.

SENATE CONCURRENT RESOLUTION 127—SENSE OF THE CONGRESS THAT WOMEN'S SOCCER SHOULD BE A MEDAL SPORT AT THE 1996 OLYMPICS IN ATLANTA, GA

Mr. DECONCINI submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 127

Whereas participation in soccer programs by women in the United States and abroad has increased dramatically since 1988;

Whereas 45 nations competed in the 1st Women's World Soccer Championships in the People's Republic of China;

Whereas the United States Women's National Soccer Team won the 1st Women's World Soccer Championships;

Whereas bids have been extended to host the 2d Women's World Soccer Championships;

Whereas 64 nations have a national women's soccer team;

Whereas 40 percent of young soccer players in the United States are female;

Whereas one-third of the children under the age of 18 in the United States play soccer;

Whereas 26 percent of the more than 29,000 soccer players at the college level in the United States are women;

Whereas one-third of the 327,000 soccer players at the high school level in the United States are women;

Whereas, during the 1990–1991 school year, high schools in the United States added soccer to their sports programs more often than any other sport;

Whereas Atlanta, Georgia, will host the 1996 Olympic games;

Whereas many nations have announced that they will give women's soccer priority in their Olympic programs once it becomes a medal sport; and

Whereas the Congress has in the past designated a special day to honor women and girls in sports: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, Georgia.

• Mr. DECONCINI. Mr. President, the Congress has clearly expressed its opposition to discrimination in sports with the enactment of title IX of the education amendment of 1972. In this regard, it is interesting to review the last 20 years which show that girls' high school athletics have grown enormously. In 1971, only 7.4 percent of the participants in high school athletics were female, according to data compiled by the National Federation of State High School Associations. By 1977–78, that figure leaped to 32.2 percent and the latest compilation for 1990–91 reveals the participation is still climbing at 35.7 percent. Women's soccer is one sport that has benefited dramatically from the 1972 act, as is borne out by the following statistics:

Nationally, females make up 40 percent of all youth league players around the Nation.

One out of every three youngsters under the age of 18 plays soccer—of that number—50 percent are women.

Of the 29,372 who play college soccer, 26 percent are women.

In all high schools, 33 percent of the 327,000 players are women.

High schools added more boys and girls varsity soccer programs than any other sport in 1990–91.

This is very encouraging, but when we all tune into the Barcelona Olympics, many soccer fans will be in for a shock—equal opportunity will hit a roadblock for there will be no women's soccer in the international Olympic games. This is particularly frustrating for American soccer fans as well as many thousands of others in the 64 nations that have national women's teams.

American soccer has developed methodically and patiently over the years—and on November 30, 1991, a United States team was honored as a world champion when the women's national team won the World Cup at the first Federation of International Football Associations [FIFA] championships in Guangzhou, China, before 59,000 fans. Unfortunately, we won't see this team in action in Barcelona.

Mr. President, the U.S. women's success with the World Cup program will bring to the minds of all the viewers watching the Barcelona games the incredible fact that women's soccer is not a medal sport at the Olympics. This paradox is all the more flagrant in this new era of the Olympic games because, not only new sports but entire teams from new nations are being brought into the program. Therefore, I feel confident that officials of the International Olympic Committee [IOC] and FIFA will include women's soccer in the 1996 games.

However, Mr. President, I believe it is most fitting and proper for the Congress to convey our strong support for this effort. In that regard, I am pleased that Representative JIM MORAN introduced House Concurrent Resolution 324 to express the sense of Congress is to end discrimination in the soccer competition by including women's soccer at the Olympic games in 1996. At the urging of the Arizona State Soccer Association, I am pleased to have the opportunity to introduce the companion bill, and urge my colleagues to join me in this timely effort.

It is particularly timely because the IOC now has this matter under active consideration. I was delighted to learn, along with millions of soccer fans throughout this country and the world, that the president of U.S. Soccer, Alan Rothenberg, wrote to Joao Havelange, president of FIFA, officially requesting that women's soccer be made a medal sport at the 1996 Olympics. Havelange replied in the affirmative and said he would discuss the request with IOC President Juan Samaranche at their meetings in May.

At the time my friend and colleague from Virginia, Representative JIM MORAN, introduced House Concurrent Resolution 324, the correspondence between Alan Rothenberg and Joao Havelange was not available. I ask unanimous consent that this exchange of correspondence be included at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SOCCER FEDERATION,
WORLD CUP USA 1994,
Los Angeles, CA, April 9, 1992.

Dr. JOAO HAVELANGE,
President, Federation Internationale de Football Association, Praca Pio X, 79–7, 20.040 Rio de Janeiro RJ, Brazil.

Re: Women's Soccer/Olympic Games.

DEAR DR. HAVELANGE: While we have had a number of discussions about adding women's soccer to the Olympic Games in 1996, I am not sure whether any formal request has ever been made to FIFA to seek that approval from the International Olympic Committee. Because of that, please deem this correspondence to be the formal request by the United States Soccer Federation that women's soccer be added to the Olympic Games in 1996.

If there is anything further that we at the United States Soccer Federation have to do to cause the IOC to add women's soccer to the 1996 Olympics, please advise me.

Best regards.

Sincerely,

ALAN I. ROTHENBERG.

FEDERATION INTERNATIONALE
DE FOOTBALL ASSOCIATION,
Rio de Janeiro, Brazil, May 15, 1992.

Mr. ALAN I. ROTHENBERG,
United States Soccer Federation, Los Angeles, CA.

DEAR PRESIDENT AND FRIEND, ALAN ROTHENBERG, I am only now able to reply to your letter dated 9th April 1992 in which you inform me that the USSF officially requests that women's football be included in the Olympic Games 1996, as I was absent from FIFA due to visits to South Africa and U.S.A.

Please be informed, that I will be meeting President Samaranch in Lausanne on the 18th May and that this matter will certainly be discussed then. I am very hopeful that the discussion will result in a favorable solution by President Samaranch, and will keep you informed.

Yours sincerely,

JOÃO HAVELANGE.

Mr. DECONCINI. Mr. President, the additional good news, with respect to influencing the decision of the IOC, is the announcement just made by the International University Sports Federation in Brussels [FISU] that women's soccer will compete at these games and 80 percent will be future Olympic participants. Those competing in women's soccer will add to the pool of talent on the various women's national teams around the world and provide exciting and highly experienced and skilled teams at the 1996 Olympics in Atlanta.

Again, I emphasize my confidence that Juan Samaranche and the IOC will rule favorably. We recently witnessed the Winter Olympics where we noted that a new, exciting gold medal sport, mogul skiing, which didn't even exist 4 years ago, had been added to the competition. President Samaranche and his deputies deserve our commendation for their efforts to bring not only new sports, but also new nations, with their full compliment of teams, into the Winter Olympics and the summer games at Barcelona. It would not be in keeping with the Olympic spirit

and the accomplishments of Mr. Samaranche to make the international soccer community and its fans sit around and wait to the year 2000 for medal status.

The fact that the second women's World Cup will have been played prior to 1996 provides another sound reason why my colleagues should join me in this effort to convey to the IOC the sense of Congress that, as the host Nation, we would support a positive response. In so doing, we can encourage more participation in girl's soccer in our own states by promoting the U.S. women's national team and our ever improving youth programs.

The U.S. Youth Soccer Association's National Workshop and Coaches Convention recently announced a new Girl's Olympic Development program [ODP] which is designed to focus on the youth player from the State level to the national team. I am pleased that thousands of girls and women, as well as their parents, are very active in this program in Arizona.

In closing, Mr. President, I urge my colleagues to join me in honoring our outstanding American women athletes by cosponsoring this resolution to promote women's soccer as a medal sport at the 1996 Olympics.●

SENATE RESOLUTION 320—AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF "DEVELOPMENTS IN AGING: 1991"

Mr. PRYOR (for himself and Mr. COHEN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 320

Resolved, That there shall be printed for the use of the Special Committee on Aging, in addition to the usual number of copies, the maximum number of copies of volumes 1 and 2 of the annual report of the committee to the Senate, entitled "Developments in Aging: 1991", which additional copies may be printed at a cost not to exceed $1,200.

AMENDMENTS SUBMITTED

FREEDOM OF CHOICE ACT OF 1991

MITCHELL (AND OTHERS) AMENDMENT NO. 2451

(Ordered referred to the Committee on Labor and Human Resources)

Mr. MITCHELL (for himself, Mr. CRANSTON, Mr. KENNEDY, Mr. METZENBAUM, Mr. PACKWOOD, Ms. MIKULSKI, Mrs. KASSEBAUM, Mr. HARKIN, Mr. COHEN, Mr. WIRTH, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BOREN, Mr. BRADLEY, Mr. BRYAN, Mr. BURDICK, Mr. CHAFEE, Mr. DODD, Mr. FOWLER, Mr. GLENN, Mr. GORE, Mr. INOUYE, Mr. JEFFORDS, Mr. KERREY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. PELL, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. SANFORD, Mr. SARBANES, Mr. SEYMOUR, Mr. SIMON, Mr. SPECTER, and Mr. WELLSTONE) submitted an amendment intended to be proposed by them to the bill (S. 25) to protect the reproductive rights of women, and for other purposes, as follows:

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 "Freedom of Choice Act of 1992".

SEC. 2. CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The 1973 Supreme Court decision in *Roe v. Wade* established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy. Under the strict scrutiny standard enunciated in *Roe v. Wade,* States were required to demonstrate that laws restricting the right of a woman to choose to terminate a pregnancy were the least restrictive means available to achieve a compelling State interest. Since 1989, the Supreme Court has no longer applied the strict scrutiny standard in reviewing challenges to the constitutionality of State laws restricting such rights.

(2) As a result of the Supreme Court's recent modification of the strict scrutiny standard enunciated in *Roe v. Wade,* certain States have restricted the right of women to choose to terminate a pregnancy or to utilize some forms of contraception, and these restrictions operate cumulatively to—

(A)(i) increase the number of illegal or medically less safe abortions, often resulting in physical impairment, loss of reproductive capacity or death to the women involved;

(ii) burden interstate commerce by forcing women to travel from States in which legal barriers render contraception or abortion unavailable or unsafe to other States or foreign nations;

(iii) interfere with freedom of travel between and among the various States;

(iv) burden the medical and economic resources of States that continue to provide women with access to safe and legal abortion; and

(v) interfere with the ability of medical professionals to provide health services;

(B) obstruct access to and use of contraceptive and other medical techniques that are part of interstate and international commerce;

(C) discriminate between women who are able to afford interstate and international travel and women who are not, a disproportionate number of whom belong to racial or ethnic minorities; and

(D) infringe upon women's ability to exercise full enjoyment of rights secured to them by Federal and State law, both statutory and constitutional.

(3) Although Congress may not by legislation create constitutional rights, it may, where authorized by its enumerated powers and not prohibited by a constitutional provision, enact legislation to create and secure statutory rights in areas of legitimate national concern.

(4) Congress has the affirmative power both under section 8 of Article I of the Constitution of the United States and under section 5 of the Fourteenth Amendment of the Constitution to enact legislation to prohibit State interference with interstate commerce, liberty or equal protection of the laws.

(b) PURPOSE.—It is the purpose of this Act to establish, as a statutory matter, limitations upon the power of States to restrict the freedom of a woman to terminate a pregnancy in order to achieve the same limitations as provided, as a constitutional matter, under the strict scrutiny standard of review enunciated in ROSE V. WADE and applied in subsequent cases from 1973 to 1988.

SEC. 3. FREEDOM TO CHOOSE.

(a) IN GENERAL.—A State—

(1) may not restrict the freedom of a woman to choose whether or not to terminate a pregnancy before fetal viability;

(2) may restrict the freedom of a woman to choose whether or not to terminate a pregnancy after fetal viability unless such a termination is necessary to preserve the life or health of the woman; and

(3) may impose requirements on the performance of abortion procedures if such requirements are medically necessary to protect the health of women undergoing such procedures.

(b) RULES OF CONSTRUCTION.—Nothing in this Act shall be construed to—

(1) prevent a State from protecting unwilling individuals from having to participate in the performance of abortions to which they are conscientiously opposed;

(2) prevent a State from declining to pay for the performance of abortions; or

(3) prevent a State from requiring a minor to involve a parent, guardian, or other responsible adult before terminating a pregnancy.

SEC. 4. DEFINITION OF STATE.

As used in this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and each other territory or possession of the United States.

Mr. MITCHELL. Mr. President, I am joined by Senator CRANSTON, the original author of the Freedom of Choice Act, and 38 other colleagues in introducing an amendment in the nature of a substitute to S. 25, the Mitchell-Cranston Freedom of Choice Act.

The purpose of our proposal is give statutory strength to the right of American women to govern their reproductive lives without coercive government interference.

Along with the support of sponsors of the original bill, this measure also enjoys broad-based support in the community which works to secure the fundamental reproductive rights of American women. It has the support of NARAL, Planned Parenthood, the American Association of University Women, the Religious Coalition for Abortion Rights, the American Civil Liberties Union, the Women's Legal Defense Fund, the National Women's Law Center and many other groups active in serving women's health care and reproductive needs.

In 1973, in the case of Roe versus Wade, the Supreme Court ruled that the constitutional right of privacy is broad enough to include a woman's right to choose to terminate a pregnancy. That is the right our bill seeks to secure.

The best possible world would be one in which there were no unwanted pregnancies, where every pregnancy meant a much-wanted and loved child. That is not the reality, however.

Birth control does not always work. Women are raped. Young women are the victims of incest. Far too many women don't have regular access to primary health care, including birth control. Unwanted pregnancy is a common and painful occurrence for millions of American women.

In these circumstances, the right of a woman to choose for herself the option of a safe, legal abortion must be preserved.

That is what our bill seeks to protect.

Abortion is a controversial subject because the views of Americans on the status of fetal life vary enormously.

Some believe that a fertilized ovum is the legal equivalent in every sense of an adult person. Some believe that at no point before birth does a fetus acquire any legal rights.

These differences are not reconcilable. The Roe ruling didn't reconcile them. This bill doesn't reconcile them.

But the majority of Americans don't hold extreme views.

The majority of Americans believe there are circumstances where an abortion is the only alternative.

Above all, the majority of Americans believe this is a private decision which belongs to the woman who must live with the consequences, not a decision to be made by elected officials or Government bureaucrats.

The alternatives to safe, legal abortion are either a reversion to the pre-1973 world of illegal abortions or a new world of Government interference in the most private decisions of American women.

Those who oppose a woman's right to choose know they cannot stop abortions. They are trying to make the procedure legal. Abortions occur in every society, regardless of the legal position the society takes. That has been true throughout all of human history. Our society is no different. Our history tells us that making the procedure legal doesn't stop it. It makes potential criminals of women and doctors.

Before Roe, illegal abortions were a common reality—back-alley abortions for the poor, self-induced abortion attempts for the young and desperate, and trips abroad for the fortunate few. In the days before Roe, maternity wards often nursed women with septic conditions, uncontrollable internal bleeding and all the other results of botched abortions.

Today, despite their differences about some aspects of the issue, the majority of Americans don't want to turn the clock back to those days.

This is a difficult, painful, even wrenching issue for most people. But the majority of Americans clearly believe abortion must remain safe and legal.

That is the goal of this bill. Not more, but not less. It will keep what the Supreme Court said in the Roe case, under which the Nation has now lived for almost two decades, the law of the land.

Mr. CRANSTON. Mr. President, today majority leader GEORGE MITCHELL and I, joined by almost half of the Senate have introduced a new version, a substitute version of the Freedom of Choice Act which I introduced some time ago to deal with the issue of choice.

We do this on the eve of what we anticipate to be a ruling by the Supreme Court possibly tomorrow, possibly Monday, that will either wipe out Roe versus Wade or whittle away at it still more in ways that will lead directly or soon to the denial of the right of choice to American women.

I am delighted to join with the majority leader, the Senator from Maine [Mr. MITCHELL] and the chairman of the Labor and Human Resources Committee, the Senator from Massachusetts [Mr. KENNEDY], as well as many other leaders on the issue of choice from both sides of the aisle, including Senators METZENBAUM, PACKWOOD, MIKULSKI, KASSEBAUM, HARKIN, and WIRTH, in submitting this substitute amendment to S. 25, the Freedom of Choice Act, legislation which I introduced in the Senate at the beginning of this Congress with a good many cosponsors and in 1989 shortly following the Supreme Court's decision in Webster versus Reproductive Health Services.

The Mitchell-Cranston modified version of the Freedom of Choice Act is intended to make it absolutely clear that the legislation simply codifies the principles set down nearly two decades ago in Roe versus Wade, the landmark decision which held that a State may not restrict a woman's right to terminate a pregnancy prior to fetal viability. Our purpose in drafting and introducing the original Freedom of Choice Act was to establish statutory protections through congressional authority under the commerce clause and section 5 of the 14th amendment in order to preserve the rights of women to make their own personal decisions about abortion without Government interference—rights which had been protected by the Roe decision.

Despite the clear intent of the legislation we introduced, opponents of the basic right of freedom of choice have mounted a campaign suggesting that the original bill goes beyond Roe. The modifications we are introducing today make it absolutely clear beyond any reasonable doubt that that is simply not true.

It was not true in the original version of the Freedom of Choice Act. It is not true in this modified version. The substitute amendment clarifies. There is no compromise involved here. This is simply a clarification. It clarifies the original bill in several areas.

First, it adds a findings of fact and purpose section which explicitly states that the bill creates statutory, not constitutional, rights and is an exercise of congressional authority under the commerce clause and the 14th amendment to the Constitution.

Second, the substitute contains technical changes to make it clear that, in accordance with the holding of Roe, a State may restrict postviability abortions except where necessary to preserve the life or health of the woman involved.

Third, the substitute contains explicit provisions making it clear that the bill does not require States to fund the performance of abortions, prohibit States from enacting legislation protecting unwilling individuals from having to participate in the performance of abortions to which they are conscientiously opposed, or prevent States from requiring the involvement of a parent, guardian, or other responsible adult prior to a minor's termination of a pregnancy.

The substitute explicitly recognizes that under Roe, States have been permitted to enact certain types of statutes requiring the involvement of a parent, guardian, or other responsible adult before a minor can terminate a pregnancy. The substitute allows States to impose those types of requirements on the abortion decisions of minors which were held to be constitutional by the Supreme Court prior to the Webster decision. The standard for constitutionality of such statutes is set forth in the Supreme Court's decision in *Bellotti* v. *Baird*, 443 U.S. 622 (1979), and requires that such statutes provide for appropriate "bypass" procedures.

Similarly, the substitute explicitly states that it does not prevent a State from declining to pay for the performance of abortions. Supreme Court decisions, particularly *Harris* v. *McRae*, 448 U.S. 297 (1980), have distinguished between the right to terminate a pregnancy protected under Roe and the right to have Government funding.

Mr. President, we expect that the Supreme Court will act within the next few days, perhaps tomorrow, in a manner that will eliminate any meaningful constitutional protection of a woman's right to freedom of choice. It may be that the decision in Roe versus Wade is not wiped out wholly, but there will be more in the way of the direction of denying the right of choice to women. We have had enough of that.

The Congress is preparing to respond swiftly. If the Supreme Court is no longer willing to protect the right of a woman to make this very personal decision without Government interference, then the Congress of the United States can and must act to do so. The alternative will be to allow the clock to turn back to the days when desperate women turned to back-alley butchers and self-induced abortions, bringing death and mutilation to countless numbers.

Senator KENNEDY, the chairman of the committee that will handle this legislation, indicated today that he will get this measure marked up and out of the committee and reported to the Senate floor on Wednesday of next week. I applaud him.

I applaud the majority leader for his leadership in developing this modification of the Freedom of Choice Act and for his commitment to moving forward swiftly on this issue.

Mr. President, I ask unanimous consent that a brief outline answering some basic questions that Members and others are apt to ask about the substitute amendment and what it means in terms of certain matters to be printed in the RECORD.

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

MITCHELL/CRANSTON SUBSTITUTE AMENDMENT, FREEDOM OF CHOICE ACT, S. 25

How does the substitute amendment differ from the original bill?

The substitute clarifies the original bill in several areas.

First, the substitute adds a findings of fact and purpose section which states explicitly that the bill creates statutory, not constitutional, rights and is an exercise of Congressional authority under the Commerce Clause and the Fourteenth Amendment to the Constitution.

Second, the substitute contains technical changes to make it clear that, in accordance with the holding of *Roe* v. *Wade*, a state may restrict post-viability abortions except where necessary to preserve the life or health of the woman.

Third, the substitute contains explicit provisions making it clear that the bill does not require states to fund the performance of abortions, prohibit states from enacting legislation protecting unwilling individuals from having to participate in the performance of abortions to which they are conscientiously opposed, or prevent states from requiring the involvement of a parent, guardian, or other responsible adult prior to a minor's termination of a pregnancy.

What does the legislation do?

It codifies the 1973 *Roe* v. *Wade* decision which prohibited states from restricting an individual woman's right to choose to terminate a pregnancy prior to fetal viability. After fetal viability, a state may restrict or prohibit abortion unless termination of the pregnancy is necessary to preserve the life or health of the woman.

Does the legislation allow states to impose any restrictions?

Prior to fetal viability, it would allow states to impose requirements on abortion procedures which are medically necessary to protect the health of the women undergoing such procedures. For example, under the *Roe* standard, statutes requiring that abortions be performed only by licensed physicians have been upheld, *Connecticut* v. *Menillo*, 423 U.S. 9 (1975), but statutes requiring that abortions be performed only in hospitals have been struck down, *Doe* v. *Bolton*, 410 U.S. 179 (1973), as not shown to be medically necessary for health reasons. Reasonable recordkeeping and reporting requirements have been upheld, *Planned Parenthood of Central Missouri* v. *Danforth*, 428 U.S. 52 (1976), but requirements for reporting of detailed information that would be available to the public have been invalidated, *Thornburgh* v. *American College of Obstetricians and Gynecologists*, 476 U.S. 747 (1986). After fetal viability, the proposed statute, like the *Roe* decision, provides that a state may restrict or prohibit abortion except where termination of the pregnancy is necessary to preserve the life or health of the woman.

How would the legislation affect anti-choice legislation such as that passed in Pennsylvania which includes such restrictions as a 24 hour waiting period and spousal notification?

Such restrictions would violate the provisions of the Freedom of Choice Act unless a state could demonstrate such requirements are medically necessary to protect the health of women undergoing abortion procedures. Prior to the Webster decision, similar restrictions had been declared unconstitutional under Roe. For example, in *Planned Parenthood* v. *Danforth*, 428 U.S. 521 (1976), a spousal consent statute was held unconstitutional. In *City of Akron* v. *Akron Center for Reproductive Health, Inc.*, 462 U.S. 416 (1983), a 24-hour waiting period was invalidated.

Would the legislation require states to fund abortions?

No. *Roe* v. *Wade* did not address the issue of public funding for abortion and subsequent Supreme Court decisions involving Medicaid funding have distinguished the right to terminate a pregnancy from the right to have government funding, *Harris* v. *McRae*, 448 U.S. 297 (1980). The substitute amendment explicitly states that the legislation does not prevent a state from declining to pay for the performance of abortions.

Would the legislation prohibit a state from banning public facilities or employees from providing abortions?

The legislation does not require states to provide public funding or facilities for abortions. However, a state could not enact legislation which would have the effect of denying access to abortion for women. Thus, it could not enact legislation which would preclude all hospitals, public and private, from providing abortion services or bar the use of a public facility for an abortion paid for by the patient and provided by a private physician, for example, in localities where such a facility is the only available facility for such services. In short, a state would not be permitted to devise a scheme to deny access to abortion services.

Does the legislation prohibit states from imposing parental consent or parental notification requirements?

The legislation explicitly recognizes that under Roe states have been permitted to enact certain types of statutes requiring the involvement of a parent, guardian or other responsible adult before a minor can terminate a pregnancy. The substitute allows states to impose those types of requirements on the abortion decisions of minors which were held to be constitutional by the Supreme Court prior to the Webster decision. The standard for constitutionality of such statutes is set forth in the Supreme Court's decision in *Bellotti* v. *Baird*, 443 U.S. 622 (1979), and requires that such statutes provide for appropriate "bypass" procedures.

Does the legislation define "fetal viability"?

The legislation does not establish a particular point in time at which a fetus is considered viable because fetal viability is a medical determination made on a case-by-case basis by a trained medical professional taking into account a variety of factors such as the duration of the pregnancy and the weight and health of the fetus. Although the Supreme Court in *Roe* defined viability as the point at which the fetus is "potentially able to live outside the mother's womb, albeit with artificial aid," 410 U.S. at 163, the Court made it clear in *Planned Parenthood of Central Missouri* v. *Danforth*, 428 U.S. 52 (1976), that viability is a medical determination and that "it is not the proper function of the legislature or the courts to place viability, which is essentially a medical concept, at a specific point in the gestation period. The time when viability is achieved may vary with each pregnancy, and the determination of whether a particular fetus is viable, must be a matter for the judgment of the attending physician," 428 U.S. at 64.

Does the legislation authorize abortion on demand at any stage of pregnancy?

No. The legislation codifies the *Roe* v. *Wade* decision which allows a state to restrict or prohibit abortion after viability except where termination of a pregnancy is necessary to preserve the health or life of the woman. Prior to fetal viability, a state may only impose requirements on abortion procedures which are medically necessary to protect the health of women undergoing such procedures.

Does the legislation reverse the results of the Webster decision?

To the extent that the Webster decision shifted the standard of review set forth in *Roe* and "invited" states to experiment with restrictions which are not related to protecting the health of women undergoing abortion procedures prior to fetal viability, the legislation would prohibit those measures.

Does Congress have the authority to enact this legislation?

Congress has the authority under various provisions of the Constitution to establish statutory rights. It has broad authority under the Commerce Clause to regulate matters that involve conflicting state laws. Congress also has the authority under section 5 of the Fourteenth Amendment to enforce the provisions of the Fourteenth Amendment protecting individual liberty and equality against unwarranted state interference. The Supreme Court has held in *Katzenback* v. *Morgan*, 384 U.S. 641, 651 (1966), that section 5 "is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment."

Mr. BIDEN. Mr. President, today, I am joining with more than 40 of my colleagues to cosponsor a revised version of the Freedom of Choice Act. While I did not grant my support to the earlier draft of this legislation, I believe that Senator MITCHELL'S clarifications of this bill make it one I can endorse.

Over the past two decades, no issue has divided this Nation more profoundly than the question of abortion. It has provoked a brutal and wrenching debate; good men and women on both sides of the issue have had their morality, their faith, their character questioned by those of the opposing view.

For the 18 years i have been in the Senate, I have found no question more vexing than that of our national policy with respect to abortion. It is vexing for me because it is a question about which I hold strong personal views—views that are the product of my upbringing, my religious beliefs, and my

ethical values. And yet at the same time, I have always appreciated that many other Americans do not share these same beliefs, or subscribe to the same philosophy that guides me.

As I have said on many other occasions, in many other circumstances, in our country, freedom is the norm. Our essential national credo is that, unless there is a broad consensus on a compelling rationale for intervention, the Government is to stay out of our private lives.

Personal freedom is the touchstone of our national character—a basis from which we should depart in only the most specific circumstances.

As a result, and given the great division over the ethical and moral questions surrounding abortion in this country, I have believed that, as an elected official, the best policy for our country on the question of abortion is a policy of Government neutrality.

Put another way: I do not believe that the Government should be involved in making judgments on whether a woman can, or should have an abortion, or—if she chooses to do so—in paying for that abortion.

Thus, throughout my tenure in the Senate, I have opposed legislative proposals and constitutional amendments to abolish a woman's right to choose. But at the same time, I have also voted against legislative proposals to provide Federal funding for abortions.

As I said before, this policy of Government neutrality is, in my view, the best possible resolution of this highly contentious and divisive issue. It respects the differing moral beliefs and ethical positions of a diverse Nation.

Since 1973, Federal constitutional law has reflected a similar position. In its decision in Roe versus Wade, the Supreme Court established a constitutional right of women to be free from restrictions on their reproductive liberty, except where those restrictions were justified by a compelling state interest. The Supreme Court also decided, however, in Maher versus Roe, that the Constitution did not require the Government to fund abortions.

I believe that this fundamental framework was sound. It established a general right of women to make their own choices, early in pregnancy; it recognized the conditions under which a state had an interest in restricting abortion, late in pregnancy; and acknowledged that the Government was under no compulsion to fund this highly controversial activity.

I also believe that a Federal solution to this question—as this broadest level—is the right approach. I have always opposed the idea that "States rights" should be the deciding principle in setting abortion policy. One basic national rule, aimed at consensus and respect for divergent views—the middle ground—is what we must seek—not a patchwork of bitter and divisive fights, yielding only strife instead of national unity.

In 1989, starting with its decision in the Webster case, however, the Supreme Court has begun to undo the basic fabric which has shaped national policy in this area. The Court, in Webster, began to chip away at Roe's framework, and invited each state to pass new, restrictive abortion laws, to test the bounds of a new, emerging philosophy at the Court.

One product of this new Supreme Court approach—the Pennsylvania abortion statute—is pending before the Court, which is expected to hand down a ruling on it any day now.

In my view, this increasingly difficult fight cannot continue. In my view, the spectacle of 50 State battles over abortion; of endless waiting for the ever shifting lines at the court to be drawn and redrawn; of continuing rancor over the direction of this debate—in my view, none of this is healthy for us as a Nation; for our body politic; for our mutual respect as a diverse people.

In my view, then the only answer is Federal legislation which codifies the status quo before the Webster ruling. Such Federal legislation should restore the state of our national law to what it was in 1988: again, generally permitting abortions early in pregnancy; allowing State regulation later in pregnancy; and declining to fund or mandate funding of abortions at any time.

Senator MITCHELL's bill, as I see it, is such legislation. It expressly states, as its purpose, the achievement of the same freedoms of choice—and the same restrictions on that freedom—that were "provided, as a constitutional matter, under the strict scrutiny standard of review enunciated in Roe versus Wade and subsequent cases from 1973 to 1988."

The Mitchell bill does not override State laws regarding the funding of abortions; it does not override State laws requiring parental involvement in a minor's choice; it does not override State laws protecting individuals from being compelled to perform abortions unwillingly—on all these points it is specific in its terms and extent.

What the Mitchell bill does do—and why I am supporting it—is restore the Federal law to the situation that prevailed in this country from 1973 to 1988, and thereby, spare us from what will otherwise be one of the most contentious and unhappy periods of domestic strife in our Nation's history.

Now, some will surely say that, in its wording, the Mitchell bill has not faithfully codified Roe. But again, my support for this bill is conditioned on its express statement that the purpose of the legislation is to codify Roe, and no more.

If, as the bill moves through the Senate, persons or groups can persuade me that any aspect of the bill is inconsistent with this goal, I will support amendments to clarify this point further, or modify the bill if that is necessary.

Let me be clear on this point: I am not supporting this bill to change the pre-1989 law with respect to third-trimester abortions, or any such thing. I do not believe that that is what this law does, but, again, if I am persuaded otherwise, I will support changes in the bill, if necessary, to make it faithful to its limited, stated goal.

In the end, though, I am cosponsoring the freedom of choice act because I believe it is the best—perhaps the only—chance to restore the basic national consensus and tranquility that existed on the question of abortion prior to 1989.

In my view, this is the most responsible course we can take as a matter of public policy: Preserving a delicate balancing of rights and limitations that had been carefully developed over the preceding decades.

In my view, this is the only way we can properly protect the rights of all concerned, while hopefully moving towards national reconciliation on this, the most divisive of all questions confronting our country today.

Mr. WIRTH. Mr. President. I rise today as a cosponsor and strong supporter of the Freedom of Choice Act of 1992. This is the best opportunity we have to reestablish what has been a fundamental right for the last 19 years, and it is now, as we all know, under significant attack across the country—in our country's courts and by this administration.

The recent, broad attacks on women and their rights in this society is a terrible misfortune. It is time for us, Mr. President, to reaffirm our commitment to a woman's right to choose—reaffirm our understanding that this is not a decision in which the State, the Government at any level, should intervene.

In the landmark Roe versus Wade decision, the Supreme Court held that a woman's right to choose to terminate an unwanted pregnancy is a fundamental right protected by the Constitution. Unfortunately, a very different Supreme Court is about to rule on a Pennsylvania case that directly threatens this right.

This constitutional protection eliminated the patchwork of state laws that often lead to illegal and harmful abortions. It put an end to the butchery and brutal acts that we have all heard about with horror.

We all know examples in our own states of very real people facing very real decisions. In Colorado, Mr. President, the ability of a woman to make the decision herself to terminate an unwanted pregnancy is enormously important, both for her well-being and for that of the whole society. And that right should not be interfered with. Coloradans have fought various threats

to this fundamental right, but want federal protection of that right. They do not want to see a patchwork of state laws limiting their options. They want the right to choose to extend far beyond the borders of our own State.

Roe versus Wade guarantees that the government can not make intrusive decisions about an individual's health. Because many of us are profoundly concerned that the current Court, in a continuation of its chipping away at women's reproductive rights, will gut this decision, many of my colleagues and I are supporting the Freedom of Choice Act to codify the Roe decision. Enacting the Freedom of Choice Act would ensure, no matter how the Court rules, that this fundamental right is protected.

President Bush opposes the Freedom of Choice Act. But President Bush's voice will not stop us from fighting to protect that right. We have that obligation. Nor will we be stopped by Supreme Court decisions. Because the Court has clearly shifted to the point where it appears a majority of the Justices will not support the right to choose, we must push on as legislators, both in trying to pass bills and letting our opinions be heard by the Court.

For 19 years we have entrusted women to make thoughtful and responsible decisions about their own lives. Nothing, absolutely nothing, has transpired during that time that should change that. We live under the same Constitution. What has changed is the politics of this administration and the membership of the Supreme Court. Should the Court fail to protect these individual rights, we have an obligation to step in, once again, and reestablish those rights.

The right to choose is enormously important. It is not a right for a fringe group. it is a right that is supported by the overwhelming majority of the country and a majority of Congress. We must act now to ensure that the government does not get in the business of making critically important and private decisions for individuals. It is demeaning, it is wrong, it does not respect individuals as we should in this great country.

Mr. PACKWOOD. Mr. President, I rise today to join with Senators MITCHELL, CRANSTON, METZENBAUM, and 36 others from both sides of the aisle to introduce a substitute to S.25, the Freedom of Choice Act. As an original cosponsor of the Freedom of Choice Act since its inception in 1989, I have always appreciated the simplicity and brevity with which it was drafted. Only about a hundred words and just over a page long, it codified Roe versus Wade in a straightforward manner. However, those very qualities that endeared it to me were apparently cause for concern—not just among opponents of the bill, who charged that we were attempting to keep States even from enacting commonsense medical regulations—but from Senators who might otherwise be friendly to the bill but wondered if it would be interpreted in some ways they opposed, such as requiring States to fund abortions.

The newly drafted substitute being introduced today makes certain things crystal clear. It spells out in detail Congress' authority for enacting statutory rights in this legitimate area of national concern. And the question of whether States would be required to fund abortions is answered—they would not—and it is also clear that no medical person would be required to partipate in an abortion against his or her wishes. We original cosponsors always intended all of these things in the old bill. Now they are spelled out. There should be no more confusion, and I would hope no more accusations that our bill does things it does not.

In addition, the new Freedom of Choice Act specifies that States may legislate in the area of parental involvement. Of course, any restrictions would be subject to current constitutional safeguards as already required by the Court. It was never the intent of the original Freedom of Choice Act to change the law in this area, either. Now that is clear. That the act contains no blanket parental notice requirement that would affect all States is especially important to me, since my State, Oregon, has chosen to act on parental notice in the negative. They do not want it, and have made that clear by public referendum.

Mr. President, the Supreme Court may well overturn Roe versus Wade tomorrow. Therefore, the Freedom of Choice Act is the most timely legislation before this body. I hope we will act, and act soon, to pass this legislation, and will do everything in my power to ensure that we do. I thank the Chair.

Mr. HARKIN. Mr. President, I am proud to join with my colleagues as an original cosponsor of the Freedom of Choice Act. This bill will make a woman's right to choose the law of the land in America.

The Bush administration and the Supreme Court have shown their willingness to sacrifice women's rights to the radical right. Now it's clear that the Congress stands as the last best defense of a woman's right of privacy.

Unfortunately, the right to choose faces a clear and imminent danger. The Supreme Court may hand down its decision on the Pennsylvania case as early as Monday next week. It's certain to uphold provisions of the Pennsylvania antiabortion law, and if it does, the Court will eviscerate Roe versus Wade.

The Bush administration wants politicians to make a woman's most personal decision. It has asked the Court to give a green light to State laws restricting a woman's right to choose.

That is why we need the Freedom of Choice Act, and that is why I am here today. I believe women should have the right to make their own choices free from the heavy hand of Government. Ironically, the Bush administration talks so much about getting the Government off our backs, but when it comes to this most personal and private decision, it wants the Government to make the choice, not women.

We have a great challenge before us. We must pass the Freedom of Choice Act, codify Roe, and preserve a women's right to choose.

Mr. WIRTH. Mr. President, I rise today as a cosponsor and strong supporter of the Freedom of Choice Act of 1992. This is the best opportunity we have to reestablish what has been a fundamental right for the last 19 years, and it is now, as we all know, under significant attack across the country—in our country's courts and by this administration.

The recent, broad attacks on women and their rights in this society is a terrible misfortune. It is time for us, Mr. President, to reaffirm our commitment to a woman's right to choose—reaffirm our understanding that this is not a decision in which the State, the government at any level, should intervene.

In the landmark Roe versus Wade decision, the Supreme Court held that a woman's right to choose to terminate an unwanted pregnancy is a fundamental right protected by the Constitution. Unfortunately, a very different Supreme Court is about to rule on a Pennsylvania case that directly threatens this right.

This constitutional protection eliminated the patchwork of State laws that often led to illegal and harmful abortions. It put an end to the butchery and brutal acts that we have all heard about with horror.

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SETTLEMENT OF RAILROAD LABOR-MANAGEMENT DISPUTES

WELLSTONE AMENDMENT NO. 2452

Mr. WELLSTONE proposed an amendment to the joint resolution (H.J. Res. 517) to provide for a settlement of the railroad labor-management disputes between certain railroads and certain of their employees, as follows:

On page 2, line 3, strike all after the word "**CONDITIONS,**" and insert the following:

DURING RESOLUTION OF DISPUTES.

The following conditions shall apply to the disputes referred to in Executive Order Nos. 12794, 12795, and 12796 of March 31, 1992, between certain railroads and the employees of such railroads represented by the labor organizations which are party to such disputes:

(1) The parties to such disputes shall take all necessary steps to restore or preserve the conditions out of which such disputes arose as such conditions existed before 12:01 a.m. on June 24, 1992.

(2) All railroads ceasing operations on or after June 24, 1992, shall resume such service immediately upon enactment of this joint resolution and shall reinstate all positions in existence before 12:01 a.m. on June 24, 1992, without reprisal against any employee involved in such disputes.

(3) The final paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply and be extended for an additional period with respect to the disputes referred to in Executive Order Nos. 12794, 12795, and 12796 of March 31, 1992, so that no change shall be made before July 24, 1992 by such parties, in the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on June 4, 1992. On July 24, 1992, the parties will report back to the Congress on the progress of such negotiations.

SEC. 2. MUTUAL AGREEMENTS PRESERVED.

Nothing in this joint resolution shall prevent a mutual written agreement to any terms and conditions different from those established by this joint resolution.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on S. 2529, to provide for the transfer of certain lands to the government of Guam, and for other purposes.

The hearing will take place on Thursday, July 2, 1992, at 2 p.m., in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC. 20510, Attention: Allen Stayman.

For further information, please contact Allen Stayman of the committee staff at 202/224-7865.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration, U.S. Senate, and the Committee on House Administration, U.S. House of Representatives, will hold a joint hearing on Thursday, July 23, 1992, at 9:30 a.m., in SR-301, Russell Senate Office Building. The purpose of the hearing is to receive testimony on S. 2813, the GPO Gateway to Government Act of 1992 and H.R. 2772, the GPO Wide Information Network for Data Online Act of 1991.

Individuals and organizations interested in submitting a statement for the hearing record are requested to contact Bob Harris, Director of Information Systems and Technology on the Rules Committee staff, at (202) 224-9078. For further information regarding this hearing, please contact Mr. Harris.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 25, 1992, to receive testimony on S. 1879, to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, and for other purposes; 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 Mountains, in the State of Nevada, and for other purposes; S. 2397, to expand the boundaries of the Yucca House National Monument in Colorado, to authorize the acquisition of certain lands within the boundaries, and for other purposes; S. 2606, to further clarify authorities and duties of the Secretary of Agriculture in using 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, and for other purposes.

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

SUBCOMMITTEE ON MERCHANT MARINE

Mr. FORD. Mr. President, I ask unanimous consent that the Merchant Marine Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 25, 1992, at 10 a.m. on maritime reform.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 25, at 4 p.m. to hold ambassadorial nominations hearings.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 25, at 10 a.m. to hold hearings on Treaty Doc. 102-20, treaty between the U.S. and the U.S.S.R. on the reduction and limitation of strategic offensive arms—the START Treaty—and protocol thereto dated May 23, 1992, Treaty Doc. 102-32.

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

SUBCOMMITTEE ON SUPERFUND, OCEAN AND WATER PROTECTION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 25, beginning at 9:30 a.m., to conduct a hearing for the purpose of oversight of the Superfund cleanup process.

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

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, June 25, beginning at 9:30 a.m., in executive session, to discuss markup of the National Defense Authorization Act for fiscal year 1993 and to review certain pending military nominations, including information concerning the tailhook matter relevant to certain pending Navy and Marine Corps nominations.

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

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. FORD. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Thursday, June 25, 1992, after the first vote of the day, in the President's Room, off the side of the floor, to consider the nomination of James B. Huff, Sr., to be Administrator of the Rural Electrification Administration.

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

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent for the Senate Committee on POW/MIA Affairs to meet Thursday, June 25, at 9:30 a.m., in room 216 of the Senate Hart Office Building to examine the accounting process of the Department of Defense in regard to Americans missing in Southeast Asia.

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

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, June 25, 1992, at 2:30 p.m.

AGENDA

I. NOMINATIONS

U.S. Circuit Judges

Norman H. Stahl, to be United States Circuit Judge for the First Circuit.

U.S. District Judges

Thomas K. Moore, to be United States district Judge for the District of the Virgin Islands.

Eduardo C. Robreno, to be United States District Judge for the Eastern District of Pennsylvania.

Gordon J. Quist, to be United States District Judge for the Western District of Michigan.

II. COMMEMORATIVES

S.J. Res. 248—To designate August 7, 1992, as "Battle of Guadalcanal Remembrance Day"—Conrad.

S.J. Res. 252—To designate the week of April 19 through 25, 1992, as "National Credit Education Week"—Dixon.

S.J. Res. 281—To designate the week beginning September 14, 1992, as "National Rural Telecommunications Week"—Grassley.

S.J. Res. 287—To designate the week of October 4, 1992, as "Mental Illness Awareness Week"—Simon.

S.J. Res. 288—To designate the week beginning July 26, 1992, as "Lyme Disease Awareness Week"—Lieberman.

S.J. Res. 294—To designate the week of October 18, 1992, as "National Radon Action Week"—Lautenberg.

S.J. Res. 295—To designate September 10, 1992, as "National D.A.R.E. (Drug Abuse Resistance Education) Day."—DeConcini.

S.J. Res. 301—To designate July 2, 1992, as "National Literacy Day"—Lautenberg.

S.J. Res. 303—To designate October 1992, as, "National Breast Cancer Awareness Month"—Pell.

S.J. Res. 304—To designate January 3, 1993 through January 9, 1993, as, "National Law Enforcement Training Week"—Roth.

S.J. Res. 305—To designate the month of October 1992, as, "Polish American Heritage Month"—Simon.

S.J. Res. 307—To designate the month of July 1992, as, "National Muscular Dystrophy Awareness Month"—McCain.

S.J. Res. 309—To designate the week beginning November 8, 1992, as "National Woman Veterans Recognition Week"—Cranston.

S.J. Res. 319—To designate the second Sunday in October of 1992 as "National Children's Day"—Kassebaum.

S.J. Res. 318—To designate November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day"—Kerry.

III. BILLS

S. 1521—A bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material—McConnell.

S. 1096—A bill to ensure the protection of motion picture copyrights, and for other purposes—Kohl.

H.R. 2324—A bill to amend Title 28, United States Code, with respect to witness fees—Hughes.

H.R. 2549—A bill to make technical corrections to Chapter 5 of Title 5, United States Code—Frank.

H.R. 3379—A bill to amend Section 574 of Title 5, United States Code, relating to the authorities of the Administrative Conference—Frank.

S. 1569—A bill, in the nature of a substitute with an amendment, to implement the recommendations of the Federal Courts Committee, and for other purposes—Heflin.

S. 2099—A bill, in the nature of a substitute, to amend the Immigration and Nationality Act to designate special inquiry officers as immigration judges and to provide for the compensation of such judges—Kennedy.

S. 2087—A bill to prohibit certain use of the terms "Visiting Nurse Association", "Visiting Nurse Service", "VNA", and "VNS"—Simon.

S. 1697—A bill to amend title IX of the Civil Rights Act of 1968 to increase the penalties for violating the fair housing provisions of the Act, and for other purposes—Specter.

S. 2610—A bill to amend the antitrust laws to provide a cause of action for persons injured in United States commerce by unfair foreign competition—Metzenbaum.

S. 2792—A bill to amend and authorize appropriations for the continued implementation of the Juvenile Justice and Delinquency Prevention Act of 1974—Kohl.

S. 790—A bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market—DeConcini.

S. 526—A bill to extend for 10 years the patent for the drug Ethiofos (WR2721) and its oral analogue—Thurmond.

S. 1165—A bill to extend the patent term for certain products—Levin.

S. 1506—A bill to extend the terms of the olestra patents, and for other purposes—Glenn.

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

ADDITIONAL STATEMENTS

OFF WELFARE THROUGH LEARNFARE

• Mr. SIMON. Mr. President, one of the most respected people I have had the chance to observe in public life is the former Chairman of the Joint Chiefs of Staff, Gen. David C. Jones.

Recently, he made a speech on the topic "Off Welfare Through Learnfare," in which he talks about the need for seeing to it that people who do not get to the traditional colleges should have the opportunity to get training.

It is an eloquent statement about the direction that we ought to be going in this Nation.

I believe that we will make some progress in this direction through the conference report on higher education, but we still have a long way to go, and General Jones' remarks should be an inspiration to all of us.

I ask to insert them in the RECORD at this point.

The remarks follow:

OFF WELFARE THROUGH LEARNFARE

The most recent spasm of ethnic violence in Los Angeles and other American cities has sharply dramatized the persistent socioeconomic gulf in our society. Despite the best of intentions and vast sums of taxpayers' money targeted at minority advancement, America still faces stubborn inequities in economic attainment and quality of life among many of our citizens.

Particularly distressing is the growing realization that the solution has become the problem. Contemporary support programs have succumbed to the Law of the Unintended Consequence: not only have large and increasing welfare costs failed to lift recipients out of poverty, they have actually created a class of welfare dependents, stripped of both the work ethic and the family values that have always proven to be the foundation for upward mobility.

Americans at every economic level are growing restive at the lack of progress and many are questioning simplistic prescriptions for increased spending on failed approaches. So-called "workfare" is being demanded in some quarters as a replacement for welfare. Workfare enjoys the societal advantage of producing potentially useful work and is a politically appealing alternative to the perceived "handouts" of welfare payments. However, no matter how successful workfare may be, it distorts the free market process, the recipients are still on government rolls, and another bureaucracy must be formed to administer the program.

The only truly long-term solution in a free market democracy is equitable employment opportunity for the socioeconomically disadvantaged. This requires both that new jobs

be created in the private sector and that applicants acquire the qualifications to compete for and perform these jobs. The key to the latter requirement is training to learn new skills.

The economic and societal successful experienced with this process on a limited scale suggest a potentially wider role for government-assisted job training as a way to break the cycle of poverty, unemployment and welfare. The new approach—"learnfare"—could become an alternative to both welfare and workfare.

Conceptually, learnfare would embody guaranteed job training for all who quality. The system would provide government loans for learning along with conventional welfare support during training for those in need. Upon completion of their training recipients would be qualified to join the work force and leave welfare rolls. The key difference in approach is that welfare can never be more than a safety net, while learnfare is a ladder out of the welfare trap. The foundation for this shift in emphasis already exists today and an expanded learnfare program can be implemented with no increased net cost to the government.

Vocational training institutions—more properly known as proprietary schools—have for many years stood at the forefront in addressing the training needs and job placement of our socioeconomically disadvantaged citizens. A study by Ohio University economist I.A. Ghazala shows that proprietary school graduates earned 20 percent to 55 percent more than high school graduates in male dominated fields and 50 percent to 90 percent in female dominated jobs. Other studies show that proprietary schools benefit graduates more than any other government-supported jobs program, including the Job Corps.

Other non-governmental education institutions have, for the most part, ignored this segment of our population, largely because it doesn't represent a particularly lucrative clientele. Proprietary schools' most important contribution has been their alternative approach to education: emphasizing practical skill training rather than teaching a theoretical academic curriculum.

Because proprietary schools service primarily the highest risk students, they predictably experience the most severe problems with attendance, course completion, loan repayment, etc. Furthermore, in the past, loose regulations and spotty oversight prompted many abuses.

Nor were all the abuses confined to fraudulent "fly-by-night" opportunists, taking advantage of the loose regulatory climate. Even some of our most prestigious universities failed to maintain reasonable standards during that period.

The actions taken by the Executive and Legislative branches have led to marked improvements in the quality of the proprietary schools. Further efforts to promote improved accountability and more rigorous standards are certainly appropriate. However, legislative and policy initiatives should be governed by a system-wide view of this very complex industry, not by a fixation on "reforming" a single highly visible facet such as loan default rates.

There is a serious danger with pending legislation that, among other things, seeks to impose a more stringent loan default ceiling. Penalizing those schools whose students fail to meet those standards by denying access to Title IV funds could well drive the schools out of the socioeconomic disadvantaged areas where they are most needed.

The unintended consequences would be tragic: without loan guarantees there are no students; without students there are no proprietary schools; without proprietary schools there is no job training; without job training, there is one less passport available out of the poverty and hopelessness of the inner city. If workfare job training is to be provided in these high risk areas, the higher risk of loan default must also be recognized.

A Department of Education study of post-secondary student aid programs documented the difficulty of administering education for high risk students. Risk factors and default experience correlated as follows:

Risk factor	Low default	High default
Sex	Male	Female.
Marital status	Married/single	Divorced/widowed/separated.
Ethnic group	White/Asian	African/American/Hispanic.
Socioeconomic status.	High	Low.
Dependents	None	One or more.

Moreover, the study confirmed a positive correlation between the number of risk factors exhibited by students and their likelihood of defaulting on a student loan. Default rates ranged from over 35 percent to as high as 55 percent for students with four or five risk factors present—the very segment of the population most in need of workfare training and the "target audience" for many proprietary schools.

A key issue is what maximum default rates are appropriate for good quality schools in the high risk areas. A comprehensive evaluation of this issue must take into account the positive impacts of reduced welfare payments, higher income taxes paid and the intangible but undeniable social benefits of breaking dependence on welfare.

Fortunately, an analysis taking into account all of the factors—government benefits paid, income tax paid and default costs—demonstrates conclusively that the Government, society and the individuals come out far better, even with a default rate as high as 35 percent, when compared with the consequences of not providing training.

The attached analysis was compiled using financial aid records and student surveys from a proprietary school in Los Angeles that provides a seven month program to prepare students for entry level positions in medical and dental offices. A default rate of 35 percent was assumed.

Considering all factors, this analysis shows the following:

Without training: The 263 students received $201,144 per year in government welfare assistance and paid $23,923 in income taxes. The net annual cost to the government equals $177,221.

After training: The government welfare assistance is reduced to $82,110 and the income tax paid increased to $184,775. The net annual return to the government is $102,665 and the net annual benefit (actual return plus cost avoidance) is $279,886. Even when the one-time default cost of $209,024 is factored in, the government comes out better the first year.

These conclusions are representative of the larger proprietary school industry, but the numbers will naturally vary somewhat from school to school and course to course. What does not vary is that our society and individuals are far better off if training is provided and the government comes out ahead financially.

Clearly, some differential in maximum allowable default rates is appropriate since schools operating in high default risk areas are doubly at risk. First, as alluded to earlier, the student population they service is statistically much more likely to default than are students from lower risk areas. Second, default rates are calculated on the percentage of students in default, with no regard to the amount of loan defaulted. Students in low risk areas generally borrow considerably more money. Consequently, a school with high risk students may have a higher default rate, but the dollar loss to the government from defaults in lower risk areas could be considerably higher. Therefore, it is recommended that schools in high risk areas have a maximum of 35% while low risk schools have 30%. A rate less than 35% is likely to drive many of the schools out of the high risk areas, to the detriment of all.

In conclusion, Congress should seize the opportunity occasioned by the reauthorization of the Higher Education Act of 1965 to redirect the thrust of the nation's discredited welfare system. Given reasonable standards of proprietary school accountability in the context of the population being served, learnfare can substitute jobs for unemployment, pride for hopelessness, and mainstream involvement for alienation.

On financial grounds, learnfare is in the best interests of the government—and therefore the taxpayer. This conclusion applies both to the direct monetary benefits as detailed in the accompanying analysis and to the substantial hidden costs associated with unemployment, crime, and social unrest. On socioeconomic grounds, learnfare's support and incentives for jobs strengthens both the economic health and the social fabric of our society. Learnfare should be studied, validated and implemented as a matter of urgent national priority.

ANALYSIS

The following analysis pertains to a high risk school in Los Angeles which is in danger of losing access to Title IV funds due to the proposed default rate ceilings. If these funds were denied, the school would have to close. This situation is typical of other high risk schools. This analysis was compiled using financial aid records and student surveys. The school provides a seven month program to prepare students for entry level positions in medical and dental offices. A default rate of 35 percent was assumed.

Student loan information:	
Students in repayment	263
Students defaulting	92
Average loan value	$2,272
Total default loss (1 time)	$209,024
Cost-benefit analysis for 263 students	
Annual cost to Government prior to training:	
Students employed at time of enrollment	28
Average annual salary	$8,544
Total annual wages	$239,232
Annual Federal income taxes (assumes 10 percent of wages)	$23,923
Students receiving government assistance	87
Average annual benefit	$2,312
Total cost of Government assistance given directly to students	$201,144
Net annual cost to Government	$177,221
Financial benefit to Government after training:	
Students completing course (61 percent)	161
Students placed in jobs (69 percent)	111
Annual average salary	$13,872
Total annual wages	$1,539,792

Annual Federal income tax (assumes 12 percent wages)	$184,775
Students on government assistant	34
Average annual benefit	$2,415
Total cost to Government	$82,110
Net annual benefit to the Government	$102,665
Annual cost to Government: No training	($177,221)
Annual benefit to Government: After training	$102,665
Annual differential advantage to Government	$279,886

The annual differential advantage of $279,886 is obtained at a one time default cost of $209,024.

Note: 148 students were in independent status before training and 118 after training. Any indirect assistance they may receive from the government was not considered. Whatever the numbers are, they work in favor of the after training example.

If one wants to exclude the income tax differential from the analysis on the premise that someone will have any given job and therefore pay the tax regardless of the training program, the annually recurring financial benefit accruing to the government from reduced welfare cost alone ($119,034) is a powerful argument in favor of the learnfare approach.

Obviously, this analysis could not quantify the many societal benefits of productive, well-trained citizens. However, no reasonable observer could deny that increased learnfare training and employment must produce significant indirect savings in such areas as unemployment administration, law enforcement, legal proceedings, etc.

LOAN ACCESS PROPOSAL

Currently access to loans is especially critical for students at the lower end of the socioeconomic spectrum who wish to study at a proprietary postsecondary school. However, recent actions by the commercial banking community (including large banks such as Bank of America) have greatly reduced, and in some cases, eliminated, access to student loans for programs shorter in length than two academic years. The stated reasons are higher default rates and the shorter term of the loan, which translate to higher loan servicing costs for the lending institution. A further potential barrier is a proposed reduction in payment to lenders to equalize the student loan rate to a market rate.

To provide equal access to Title IV funding, banks should be precluded from arbitrarily applying their own internal, more restrictive standards of minimum program length and default rates. At the same time, to remain equitable and to provide the incentive for lenders to grant shorter term, smaller student loans, the formula for payment to lenders must take into account the higher cost of servicing such loans. One possibility would be a graduated scale for payment to lenders when the student begins repayment, as follows:

Balances less than $5,000: T-Bill plus 3.75 percent.

Balances of $5,000-$10,000: T-Bill plus 3.50 percent.

Balances greater than $10,000: T-Bill plus 3.0 percent.

Finally, the need to strengthen the lender of last resort requirement cannot be overemphasized. The current system in many states does not provide equal access to the Title IV program. Each state should be required to provide a timely and effective lender of last resort as a condition for participating in the Title IV program.•

WINNING REELECTION

• Mr. SYMMS. Mr. President, as the 1992 campaign for President draws closer, the political pundits are predicting what the candidates must do to win reelection. One of the oft-heard pieces of advice inside the Washington, DC, Beltway, is that the strength of the environmental movement demands that candidates do the bidding of the most elite element of our society. For those of us who have been out on the hustings, nothing could be further from the truth.

Recently, an article appeared in the Owyhee Avalanche which addressed this issue, specifically as it relates to President Bush.

Mr. President, I ask that the article, "Why It's Bad Politics, Not To Mention Bad Public Policy, for George Bush To Go Green," be placed in the CONGRESSIONAL RECORD at this point.

The article follows:

[From the Owyhee Avalanche, May 6, 1992]

WHY IT'S BAD POLITICS, NOT TO MENTION BAD PUBLIC POLICY, FOR GEORGE BUSH TO GO GREEN

(By William Perry Pendley)

According to White House experts, President Bush must move to the left on environmental issues to win reelection. Unfortunately for George Bush, his political advisors, and for the nation, such a leftward move is not just disastrous public policy, it is abysmal politics.

While Bush's advisors are correct that opinion polls reveal that a majority of American people are "environmentalists," Meg Greenfield of the Washington Post, says the word means too many different things to have political significance. More instructive is a Roper Organization poll which concludes that only 22 percent of Americans can be called hard core environmentalists.

Where are these folks and to what degree do they influence elections? The answer: in Maine, Vermont, Massachusetts, New Jersey, Wisconsin, Minnesota, Washington, Oregon, and, to a degree, California. It should come as no surprise, therefore, that Governor Dukakis carried a majority of those states, winning in Washington, Oregon, Minnesota, Wisconsin, and Massachusetts. He almost carried Vermont.

Frankly, it is surprising that Dukakis did not do better, since he had massive support from environmental organizations and was the beneficiary of the eight years of trashing of the Reagan-Bush Administration by the environmental lobby and its allies in the media.

Still, nervous White House types note that Dukakis "almost" carried California, losing by a "scant" 300,000 votes. They overlook the fact that, except for the Reagan anomaly of a popular former Governor, elections for president in California have always been close. Nixon carried California by 100,000 votes in 1960 and by 200,000 votes in 1968. Ford won by 100,000 votes in 1976. Thus Bush's 300,000 vote margin demonstrates not weakness, but strength.

In California, there are only three major counties which vote Democratic: San Francisco and Alameda, which each yield a 100,000 vote Democratic margin, and Los Angeles, which yields a 200,000 Democratic vote margin. In order to win, Republicans must offset this 400,000 vote margin, primarily from southern California. There Orange County yields Republican margins of 300,000; San Diego 150,000; San Bernardino and Riverside counties 75,000 each; Ventura County 40,000 to 50,000 and Kern County 30,000. Thus, the Republican margin, statewide, is some 680,000—nearly 300,000 more than that of the Democrats.

With these margins, why did Ford almost lose California in 1976? The answer: because conservative voters in Riverside and San Bernardino Counties—many whose families came from the South—saw Carter as the more conservative candidate. Similarly, Bush's vulnerability in California is not because he cannot win over environmental voters—and no matter how hard he tries, he cannot—but because leftward movement endangers the margins critical to Republican victory. In addition, the swing voters in Los Angeles County, where Bush might eat into the Democratic margin, are not those persuaded by elitist environmental rhetoric but are Hispanics and Asians—people almost totally missing from environmental organizations and people for whom jobs, opportunity, education and family values are of major importance.

As President Bush moves to the left on environmental issues for the sake of California, what happens to the rest of the country? The experience of Gerald Ford is instructive.

In 1976, President Ford failed to carry Ohio by 11,000 votes—a key loss since Ohio, plus any other state (Hawaii, Mississippi or Wisconsin), would have elected him president. Ford didn't lose Ohio because Cleveland yielded bigger margins for Carter than for Humphrey or McGovern, but because Carter did better in the Republican areas of southern Ohio. Once again, as in California's Riverside and San Bernardino Counties, Carter was seen as the more conservative of the two candidates.

As important as is the impact of Bush's leftward tilt upon voters in these traditionally conservative regions, is its impact upon the activists—like members of the American Farm Bureau Federation—who are key to any Republican victory. The White House team may have gotten a partial answer earlier this year at the American Farm Bureau Federation Convention where President Bush became the first president in history not to receive a standing ovation.

We can only wonder if President Bush got the message.•

PRICE INVERSIONS

• Mr. SIMON. Mr. President, I rise today to give more examples of price inversions in the retail gasoline market. I have been making statements on this issue on a weekly basis since the middle of May.

Some of my colleagues may not yet be aware of what is going on in the retail gasoline market. Price inversions are the continuing practice by some major refiners to charge their wholesale customers more for gasoline or diesel fuel than they charge retail motorists at the pump. This practice will eventually eliminate the prime source of competition in the motor fuel marketing industry, the independent motor fuel marketer.

I continue to receive reports of these inversions from all over the country. I recently received a letter from a strug-

gling small petroleum distributor in New York who was a victim of price inversions. On May 28, 1992, this individual passed by one of his supplier's stations and noticed that the price quoted at a refiner-operated outlet was $1.119 for a gallon of gasoline in Norwich, NY. This refiner was charging a wholesale rack price of $1.1048. By the time freight costs are added in, the wholesaler's cost was $1.1298. There is no way this wholesaler can compete with his own supplier in this kind of situation.

I also received information about a similar situation in Atlanta, GA. On June 12, 1992, a refiner was selling unleaded gasoline for $.9419 per gallon, before sales taxes are added in. The same refinery was charging wholesalers $.9357 per gallon, including freight. But the wholesaler had to pay a 3-percent credit card fee on all credit card sales by himself or his resale customers. These credit card sales run about 50 percent of volume in that market. Thus, the charge to the wholesaler is $.9497, which is higher than the retail street price charged by the supplier.

Finally, in the last week I received a letter from a man in Red Bud, IL. He has been a distributor for a major petroleum company for more than 20 years. He has verified at least six instances this year when company station prices in Belleville, IL, were lower at the pump than what he paid for the product at the refinery, after adjusting for taxes and freight.

There is no way refiners can make the argument that these examples are isolated instances. I regularly receive letters explaining similar situations all over the country. Only some examples are used in these statements.

Mr. President, these examples of price inversions are clearly affecting competition in the petroleum markets. These price inversions are squeezing out the small petroleum distributors around the country. If these tactics are allowed to continue, more and more independent motor fuel marketers and retailers in this country will go out of business.

I ask my colleagues to carefully consider what will happen to the consumers of this country if these inversions are allowed to continue. Congress must move on legislation to correct these price inversions before the end of this session.●

IN RECOGNITION OF RTKL ASSOCIATES, INC.

● Mr. SEYMOUR. Mr. President, I rise today in recognition of RTKL Associates, Inc. of Los Angeles, CA, upon their receipt of the President's "E" Award for Excellence in Exporting presented to them by the U.S. Department of Commerce on May 14, 1992.

RTKL is one of the few architectural engineering firms to ever receive the "E" award. They were cited by the Commerce Department for the firm's above-average industry billings and for its particularly visible presence in Japan. International work represented 14 percent of RTKL's 1991 billings, compared with an industry average of 2 percent.

According to the United States Embassy in Tokyo, RTKL has more projects underway in Japan than any other United States A/E firm and is the first foreign firm eligible to compete for Japanese Government construction projects in all nine Regional Construction Bureaus of the Ministry of Construction.

International revenues were $7.5 million in 1991. Indonesian projects represented 24 percent or the largest share of international billings. All the Indonesian work has been won by RTKL, Los Angeles. Japanese projects accounted for the second largest share at 18 percent. The balance came from projects in Mexico, Korea, England, Australia, Thailand, Brazil, Canada, The Netherlands, Spain, France, Germany, Singapore, Taiwan, Portugal, Belgium, Panama, Egypt, and the Phillipines.

Overall, 60 to 70 percent of the firm's international work is within the Pacific rim. By far the greatest percentage of that work has also been won by RTKL's Los Angeles office. In fact, the Los Angeles office currently has projects in Malaysia, Thailand, Singapore, the Phillipines, Australia, Japan, and Korea. RTKL Los Angeles takes great pride in the fact that they are making a significant contribution to California's efforts to increase exports.

As you know, the "E" award was created by Executive order of the President in 1961 to afford suitable recognition to persons, firms, or organizations that contribute significantly in the effort to increase U.S. exports. RTKL's receipt of this distinguished award is evidence of their strong contribution to the betterment of exportation not only in California but across the Nation as well.

Mr. President, I ask my colleagues to join me today in honoring RTKL for their extraordinary efforts.●

OWNERSHIP FOR BANK EXECUTIVES

● Mr. SIMON. Mr. President, about 3 years ago—and I may be off on the time factor here—Thomas C. Theobald became the chief executive officer of Continental Bank in Chicago. He has done a superb job of taking charge there, from everything I hear and read.

Some weeks ago, he was quoted in the Chicago Tribune as saying that bank executives ought to have a stake financially in the future of their banks, more than just salary.

It made so much sense to me that I wrote and asked him for a copy of his remarks.

I have since shown his remarks to others in the banking field, and everyone seems to agree that what he says makes sense.

I would hope we could take some steps in the direction that he suggests that could ultimately save billions of dollars in insurance funds, as well as create a sounder bank system in this country.

I ask to insert his remarks in the RECORD at this point.

The remarks follow:

REMARKS OF MR. THOMAS C. THEOBALD

Chairman William Taylor of the FDIC wants higher capital ratios for banks. So does Congress. A major argument is, "If a bank has more to lose, it won't take silly chances with insured deposits."

Intuitively logical, but wrong! It's half a syllogism—the real formulation is, "If the bank's management (and directors) have more to lose, it won't pursue long-odds strategies."

Numerous academic studies by business researchers have focused on so-called agency problems in corporate governance. the biblically-old conflict between the motivations of managers (shepherds) and owners still haunts management gurus. Contrived compensation packages strive to link motivations between day-to-day corporate managers and shareowners, but never fully succeed.

Further, public and legislative credibility for such arrangements as incentive bonuses and stock options has never been lower.

Yet there is a simple solution: Mandate significant ownership commitment for corporate and bank managers. No single step more effectively puts the various interested parties into each other's shoes.

Those allegedly greedy LBO firms in pursuit of their own self-interest would never back a deal in which management did not risk its own money. Venture capitalists almost inevitably demand that the entrepreneur mortgage his or her house to demonstrate wholehearted commitment to the undertaking. Similar requirements of personal financial risk are routine in virtually every lending arrangement.

Privately owned companies in every phase of their development typically can more easily resolve conflicts between short-term results and long-term investment, or trade off between potential risk and return in longer time frames. Having observed thousands of companies up close over my 30-year career, I am convinced that privately held businesses are better run—not because the managers are smarter, but simply because so many potential conflicts are defused. Owner/managers have an easier job.

By their nature, America's banks are capital-intensive, with equity accounts in the tens of millions and even billions of dollars. So purely private ownership is seldom feasible.

But real financial commitment, real ownership, is totally practical for managers and directors. Indeed, every employee can develop a meaningful ownership stake through ESOPs, profit-sharing plans, and similar vehicles.

The relationship between ownership and performance is well documented by research in other industries. For example, a study of the chemical, high-technology, and insurance industries found that companies with a higher percentage of insider ownership have a substantially better three-year average

ROE than companies with a low percentage of ownership.

This correlation exists in banking as well. Our analysis of the ten banks in the Salomon 50 Bank Index with the highest management ownership shows much better credit records than those of the ten lowest-management-owned banks. In fact, we find that as the average percentage of ownership decreases, the average ratio of nonperforming assets to total assets increases. This shouldn't be surprising—managers don't want to lose their own money!

Demanding still higher capital ratios (which automatically means fewer loans) for banks is an indirect and inferior way to get to the ultimate target—a well-informed, careful, and long-term trade-off between risk and return in the management of our nation's banking system. Instead we should require bank managers to put their money on the line.

(Tom Theobald is chairman of Continental Bank Corp., which has an ESOP and mandated stock ownership for senior managers and directors.)•

THE FREEDOM OF CHOICE ACT OF 1992

• Mr. DODD. Mr. President, I want to express my strong support for S. 25, the Freedom of Choice Act—particularly the revised version proposed today. In my view, Roe versus Wade was a sound decision in its affirmation of the right to reproductive choice. The Freedom of Choice Act would codify this right into statutory law. This step becomes necessary because of the Supreme Court's steady erosion of a woman's right to free choice in its recent decisions. I am among those who fear that the upcoming Casey versus Planned Parenthood may so severely limit the right to choice that enactment of the Freedom of Choice Act will be absolutely necessary.

The issue before us today is at once moral, legal, and political. It divides our country—summoning convictions and certitudes that cross racial, economic, and geographic boundaries—as no other issue has since the Vietnam war. All of us have thought long and hard about reproductive choice. Most of us have probably already made up our minds.

I am a principal cosponsor of the Freedom of Choice Act. I am keenly aware of the moral dilemmas—of the indistinction between a potential versus an actual life. The only point upon which we can all agree is that there is no agreement. No convocation of scientists, religious leaders, or philosophers could resolve the matter. The ethical predicament is difficult beyond words. So, in the absence of anything resembling a consensus, we are left with the necessity of deciding who best should decide—government or a woman and her doctor?

The Freedom of Choice Act was drafted in the belief that this fundamental right belongs to all women and should not vary from State to State. It would write into Federal law the 1973 Supreme Court decision on Roe versus Wade, guaranteeing freedom of reproductive choice. And I support this legislation, not out of moral certitude, but out of profound doubt. So deeply personal and emotional a decision is best made by the individual and not by the State. I know that most Americans share this view.

In 1990, the Connecticut General Assembly passed a strikingly direct law, making the decision to terminate a pregnancy prior to fetal viability solely that of the pregnant woman in consultation with her physician. Because nearly all abortions occur before viability, the law means that women in Connecticut will have virtually unrestricted reproductive choice. This makes Connecticut the first and only State to guarantee this right at the present time. The Connecticut law is, in fact, the State level equivalent of the Freedom of Choice Act.

We in Connecticut believe our State statute to be a model and triumph. But our sense of accomplishment is tempered by the realization that the reproductive rights of women in other States may be in doubt.

We are at a critical juncture. The President's rigid, implacable opposition to choice—and the willful selection of a Supreme Court antagonistic to Roe versus Wade—creates a dangerous situation where two of the three branches of Federal Government are hostile to reproductive choice. The Casey ruling will likely be another step backward.

Nonetheless, I believe that 1992 represents the high water mark of the antichoice movement. The realization that reproductive choice can no longer be taken for granted has galvanized the pro-choice majority. Ultimately, this, our representative government, will reflect the will of the people. Though formidable obstacles remain, I am increasingly confident that reproductive choice will remain a profoundly private and personal right that is protected by law, if not by the courts.•

THE DECISION IN LEE VERSUS WEISMAN

• Mr. SIMON. Mr. President, I rise today to bring attention to an aspect of yesterday's Supreme Court decision in Lee versus Weisman, which causes me great concern.

I do not come to the floor to debate the substance of the decision, nor the Lemon test which is used to analyze establishment clause cases. Rather, I want to point out a glaring inconsistency between Justice Thomas' testimony during his confirmation hearing regarding his views on the establishment clause and his views as expressed in the dissent of Lee. In Lee, Justice Thomas joins Justice Scalia, who writes the dissent. In discussing the Lemon test the dissent states:

> Our religion-clause jurisprudence has become bedeviled (so to speak) by reliance on formulaic abstractions that are not derived from, but positively conflict with, our long-accepted constitutional traditions. Foremost among these has been the so-called Lemon test, * * * which has received well-earned criticism from many members of this Court. * * * The Court today demonstrates the irrelevance of Lemon by essentially ignoring it, * * * and the interment of that case may be the one happy byproduct of the Court's otherwise lamentable decision.

This statement stands in stark contrast to Justice Thomas' response to questions by Senator KOHL on Lemon. In his testimony, then Judge Thomas stated:

> The Court has established the Lemon test to analyze the Establishment Clause cases, and I have no quarrel with that test.
>
> The Court, of course, has had difficulty in applying the Lemon test and is grappling with that as we sit here, I would assume, and over the past few years, but the concept itself, the Jeffersonian wall of separation, the Lemon test, neither of these do I quarrel with.

It is disheartening to me that in this very short timeframe, just months, Justice Thomas seems to have changed his position so dramatically. I can only speculate that because the process has become so politicized, a nominee's ability to be candid is lost.

Just this morning, Chairman BIDEN gave an excellent statement regarding his views on the confirmation process and changes he feels need to be made to improve the process. He specifically addressed the deterioration of the debate and the inability of the Senators to discuss with the nominee the fundamental issues which should confront the Court in the next decade and beyond. I second Senator BIDEN'S suggestion that the President sit down and engage in real consultation with the Senate leadership before he sends us a nomination. That respects the Senate's advice and consent role and it serves the Nation well. I look forward to working with the chairman on his recommendations as they may be the only way to solve the problem that is so starkly highlighted in the Lee case.•

IN RECOGNITION OF IRA NORRIS

• Mr. SEYMOUR. Mr. President, I rise today in recognition of a very dear colleague and friend of mine upon his receipt of the 1992 Los Angeles Housing Man of the Year Award for the National Housing Conference, Inc., Mr. Ira Norris.

Ira Norris is president and founder of Inco Homes, the recognized affordable housing leader in southern California and perhaps, the Nation. Inco Homes specializes in single-family homes for the entry-level and first-time move-up markets. Ira has often been quoted in leading local and national publications, such as the Wall Street Journal, Reader's Digest and U.S. News & World Report.

Ira has been named builder of the year by the Building Industry Association of Southern California and twice by BIA/Baldy View. He has also received the National Housing Conference's Housing Person of the Year Award. Inco has won the National Association of Home Builders' Silver MIRM Project of the Year Award and the Pacific Coast Builders Conference Gold Nugget Award for Best Affordable Housing. In short, Ira Norris and Inco Homes has provided a much-needed and valued resource for southern California—affordable housing.

Ira is also deeply involved with several local charities, such as the Anti-Defamation League and the Arthritis Foundation. He is also a frequent lecturer at Pepperdine University and the University of Southern California, Graduate School of Urban and Regional Planning and teacher at the University of California, Riverside.

In short, Mr. President, Ira Norris is an outstanding leader in the housing industry and is most worthy of this special recognition. I ask that my colleagues join me today in commending and congratulating Ira on his honor as the 1992 Los Angeles Housing Man of the Year. As stated by Henry David Thoreau, "If one advances confidently in the direction of his dreams, and endeavors to live the life which he has imagined, he will meet with a success unexpected in common hours." Ira Norris is a living example of Thoreau's quotation.●

PROMOTE COMPETITION IN RETAIL GASOLINE MARKET

● Mr. DECONCINI. Mr. President, last week I made a statement in support of S. 790, a bill to amend the antitrust laws in order to promote wholesale and retail competition in the retail gasoline market. Today, I want to reiterate the harm being suffered by independent fuel marketers and retailers in this country due to serious anticompetitive practices in the retail gasoline market. Without immediate action to curb these practices, the survival of the independent motor fuel marketer is threatened. This threat is certain to harm the American motorist.

Arguments are being raised that existing laws such as the Petroleum Marketing Practices Acts [PMPA], the Sherman Act, or the Robinson-Patman Act provide sufficient safeguards to protect competition within the retail gasoline market. However, the reality is that existing law is inadequate to resolve the problems faced by many independent gasoline dealers.

The PMPA, 15 U.S.C. 2801, generally prohibits all terminations of franchises and nonrenewals of franchise relationships. It then sets forth a list of exceptions to the general rule, exceptions which have swallowed up the general rule thereby weakening its ability to protect the independent dealer from an unwarranted termination.

A further problem with relying on the PMPA is that its repressive preemption provision effectively precludes the States from taking action to stop the abuses within the industry. Dealers are often faced with weak Federal law on the one hand and with a repressive preemption provision that tends to block State action on the other.

Finally, the PMPA is inadequate in addressing the economic eviction techniques in widespread use by oil companies today. This is so because the PMPA is ineffective in preventing refiners from engaging in economic eviction by use of rent increases; unfair wholesale pricing, and other measures such as unprofitable and unsafe 24-hour operation, that drive up the cost of doing business to the point that even highly efficient franchisees are driven out of the business. Furthermore, the PMPA allows an oil company to make changes in a franchise agreement it wants so long as the changes are made in good faith. PMPA's good faith standard focuses on the subjective intent of the oil company and precludes any application of an objective standard thereby rendering it one of the weakest standards in American law. Generally, whenever termination is desired, the oil companies can find good cause.

Like the PMPA, the antitrust laws also provide no meaningful protection for the independent gasoline dealer who is faced with unfair competition from his own supplier. Take the situation where the supplier transfers gas to its company operated station for less than what it sells to the dealer. This creates an economically important situation for the dealer and forces him to file suit, alleging breaches of the Sherman Act. Assuming that the dealer can afford the legal and expert witness fees, let's look at what would happen in this case.

Section 1 of the Sherman Act prohibits "contracts, combinations, or conspiracies in restraint of trade." This requires at least two separate actors. The Supreme Court has held that a parent corporation and its subsidiary are incapable as a matter of law of violating section 1 because they are a single economic entity that cannot "contract, combine or conspire with one another." The bottom line is that the dealer's section 1 claim will be thrown out on a jurisdictional basis.

Section 2 of the Sherman Act deals with the offenses of monopolization and attempted monopolization, usually by a single firm. To violate the statute, one must either monopolize or attempt to monopolize, with a dangerous probability of success relevant to the product and the geographic market area. In our case, let's assume that refiner X has 25 percent of the market and has decided to eliminate all of its dealers and turn the stations into company operated stations. The 25-percent market share would not be enough to mandate a finding of market power necessary to sustain a section 2 violation. Thus, section 2 would offer no assistance to the affected dealer.

Also of no assistance to the dealer is the Robinson-Patman Act. The Robinson-Patman Act prohibits price discrimination as a general rule. In order to find a violation of the statute, there must be at least two sales of the given product. It has been consistently held that the transfer of gasoline between the oil company and its company operated station is not a sale, but an intracorporate transfer not subject to the act.

Clearly, the claim that existing law is adequate to deal with the problem of independent dealers is without merit. Something must be done. Failure to do will cause the reduction, if not the elimination, of independent fuel marketers and retailers in this country. With less and less competition, it is only a matter of time before major oil companies take advantage of that situation and gasoline prices drastically increase.●

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDERS FOR TODAY

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stands in recess until 9:30 a.m., Friday, June 26; 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; further, that upon conclusion of the vote on the motion to instruct, the Senate then stand in recess subject to the call of the Chair.

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

PROGRAM

Mr. FORD. Mr. President, on behalf of the majority leader I would like to announce that on tomorrow, immediately after the Chair's announcement, the leader will put in a quorum call that will go live and he will then move to instruct the Sergeant at Arms to request the presence of absent Senators; that upon the conclusion of that vote, the Senate will then stand in recess subject to the call of the Chair.

ORDER OF PROCEDURE

Mr. SIMPSON. Mr. President, let me just say that also tomorrow there will be party caucuses immediately after that particular vote on the Sergeant at Arms requesting the presence of absent Senators.

We were prepared and have presented a draft of a consent agreement which I think we could have attained tomorrow, at least perhaps in our caucus proceeding. I do not know what my friend from Kentucky can say about his proceeding, but the activity here on the floor just moments ago I think will likely prevent that from occurring.

It would be very difficult for those of us on this side of the aisle to, I think, concur with the basic concept or draft of the unanimous-consent agreement because of the modification of the amendment by the very skilled and extraordinarily able Senator from West Virginia, my friend, ROBERT BYRD.

The minority leader will not be present tomorrow. He will be in his native State of Kansas.

I will be here as acting leader working with Senator MITCHELL or Senator FORD as the case may be, in hoping to accomplish something that could lead us out of this morass.

But I can surely say to those that are listening at this tender hour of the evening, that it will be very, very difficult because of the modification of the amendment. We will have to determine what type of procedures we will utilize tomorrow, whether to appeal that ruling or what might be necessary. But there is no need to take the time of this body or the time of my friend from Kentucky to do that this evening.

Mr. FORD. I thank my friend from Wyoming.

I thought it was understood that each party would have their caucus following the vote put to the Senate by the majority leader.

Let me just say, Mr. President, I have a great deal of confidence in my good friend, the acting leader, this evening that he will be able to accomplish the end result of the unanimous-consent agreement and look forward to working closely with him, as he said, clearing this morass. I see he has reached for his microphone and I yield the floor.

Mr. SIMPSON. Parliamentary inquiry, Mr. President. If I were not to express any type of parliamentary inquiry or request for an appeal to the ruling, informal as it may have been, of the Chair, by going into adjournment until tomorrow, will that preclude me from raising any such issue on that subject on this regular day which is a new day?

The PRESIDING OFFICER. The termination of the session today and the resumption of the Senate business tomorrow does not affect the Senator's right as he might want to appeal the ruling of the Chair tomorrow. He can do that tomorrow as well as today. He would be in the same position tomorrow as he is today.

Mr. SIMPSON. So, Mr. President, there is no diminution of my rights under what was done, especially that it might be construed that it might have occurred on this same legislative day.

The PRESIDING OFFICER. I believe the answer is the Senator is correct. His rights tomorrow are the same as they are today.

Mr. SIMPSON. I thank the Chair and I thank my friend from Kentucky.

RECESS UNTIL 9:30 A.M. TODAY

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate now stand in recess as previously ordered.

There being no objection, the Senate, at 12:28 a.m., recessed until Friday, June 26, 1992, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 25, 1992:

DEPARTMENT OF STATE

DAVID HEYWOOD SWARTZ, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BYELARUS.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

H. DOUGLAS BARCLAY, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1994. (REAPPOINTMENT)

NATIONAL INSTITUTE OF BUILDING SCIENCES

JOHN H. MILLER, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1992, VICE FRED E. HUMMEL, RESIGNED.

JOHN H. MILLER, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1995. (REAPPOINTMENT)

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. PAUL G. CERJAN [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. DANIEL R. SCHROEDER [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE SURGEON GENERAL, U.S. ARMY, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 3036:

To be surgeon general

To be lieutenant general

MAJ. GEN. ALCIDE M. LANOUE [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A), AND FOR APPOINTMENT AS CHIEF OF ENGINEERS UNDER TITLE 10, SECTION 3036:

To be lieutenant general

To be chief of engineers

MAJ. GEN. ARTHUR E. WILLIAMS [redacted] U.S. ARMY.