SENATE—*Tuesday, February 4, 1997*

The Senate met at 11 a.m. and was called to order by the Honorable CHUCK HAGEL, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God our Father, we pause in the midst of the changes and challenges of life to receive a fresh experience of Your goodness. You are always consistent, never change, constantly fulfill Your plans and purposes, and are totally reliable. There is no shadow of turning with You; as You have been You will be forever. All Your attributes are summed up in Your goodness. It is the password for Your presence, the metonym for Your majesty, and the synonym for Your strength. Your goodness is generosity that You define. It is Your outrushing, unqualified love poured out in graciousness and compassion. You are good when circumstances seem bad. When we ask for Your help, Your goodness can bring what is best out of the most complicated problems.

Thank You for Your goodness given so lavishly to our Nation throughout our history. Today, again we turn to You for Your guidance for what is good for our country. Keep us grounded in Your sovereignty, rooted in Your commandments, and nurtured by the absolutes of Your truth and righteousness. May Your goodness always be the source of our Nation's greatness. In the name of our Lord and Saviour. 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. THURMOND].

The assistant legislative clerk read the following letter:

U.S. SENATE
PRESIDENT PRO TEMPORE,
Washington, DC, February 4, 1997.

To the Senate:

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

STROM THURMOND,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The Acting PRESIDENT pro tempore. The Chair recognizes the distinguished majority leader.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will be in a period of morning business until the hour of 12:30, with Senators permitted to speak for up to 10 minutes each. At 12:30 today the Senate will recess until 2:15 to allow the weekly policy conferences to meet.

Following the conferences, the Senate may consider a Senate resolution regarding mammograms, which was submitted by Senator SNOWE. It is my hope we will be able to enter a short time limitation for debate and then have a rollcall vote on the adoption of that resolution. All Members will be notified when that agreement is reached as well as when the rollcall vote can be expected. We hope that we will have that vote probably not later than 4 o'clock or so this afternoon, but we will give the specific time a little later in the morning.

As expected, yesterday the Judiciary Committee did file their report on the constitutional amendment on the balanced budget. The report became available this morning and, therefore, under the rule, the Senate may begin consideration of that joint resolution on Thursday. It is possible that we may begin opening statements on the balanced budget amendment on Wednesday, tomorrow afternoon. I will notify all Members of that schedule after I confer further with the democratic leader.

In addition, several committees are expected to complete their work on some of the pending nominations during this week. Once again, I will alert all Members as to the Senate schedule with respect to these nominees. We have at least a couple that are close to being reported. We hope to have a vote on those Thursday, if at all possible.

Of course, on Thursday morning we will also be notified of the President's budget proposals, and we hope to have a quick meeting with the President up here on Capitol Hill in the President's room certainly within the next week. We are still working on the specifics and details of that meeting, so we can begin to actually roll up our sleeves and begin work on items where we think there is a good possibility for agreement so that we can move things, like the balanced budget agreement, some tax relief for working Americans, improvements in education at the local level with parents being involved on behalf of the children's interests, safer streets, safer neighborhoods, and toxic and nuclear waste cleanup. These are areas where we have a lot of common interests, concerns, and we should go to work on these big issues as quickly as we possibly can.

Mr. President, I yield the floor and suggest the absence of a quorum.

The Acting PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. CAMPBELL. Mr. President, I ask unanimous consent that at 2:45 today the Senate begin consideration of a Senate resolution submitted by Senator SNOWE regarding mammograms. I further ask unanimous consent that there be 30 minutes for debate equally divided between Senators SNOWE and MIKULSKI, with an additional 10 minutes under the control of Senator SPECTER; further, no amendments be in order, and following the conclusion or yielding back of time the resolution be temporarily set aside with a vote to occur on the adoption of this resolution at 5 p.m. this afternoon.

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

Mr. CAMPBELL. Further, Mr. President, for the information of all Senators, in accordance with this agreement, the mammogram resolution will be debated this afternoon, with a vote occurring at 5 p.m.

UNANIMOUS-CONSENT AGREEMENT—SENATE JOINT RESOLUTION 1

The PRESIDING OFFICER. Mr. President, I also ask unanimous consent that at 3 p.m. on Wednesday, February 5, the Senate begin consideration of Senate Joint Resolution 1, regarding a constitutional amendment on the balanced budget. I further ask unanimous consent that only opening statements be in order during Wednesday's session.

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

Mr. CAMPBELL. I announce this agreement will allow us to begin debate on the balanced budget amendment on Wednesday. Senators may make opening statements on Wednesday; however, no amendments will be in order.

I also ask the Senate not be in session late tomorrow to accommodate a number of Senator's schedules.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

AUTHORITY TO APPOINT COMMITTEE OF ESCORT ON THE PART OF THE SENATE

Mr. CAMPBELL. I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber for the joint session to be held at 9 o'clock p.m. this evening, Tuesday, February 4, 1997.

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

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the President of the Senate, pursuant to Public Law 85–874, as amended, appoints the Senator from Mississippi [Mr. LOTT] and the Senator from Alaska [Mr. STEVENS] to the Board of Trustees of the John F. Kennedy Center for the Performing Arts.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of 20 United States Code, sections 42 and 43, appoints the following Senators as members of the Board of Regents of the Smithsonian Institution: the Senator from Mississippi [Mr. COCHRAN] and the Senator from Tennessee [Mr. FRIST].

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 100–458, appoints William E. Cresswell, of Mississippi, to a term on the Board of Trustees of the John C. Stennis Center for Public Service Training and Development, effective October 11, 1996.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30, with Senators permitted to speak therein for up to 10 minutes each.

ROBERT MORRIS, PATRIOT WHO STOOD UP FOR AMERICA

Mr. HELMS. Mr. President, one of the disappointing aspects of serving in the Senate is the inescapable and unintended detachment we so often unknowingly experience in our efforts to keep up with the joyful things happening to our friends back home and elsewhere. But it is downright discouraging to discover sometimes long after the fact, that sadness has come to our friends and their families.

For example, the death this past December 29 of a remarkable American, Robert J. Morris, who immediately earned my admiration when I came to Washington in 1951 as administrative assistant to a fine North Carolina Senator.

I had a note the other day from Bob Morris's widow, Joan, about his death. Mr. President, when I arrived in Washington years ago, Bob Morris was the very bright and talented chief counsel of the Internal Security Subcommittee of the Senate Judiciary Committee.

The New York Times on January 2 of this year reported Bob Morris's death. The headline read: "Robert J. Morris Is Dead at 82; Crusader Against Communism".

The opening paragraphs of the obituary read as follows:

Robert J. Morris, whose ministrations as counsel for a Cold War Senate Subcommittee bent on rooting out Communists marked a long career devoted to conservative causes, died on Sunday at Point Pleasant Hospital in Point Pleasant, N.J. He was 82 and lived in Mantoloking, N.J.

The cause of death was congestive heart failure, said his son Geoffrey, who added that Mr. Morris had been suffering for more than a year from hydrocephalus, a condition that impedes brain function.

Mr. Morris was chief counsel to the Senate Judiciary Subcommittee on Internal Security from 1951 to 1953, and again from 1956 to 1958, a period when the country was tormented by the specter of Communist infiltration at every level of life.

A graduate of Fordham Law School, he had served on a New York State Assembly committee in 1940 that investigated New York's schools and colleges for Communist activities. He worked various aspects of the Senate hearings, appearing as a witness now and then and serving as a frequent spokesman and defender of its work.

After those somewhat objective paragraphs, Mr. President, the New York Times launched a full-fledged attack on Bob Morris because of his battles against communism.

I shall omit that part of the New York Times report regarding Bob Morris's death and pick up again when the obituary regains objectivity:

Mr. Morris's interest in politics was part and parcel of his upbringing in Jersey City, where his father was known for organizing opposition to Frank Hague, the entrenched Hudson County boss. That interest sharpened while Mr. Morris served in the Navy during World War II.

Turned down at first because of his inability to recognize the color red, an anecdote he repeated with delight through the years, he became a commander of counterintelligence and psychological warfare. At one point, his son said, he was in charge of writing the threats, printed in Japanese on what looked like money, that were dropped by the planeload on Japanese cities.

He also interrogated prisoners, and began believing that Communism was a greater threat to world security than most leaders realized—an opinion that would influence the rest of his life.

Politics continued to attract him after he left the subcommittee. In 1958, he made a bid for the Republican Senate nomination from New Jersey, running on a conservative platform that stressed his subcommittee work. Like all but one of his attempts to win public office—he was elected a municipal judge in New York City in 1954, and resigned two years later to rejoin the Senate investigations—it was unsuccessful.

Turning his eye to education, Mr. Morris moved to Texas in 1960 to become president of the University of Dallas. He continued speaking out against Communism and on other issues, which became a source of friction at the university, which he left in 1962.

That summer, he founded the Defenders of American Liberties, a group he described as modeled after the American Civil Liberties Union, "but with emphasis on different positions." The group quickly gained public attention with its defense of former Maj. Gen. Edwin A. Walker, who was accused of inciting unrest at the University of Mississippi at Oxford as James Meredith, its first black student, was attempting to start classes there.

In 1964, he founded the University of Plano, now defunct, in Plano, Tex., which was intended to teach mildly disabled young people through "patterning," controversial at the time. It involved putting students through a series of physical exercises, including crawling and creeping, to stimulate nonphysical development in the brain.

Mr. Morris was prompted to do so by the difficulties of one of his children, William, whom he enrolled in the university. He remained at the university until 1977, and it closed a short time later.

He continued to be a vocal foe of Communism and to speak out against disarmament. While In Texas, he made two runs at the Senate, in 1962 and 1970, positioning himself as a conservative Republican. Both times he was defeated in the primary by George Bush.

He was the author of five books, all but one dealing with the prospective unraveling of the world order. One, "Disarmament: Weapon of Conquest," became something of a best seller after it appeared in 1963.

He also wrote a column, "Around the World," which was published from 1960 to the early 1980's in newspapers, among them The Manchester (N.H.) Union Leader and The New York Tribune. Among his interests were the politics of Africa, and he became a chairman of the American Zimbabwean Association.

In 1984, he made one last bid for the New Jersey Senate nomination, campaigning on the same platform as President Ronald Reagan but losing nonetheless. Until last year, his son said, he remained active, writing and giving lectures to groups in the New York area.

He is survived by his wife, Joan Byles Morris; a daughter, Joan M. Barry of Jackson, N.J.; six sons, Robert J. Jr., of Kauai, Hawaii, Paul E., of Montclair, N.J., Roger W., of Mantoloking, William E., of Mantoloking, John Henry 2d, of Bay Head, N.J., and Geoffrey J., of Armonk, N.Y.; two sisters, Alice Gougeon of Stone Harbor, N.J., and Kathleen Reinert of Point Pleasant Beach, N.J., and 12 grandchildren.

FUNDING FOR INTERNATIONAL FAMILY PLANNING

Mr. LEAHY. Mr. President, the Senate and House will soon vote on the President's finding that withholding disbursement of USAID family planning funds until July 1, 1997, will cause serious damage to the proper functioning of the program.

It is no surprise that the President reached this conclusion. It is beyond dispute that family planning services, including the provision of modern contraceptives, are the most effective way to prevent unwanted pregnancies and abortions. The examples that the President cites to support his finding should be read by every Member of Congress. They illustrate the harm these restrictions have already done to the program, and the further harm, measured in the numbers of women who will die from unsafe abortions that could be prevented, and children who will die from disease or starvation because their families could not care for them, as well as in added administrative costs, that a further delay in disbursement will cause. They also refute the flagrantly erroneous claim of the right-to-life lobby, that this vote is about whether or not to provide $123 million to organizations that fund abortion. Not one dime of these funds can be used for abortion, and the vote is only about when, not whether, these funds will be disbursed.

I will have more to say about this at the time of the vote, but I want to be sure that all Senators saw the editorial from this Saturday's Washington Post, and this Sunday's Post op-ed piece by David Broder, which make compelling arguments for upholding the President's finding. Perhaps most noteworthy is the quote from former Senator Hatfield, who was staunchly pro-life but an equally strong supporter of family planning. He said "it is a proven fact that when contraceptive services are not available to women throughout the world, abortion rates increase."

Mr. President, that should be the beginning and end of this debate. I ask unanimous consent that the two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 1, 1997]

A KEY FAMILY PLANNING VOTE

In the familiar and frazzling congressional argument over U.S. foreign aid for family planning, the side whose explicit purpose is to oppose abortion has been marking up notable gains. In the past two years, these funds have been cut by a full third, kept from being spent until nine months of the fiscal year have passed and then allowed to be spent ("metered") only in small monthly sums. Now an important vote is coming up that the family planning side hopes will halt and reverse this legislative harassment of a valuable program. The vote this month is not about funding abortions—something prohibited by law and policy anyway. It will simply determine whether funds already appropriated for family planning in fiscal 1997 will be held up until July or released in March.

Not a great issue, it could be said: a battle over crumbs in Congress. But it is a great issue if you believe as we do that American voluntary family planning programs—carefully drawn, executed and monitored to ensure that they will not be diverted to abortions—have made a central, proven, 30-year contribution to reducing poverty and enhancing human dignity around the world. The effectiveness of well-run programs, in fact, is no longer at issue. They work. It is demonstrable that when programs and funds are reduced—by cuts, delays and policy encumbrances—unintended pregnancies and abortions follow.

We now come to the large and continuing mystery of these programs. A strange belief that abortions can be made to end if family planning is restricted in what apparently has led antiabortion advocates to work for the denial and diminution of family planning services. "Chris," Sen. Mark Hatfield wrote not long ago to one of those advocates, Rep. Chris Smith (R-N.J.), "you are contributing to an increase of abortions worldwide because of the funding restrictions on which you insisted in last year's funding bill. It is a proven fact that when contraceptive services are not available to women throughout the world, abortion rates increase. . . . This is unacceptable to me as someone who is strongly opposed to abortion."

The global generation now coming of childbearing age is the largest single generation ever to reach reproductive maturity, the Rockefeller Foundation reports. This is a sobering reminder of the need for the United States to resume its leadership in an important field.

[From the Washington Post, Feb. 2, 1997]

A VOTE FOR POOR WOMEN OVERSEAS

(By David S. Broder)

For 30 years, the United States has led an international effort to reduce the toll of maternal deaths and unwanted pregnancies by providing money and technical assistance for family planning programs in underdeveloped countries. Despite its dramatic successes and despite universal agreement that federal funds would not be used to pay for abortions, the program was severely cut and then temporarily suspended last year by antiabortion forces in the House of Representatives.

Now that issue is about to be revisited in a February congressional vote that will directly affect the life prospects of countless women and children—and provide an important test of the shellshocked House Republican leadership's ability to maintain a degree of cohesion in its fragile majority.

The background is this: Since the mid-1960s, the United States, through aid to foreign countries and to private, nonprofit organizations, has helped make contraceptive advice and supplies available to couples in poor lands so they can plan the size of their families. Its success is undeniable. A report released last week by the Rockefeller Foundation, a longtime supporter of family planning, noted that in the past three decades, the percentage of women in these countries using contraception has grown from 10 percent to 50 percent and the average number of children they have borne has been reduced from six to three.

The reduction in family size has helped millions escape from poverty and, for many women, enhanced the prospects for education and a richer life—to say nothing of better health. Fewer risky pregnancies and many fewer abortions are among the benefits.

No one seriously questions the efficacy of the program and, equally, no one has sought to upset the longstanding ban on U.S. government money paying for abortions. But when the Republicans won control of the House in 1995, they sought to write into law a policy that Presidents Reagan and Bush had imposed by executive order banning U.S. aid to organizations that used their own funds to pay for abortions. President Clinton ended that policy two days after he took office, and the House Republicans sought to overrule him.

Rep. Chris Smith (R-N.J.), whose opposition to abortion is as fervent as it is sincere, argued that since money is fungible, grants to groups such as the International Planned Parenthood Federation, which offers privately financed abortion counseling and services, were indirectly subsidizing the procedure he despised. But before he retired last month, Sen. Mark Hatfield (R-Ore.), as staunch an opponent of abortion as can be found, rejected Smith's logic.

In a letter to Smith last September, Hatfield wrote: "I have reviewed the materials you recently sent to my office in response to my request that you provide proof that U.S. funds are being spent on abortion through AID's [the Agency for International Development] voluntary international family planning program. Unfortunately, I do not see anything in these materials to back up your assertion." Hatfield said, "AID has a rigorous process," enforced by outside monitors, to carry out the abortion ban. "In the meantime, Chris," he added, "you are contributing to an increase of abortions worldwide because of the funding restrictions on which you insisted. . . . It is a proven fact that when contraceptive services are not available to women throughout the world, abortion rates increase."

In 1995 and 1996, the House majority followed Smith, the Senate Hatfield. To break the impasse and keep the program alive, Clinton agreed last year that if the House Republicans would not insist on reinstating the Reagan-Bush restrictions, he would accept a 35 percent cut in family planning funds and agree to the financing being suspended entirely for six to nine months.

That agreement guaranteed Clinton an up-or-down floor vote in the House and Senate this month on resuming the program without the Reagan-Bush restrictions. But Smith is pressing House Majority Leader Dick Armey to break the deal Republicans made with the White House last September and allow Smith to bring up his restrictive amendment again, sweetened with a partial rollback of the funding cut. Armey's spokeswoman told me, "We're leaning toward" giving Smith what he wants.

That prospect has impelled many of the three dozen House Republicans who support the international family planning program to write Armey that, rather than yield to Smith and his allies, they are prepared to fight their own leadership and, if necessary, hand them an embarrassing defeat on the first major legislative test since Speaker Newt Gingrich was disciplined for ethics violations. The issue goes before the House Republican Conference later this week. But the women and children who have most at stake around the world will not have a vote.

TRIBUTE TO CHARLES A. "BILL" BISHOP

Mr. BAUCUS. Mr. President, I rise today to ask that this body honor a man whose life was an honor to Montana. And a man whose death is a loss to us all.

My friend, Charles A. "Bill" Bishop, died on Sunday, January 26. But his memory will continue to live on in all of us who remember him. His loss is sudden, and we are left now to remember this man who gave us so much. Throughout his life, he was a husband, a father, an advocate, a learner, a jokester, and a teacher. In everything he did, he attacked it with a passion—an unquenchable zest for life.

Family was everything to Bill. He idolized his wife and children, and they loved him dearly. One of his favorite things in the world was spending time with his family. I extend my deepest sympathies to them in this time of sorrow.

Bill's zest for life can easily be seen in his legacy of outspoken advocacy for the environment. With a heart as big as the Mission Mountains that he loved so much, Bill was committed to leaving this planet a better place for his children and grandchildren. On these issues, Bill was often an adviser to me. If he agreed with something I did, he would let me know. If he disagreed, I could expect to get an earful from him. Yet through it all, he was thoughtful, respectful, and eager to find solutions to the many problems that confront Montana.

I still have a hard time imagining Montana without Bill Bishop. In many ways, I will never get used to his absence. To say that I will miss him is not enough. His passing leaves my life with a little less laughter and a little less joy.

Those of us who knew Bill will make sure that the memories stay always fresh, renewed over and over again by our love for this great man. God bless you, Bill.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, February 3, the Federal debt stood at $5,297,382,328,731.42.

Five years ago, February 3, 1992, the Federal debt stood at $3,795,010,000,000.

Ten years ago, February 3, 1987, the Federal debt stood at $2,231,437,000,000.

Fifteen years ago, February 3, 1982, the Federal debt stood at $1,036,317,000,000.

Twenty-five years ago, February 3, 1972, the Federal debt stood at $423,272,000,000 which reflects a debt increase of more than $4 trillion—$4,874,110,328,731.42—during the past 25 years.

ADDRESS BY PEACE CORPS DIRECTOR MARK GEARAN

Mr. KENNEDY. Mr. President, on December 16, 1996, Mark Gearan, the Director of the Peace Corps, delivered an eloquent address at the National Press Club on the current status of the Peace Corps. Mr. Gearan's address provides an excellent summary of the accomplishments of the Peace Corps and the extraordinary assistance that Peace Corps volunteers are providing to nations in all parts of the world. I know that President Kennedy would be proud of the way the Peace Corps is living up to its ideals, and I ask that Mr. Gearan's address be printed in the RECORD.

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

REMARKS BY MARK D. GEARAN, DIRECTOR OF THE PEACE CORPS

The job of Director of the Peace Corps affords those who are privileged to hold it a unique perspective on the world and our country, one that is shaped by the enduring values that the Peace Corps represents, and by the spirit of service that Volunteers embody.

When Sargent Shriver, the first Director of the Peace Corps, came to the National Press Club in 1962, he made this observation:

"It is a complex world we live in today," he said. "While one man orbits the earth in a space capsule, another man squats for hours beside an Asian rice paddy, trying to catch a fish only as big as your thumb. While some men manufacture computers, other men plow with sticks."

What my predecessor said then still holds true today. We have men and women orbiting the earth in space capsules. But we still have men and women plowing with sticks in many parts of the world.

Yet it goes without saying that the world is much different than it was in 1962. The disparities that Sargent Shriver described are still with us. But advances in science, technology, the media, the spread of freedom and democracy, and the end of the Cold War, have not only made our lives more complicated, they have also given us new opportunities and new reason for hope.

Much the same can be said about the Peace Corps. Since President Kennedy sent the first group of Volunteers to Ghana in 1961, we have remained true to the vision and goals that were set out for us from the very beginning. Today, nearly 7,000 Volunteers are working with ordinary people in 90 countries to encourage social and economic progress at the grass-roots level. Peace Corps Volunteers are young and older; they are black, white, Asian, Hispanic, and Native American; and they come from every social, economic, and religious background.

Yet for all of their diversity, our Volunteers still share a common purpose: to help make the world a better place.

And just as it was in the beginning, the Peace Corps is still much more than a development agency. Our Volunteers are still strengthening the bonds of friendship and understanding between Americans and the people of the developing world that are, in many respects, the foundation of peace among nations.

Yet the Peace Corps has also changed to meet the needs of our time. We have worked hard to strengthen the Peace Corps while remaining faithful to our mission. And I believe that the state of the Peace Corps is as strong as it has ever been, and that its prospects for the future are bright and promising. From the number of qualified and motivated people who want to become Volunteers, to the new countries we are entering, to the strong support we have among the American people, this Administration, and in the Congress, the Peace Corps is moving forward and is poised to enter the 21st century with confidence and energy.

With this future in mind, we decided to take a look at the past and see what we could learn from some of the men and women who have served as Peace Corps Volunteers over the years. We have conducted the first comprehensive survey of returned Peace Corps Volunteers who have served in each of the last four decades since 1961.

I'll tell you more about the survey in a minute. But let me give you just a few examples that demonstrate the vitality of an agency that continues to capture the imagination of so many people.

First, we continue to attract the best that America has to offer. Last year, more than 100,000 people contacted us seeking information about how to become a Peace Corps Volunteer. Ten thousand went through our competitive application process, and we extended invitations to 3,500 of these talented and dedicated people.

Second, we are making sure that Volunteers are serving in the right countries for the times in which we live. That's why earlier this year, our Volunteers returned to Haiti after a five-year absence to work with the people of the poorest nation in this hemisphere.

That's why next month, Volunteers will go to South Africa for the first time in the history of the Peace Corps to help support and contribute to the historic transformation that is taking place in that critical country.

And that's why I recently signed an agreement with the government of Jordan that will allow Volunteers to begin serving there in April 1997 for the first time. Expanding the presence of Peace Corps Volunteers in the Middle East is an important step for us. I believe these Volunteers will help improve understanding between Americans and the people of the Arab world and contribute to Jordan's development.

Third, we are making sure that the work of our volunteers is driven by the needs of the communities where they are serving. Volunteers are working with their counterparts to help to protect and restore the environment. Others collaborate with small business people to create economic opportunities. They are working with teachers to expand access to education for children and adults, and they help farmers grow more and better food. Still others are helping to keep families healthy and prevent the spread of terrible diseases, such as HIV/AIDS.

Fourth, we are leading the way for international volunteer organizations to play an even greater role in the developing world. Earlier this year, we brought together the leaders of 35 international organizations that send volunteers outside of their own countries. Our purpose was to find ways to collaborate in the field and help those countries, such as Mali, Senegal, the Czech Republic and Malaysia, that want to establish their own volunteer organizations.

Finally, we are moving forward with the establishment of the Crisis Corps, one of our newest and most exciting initiatives. We are making it possible for experienced Peace Corps Volunteers and returned Volunteers to

contribute their language skills, their cross cultural understanding, and their experience in development to short-term international relief efforts.

These are just a few of the important steps we are taking to ensure that the Peace Corps stays on the cutting edge of development and service. So like any forward-thinking organization, we thought we could learn something from the people who have contributed so much to the Peace Corps' success. We wanted to take advantage of the insights and experience of returned Volunteers who served in the Peace Corps for at least one year.

Let me share with you some of the highlights of what they had to say:

Perhaps the most impressive finding was that 94% of the respondents said that they would make the same decision to join the Peace Corps again, and 93% said they would recommend service in the Peace Corps to others.

One returned Volunteer wrote: "Aside from the births of my two daughters, my Peace Corps experience was the most gratifying experience of my life. I'm so proud and grateful for having been blessed with such a powerful and positive experience."

Ninety-four percent of the respondents believed they made a positive contribution to the development of the country where they served, and most indicated that their greatest contribution as Volunteers was to the individuals with whom they worked.

In addition, most of the respondents said that service in the Peace Corps met their expectations of helping others, experiencing a different culture, and their desire for travel and adventure. And 70% said that their Peace Corps experience had a positive impact on their careers.

The survey also revealed that some returned Volunteers did not leave their sense of humor overseas. In response to the question: "In what state are you currently living?", several Volunteers responded: "confusion, or bliss . . ."

Our survey also confirmed what we already know: Peace Corps Volunteers face some very difficult realities—from petty burglaries and assault, to racial and sexual harassment, to political unrest and natural disasters. Service in the Peace Corps can sometimes be tough, but the Volunteers confront these challenges head on every day with great courage.

Finally, this survey also reveals that, for most returned Volunteers, their commitment to service doesn't end when they come home. They tend to be active members of their communities. Seventy-eight percent said they have volunteered since coming home, and 63% have worked with people with "special needs," such as the elderly, the disabled, and refugees.

These are just some of the results of the 1996 survey of returned Peace Corps Volunteers. But what are we to make of all this? Does it matter? I think it does, and let me tell you why.

First, I believe that in many ways this survey reaffirms and justifies the confidence that Americans have placed in the Peace Corps over the years, something for which we are grateful and never take for granted.

Second, this survey also demonstrates in a small but important way that many Americans care about what happens in the world and want to help make it a better place. I believe they understand the connection between America's engagement in the world and our prosperity. And they are generous in their willingness to encourage progress and help other people.

But there is also a significant domestic dividend to the Peace Corps. Our country is fortunate to have a large cadre of people with international experience that broadens our understanding of other countries and cultures. This is a tremendous asset for America's participation in the global marketplace.

Moreover, the insights about other peoples and cultures that returned Volunteers bring back with them, I believe, can add to America's thinking and understanding of the many problems that we confront in our own multicultural society.

Finally, let me close by speaking directly to the young people in our country. The Peace Corps is an organization that is often identified with the 1960s. A lot of young people sometimes wish they had been around to witness the sweeping changes that occurred in our society and our culture back then. I believe there is much that we all can learn from that important era in our country's history.

But a nostalgic view of the past need not keep us from looking ahead and moving forward. I believe the times in which we live today are just as exciting and hold even more promise. Fifty years from now, young people will look back to the end of the 20th century and say: "I wish I had been around when the German people took their sledgehammers to the Berlin Wall, when the people of South Africa tasted freedom for the first time, when the Cold War ended and new democracies began to flourish." They will surely wish they had been alive when the information revolution took off and helped shrink the world by an order of magnitude.

But the men and women who are serving as Peace Corps Volunteers today are taking part in the great struggle that still lies ahead—the struggle for human dignity both here at home and around the world. President Kennedy and each of his successors, both Democratic and Republican alike, have summoned us to participate in that struggle, and I am very proud to say that Peace Corps Volunteers are doing their part.

I believe this is the best time to be part of the Peace Corps. We are grateful for the service of more than 145,000 Americans. We are excited about our future—from the new countries where Volunteers will be serving, to our new initiatives, including the Crisis Corps. The Peace Corps is moving into the next century, proud of the legacy that precedes us and confident that Peace Corps Volunteers are making a real difference in lives of people around the world.

IMPLEMENTATION OF MANAGEMENT REFORMS AT THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. THOMPSON. Mr. President, I would like to use the opportunity, following Senate confirmation of Andrew Cuomo as the next Secretary of Housing and Urban Development, to address some vital management issues at the Department. The Department of Housing and Urban Development [HUD], like many other federal agencies, is confronted by serious management problems that impede its ability to carry out its mission.

HUD, which Secretary-designate Cuomo will head, has a diverse group of activities under its purview. HUD manages an $885 billion loan portfolio and provides $25 billion in rental subsidies and over $5 billion annually in community development grants. As the principal agency concerned with the Nation's housing needs and redeveloping our decaying cities, HUD has a monumental task on its hands and should be run as efficiently and effectively as a Fortune 500 company. Unfortunately, this has not been the case in the past.

Historically, HUD has had a rocky track record. Departmentwide management deficiencies were a major factor leading to the 1989 HUD scandals. In 1994, the General Accounting Office placed the entire department on its high risk list, designating HUD as "especially vulnerable to waste, fraud, abuse, and mismanagement." I understand that this year GAO will continue to keep HUD on its high risk list, believing that the deficiencies hampering HUD's leadership in effectively managing the agency have yet to be resolved.

Congress has given agencies like HUD the tools to improve their management operations, most notably by passing legislation developed by the Governmental Affairs Committee such as the Chief Financial Officers [CFO] Act of 1990, the Government Performance and Results Act [GPRA] of 1993, and the procurement and information technology reforms of last Congress. These laws are designed to get the Federal Government to operate in a sound, businesslike manner and implementing these management reforms is a major responsibility for each department head. I urge Mr. Cuomo to devote as much of his time as necessary to use these laws to focus on getting results for the taxpayers who fund HUD and the many who depend on its programs.

The Government Performance and Results Act, for example, can be an effective tool to make government work better by measuring the success or failure of government programs and using this information to support budget decisions. I am encouraged by Secretary-designate Cuomo's enthusiastic support of GPRA in his responses to my questions submitted during his confirmation process. This is because effective GPRA implementation is especially needed at HUD. HUD's programs and missions often overlap or are linked only tangentially to HUD's primary missions. The National Academy of Public Administration and HUD's inspector general [IG] have recommended eliminating, consolidating, or restructuring many of HUD's 240 programs and activities, 91 of which, the IG said, were questionably related to the department's primary mission. GPRA, by focusing on agency missions and results, will give HUD, the Office of Management and Budget and the Congress the information necessary to consolidate and eliminate these wasteful and redundant programs.

Unfortunately, HUD has a long way to go toward effectively implementing GPRA. The HUD IG recently found that the department is just beginning to develop an agencywide strategic plan, the key underpinning and starting point for the process of goal-setting and performance measurements under GPRA. The IG report also indicated that HUD staff felt that the initial plans were developed only by a few of the Department's staff and did not involve input from a broad range of HUD offices. Given the need for broad acceptance of performance measures and established deadlines for implementing GPRA, I hope the new Secretary will take steps to ensure the integrity and successful implementation of GPRA at HUD.

GPRA is dependent on sound financial management—something that HUD is lacking. One of the reasons for GAO's designation of HUD as a high-risk area is its poorly integrated, ineffective, and generally unreliable information and financial management systems. These systems do not meet program managers' needs and provide inadequate control over HUD's housing and community development programs. HUD must get better control over its finances and prepare timely financial statements as required by the CFO Act.

Good financial data relies upon the development of effective computer systems and these systems are crucial to HUD's ability to meet its housing mission and business needs. In recent years, the Department has obligated over $170 million annually to activities related to information management. Yet HUD has had a poor history of managing its information resources, and as a result, is struggling with aging systems that do not adequately meet the agency's needs and are contributing causes of managerial inadequacies.

In response to its problems, HUD has undergone dramatic structural changes. In September 1995, HUD completed a major field reorganization which was intended to eliminate previously confused lines of authority, enhance communications, reduce levels of review and approval, and improve customer service. In January 1996, HUD announced additional plans to reduce headquarters staff and further streamline its field organization by, among other things, closing up to 10 of HUD's 81 field offices by the end of fiscal year 1997. However, it is questionable whether these changes have turned the tide as GAO has found that the Department still has an ineffective organizational structure.

The situation is not hopeless. HUD has made some progress in recent years addressing these Departmentwide management deficiencies, but success will require top-down management support. I hope Secretary-designate Cuomo will articulate a management vision that can improve operations at HUD and take measures required to take the agency off GAO's and Congress' high-risk list. I look forward to working with him to achieve those objectives in this Congress and to effectively implement the bipartisan management reforms passed by Congress in recent years.

THE PRESIDENT'S CERTIFICATION ON INTERNATIONAL FAMILY PLANNING

Mr. DASCHLE. Mr. President, on Friday, January 31, the President submitted to the Congress a certification that merits the support of all Members of Congress who wish to see improvements in the quality of life of women and families around the world.

The President has certified that the restrictions imposed by Congress in the fiscal year 1997 appropriations legislation are "having a negative impact on the functioning of the population planning program." Congress's approval of that certification would allow fiscal year 1997 family planning funds to be released at a rate of 8 percent per month beginning March 1 rather than July 1. Population programs around the world have not received any U.S. fiscal year 1997 funding even though the fiscal year began October 1, 1996, so approval of this resolution would simply reduce the delay of the funds' release from 9 months to 5.

U.S. contributions to family planning programs have immeasurably improved the lives of women in developing countries. The ability to plan the size of one's family is essential if women and children are to live longer and healthier lives and if women are to make the educational and economic gains they and we wish to see.

The Rockefeller Foundation released a report last week documenting the effectiveness of the family planning programs the United States supports. The report noted that the percentage of women in developing countries using contraception in the past three decades has grown from 10 to 50 percent, and the average number of children they have borne has dropped from 6 to 3.

Mr. President, there is a growing clamor that Congress is about to cast its first abortion vote of the 105th Congress when it votes on the President's certification. Nothing could be further from the truth. The truth is that Congress voted to cut U.S. contributions to population planning programs by 35 percent from fiscal year 1995 to fiscal year 1997 and then imposed a series of harsh metering requirements on the rate at which the money could be spent. This vote would simply remove one of the harshest requirements—that the funding be delayed by an additional 4 months.

It is tragic that the impact of these cutbacks and restrictions has been to increase the number of abortions. At a time when the number of women of childbearing age is increasing by 2.3 percent, or 24 million, per year, the United States is reducing its commitment to programs that reduce the incidence of abortion.

The close relationship between family planning and abortion is clear. In Russia, for example, the Russian Department of Health reports that the use of contraceptives grew from 19 to 24 percent between 1990 and 1994 with the establishment of 50 International Planned Parenthood Federation affiliates across Russia. During that time period, the number of abortions performed dropped from 3.6 to 2.8 million. In Colombia and Mexico, USAID has long been a major donor to their family planning programs. In Bogota, a one-third increase in use of all forms of contraception between 1976 and 1986 accompanied a 45-percent drop in the abortion rate. In Mexico City and the surrounding region, the use of all forms of contraception increased 24 percent between 1987 and 1992, while the abortion rate fell 39 percent.

Helping to provide women with the means to prevent pregnancy is a far better alternative than contributing to a situation in which they must choose between bringing a child into the world for whom they too often have neither the physical nor financial means to care, and obtaining an abortion that is often illegal and unsafe. No woman wants to face that choice.

The statistics clearly document this problem. UNICEF's 1996 "The Progress of Nations" reported that each year, 600,000 women die of pregnancy-related causes, 75,000 of them associated with self-induced, unsafe abortions. These women leave behind at least 1 million motherless children. In addition, an estimated 34,000 children under age 5 in developing countries die every day—a number that would surely decline if mothers were able to space the births of their children to improve the health and nutrition they can provide them.

I urge my colleagues to support this Presidential certification to reduce the most onerous restrictions on U.S. contributions to international family planning programs when it comes up for a vote this month.

CONSTRUCTION OF THE CLEAR CREEK COMPOSITE BRIDGE

Mr. FORD. Mr. President, today, I wish to extend my congratulations to the University of Kentucky, the Kentucky Transportation Center, the Great Lakes Composite Consortium, the U.S. Forest Service, and other composites manufacturers on the completion of the Clear Creek Composite Bridge in Bath County, KY, located in the Daniel Boone National Forest. This pedestrian bridge is the first of its kind

in the world, and the successful creation of this bridge stems from a creative design, and a great deal of research.

The Clear Creek Bridge is a 60-foot composite bridge, which is lightweight, maintenance free, and most importantly, unobtrusive in its environment. Dr. Issam E. Harik, a professor of civil engineering, along with graduate students Pete Szak and Brad Robson of the University of Kentucky, were the research team that designed and constructed this visually appealing and structurally sound bridge.

The research and development of the technology which allowed the construction of this pedestrian bridge are essential for a competitive and strong economy, particularly with respect to the use of composite materials. The lightweight, maintenance-free bridges of the future are a welcomed change to current engineering practices, which will save taxpayers money.

Construction material and maintenance costs surrounding today's infrastructure needs are significant, and increasing rapidly. Particularly in this year, as Congress begins discussion of the reauthorization of the Intermodal Surface Transportation Efficiency Act, it is important to identify new processes which will allow the Nation to maintain our roadways and bridges at a more affordable rate than is currently possible.

It is my understanding that a major reason for the creation of this pedestrian bridge was to validate the concept of construction of composite vehicular bridges. I encourage the dedicated engineers who worked on this project to remain committed to their research and it is my hope that the people of Kentucky and throughout the country, will be driving over composite bridges sometime in the very near future. These will truly be the bridges of and to, the 21st century.

Other special recognition goes to Northwestern University in Evanston, IL; the Morison Molded Fiber Glass Co. of Bristol, VA; Owens Corning of Toledo, OH; Ashland Chemical in Columbus, OH, and Zoltek Corp. of St. Louis, MO. This is an example of the private sector, universities, and Federal Government working together to form a strong and successful partnership.

I commend and thank the University of Kentucky team and U.S. Forest Service for their determination and hard work in building this historic bridge. Outdoor enthusiasts from communities all over the Commonwealth of Kentucky will now be better connected to the wilderness.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of Senate Resolution 49 are located in today's RECORD under "Submission of concurrent and Senate resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as a Senator from Missouri, the Chair asks unanimous consent that the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Indiana, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, I make a parliamentary inquiry.

Are we under specific orders at this point?

The PRESIDING OFFICER. The Senator is informed that at 2:45 p.m. today the Senate will, in accordance with the previous order, move to Senate Resolution 47 offered by the Senator from Maine, for herself and the Senator from Maryland, and that debate will proceed for the next 40 minutes.

Mr. LEAHY. Mr. President, I will just speak for maybe a minute or so.

TRIBUTE TO ANNE DIBBLE JORDAN

Mr. LEAHY. Mr. President, it is easy for both elected officials and commenters to refer to all knowledge as residing outside the beltway.

It has been my experience that some of the greatest wealth of knowledge, experience, and ability represented in this country is inside the beltway. Rarely enough does that talent get recognized.

An exception, is the recognition in the Washington Post of the extraordinary talent of Anne Dibble Jordan. Mrs. Jordan was the cochair of the last Presidential inaugural of the 20th century.

It is my privilege to know this extraordinary woman and her noted husband, Vernon Jordan. Anne Jordan is one of those people who makes it possible for Washington and our Government to present a face worth seeing by the rest of the world. In fact for those who have come to know her, it is hard to think of anything she could not achieve.

Mr. President, I ask unanimous consent that the text of the article 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, Jan. 18, 1997]

THE WOMAN BEHIND THE CURTAIN—MONDAY IS ANN JORDAN'S BIG DAY—YOU WON'T EVEN KNOW SHE'S THERE

(By Roxanne Roberts)

It's the middle of a news conference at the Foreign Press Center. Ann Dibble Jordan and Terry McAuliffe, the chairmen of the Presidential Inaugural Committee sit on a stage briefing dozens of reporters from around the world about the seemingly endless list of celebratory events.

McAuliffe pops off with enthusiastic sound bites, jumping in to answer virtually every question. Jordan sits quietly, carefully offering written remarks. If there were an award for the inaugural chairman with the lowest possible profile, Jordan would win—hands down.

Her face is dominated by her red-framed glasses. She wears simple gold jewelry, a plain black dress and carriers an inexpensive Le Sportsac purse.

"I hate interviews. I hate publicity," she says later. "My husband tells me I'm the most private person he knows."

Herein lies the intriguing contradiction of Ann Jordan: a very private person who lives a very public life. Her husband is the much-respected and much-feared lawyer Vernon Jordan, power broker extraordinaire. The Jordans are on the A-list of every Washington social event, serve on numerous corporate and charitable boards, and count a vast number of powerful people as friends—including the president and first lady. Indeed, Vernon Jordan is a favorite golfing buddy of Bill Clinton; the couples are so close they had Christmas Eve dinner together.

Shortly after the election, Clinton picked up the telephone and called Ann Jordan. "I need your help," said the president, who asked that she accept the unpaid co-chairmanship. It was an offer she couldn't refuse.

"I didn't think I'd be doing all of this, I tell you," she says. "I thought I'd just be a worker. But I had worked in the previous inaugural, and I'd seen a lot of the things that probably would be helpful in doing this."

Jordan, 62, came aboard just before Thanksgiving, with an eye to creating a structure that was "open and honest." This year, there are no fund-raising responsibilities, so the job of chairman is primarily one of oversight: meetings every morning to go over all the plans, defining goals, and signing off on major decisions and expenditures. When a final decision had to be made, said committee members, it was often Jordan whose judgment carried the day.

And there are also news conferences—Jordan's least favorite part of the job.

"She doesn't crave the limelight," says co-chairman McAuliffe. "She's just been a joy to work with. She and I have not had one disagreement in the past two months."

"I am absolutely, totally impressed and in awe of her," says Harold Ickes, who is coordinating inaugural plans from the White House. "It is not unusual for someone of her social position to take the job and be sort of honorary about it, sweeping in and out. She does not throw her weight around, although—God knows—she knows everyone in Washington and can get anyone on the phone at the drop of a hat."

Of course, in Washington one expects the customary compliments from colleagues. But the genuine exuberance for Jordan goes beyond the predictable.

Jordan describes herself as "quite low-key . . . I know what my limits are." She doesn't mention the gala with Princess Diana or her vacations on Martha's Vineyard with the Clintons. She doesn't bring up the dinner at her home four years ago—the president-elect's first Washington party—or the fact that she sent cyclamens to all her neighbors apologizing for any inconvenience it may have caused.

Her official biography for the inauguration is three short paragraphs.

"She's raised in the old school," says events planner Carolyn Peachey, a close friend. "Your name is in the newspaper three times: born, married, died."

Hillary Rodham Clinton calls her "a woman of many talents." Jordan's work on the inaugural committee, says the first lady, highlights her "wonderful" organizational and management skills. "What I think I like most about her is her warm friendship, coupled with her marvelous sense of humor."

Vernon Jordan is not in the habit of discussing his personal life with the press. But he is downright effusive when it comes to his wife of 10 years.

"She's smart, independent, caring, loyal," he says. "She is my best friend in the world." The suggestion that she is shy produces Jordan's famed booming laugh. "She's not shy *at all*. She just keeps her own counsel. And she is in many ways a very private person, which is one of her more admirable qualities."

Nonetheless, it is difficult to be an entirely private person if one happens to be married to one of the most influential—and socially gregarious—men in the city. It is "just nonsense," says Jordan, to even suggest that his wife was asked to chair the inauguration because of his friendship with the first couple.

"I think she did this out of a sense of duty and responsibility," he says. "She loves to make things work right. And it's an honor, and I think she views it that way."

There is, in fact, a long history of public service in her life. She was born in Tuskegee, Ala., one of five children of a surgeon who ran the only hospital in the city that treated black patients.

Jordan attended prep school and then went to Vassar, where she was one of four black students. She was so fair-skinned that she had to tell classmates she was black. "You didn't want to have a conversation where you had to get up and walk out," she says. "Once you say it, you don't have to tell many more. It goes around quickly."

She took graduate courses in social work at the University of Chicago and later taught there and served as head of social services at the university's medical center. She married, had four children and divorced 11 years later. She stayed in Chicago, working full time and raising her children. "I was used to running my own life," she says.

That life was shaken by the 1981 death of a daughter in a car accident. "I think it makes you just stop and relive your life," says Jordan. "I mean, you think about your life and what's important, and it changes it."

Her other children—now in their thirties—were grown when she married Vernon in 1986. They had met years earlier while both were working with the Urban League. His first wife, Shirley, died of multiple sclerosis in 1985.

"What I like best about him is when we sit down to talk—he's very interested," she says. "And he's fun to be with. He's totally unpredictable."

And Vernon Jordan says, "When I want to get it straight, I talk to Ann."

And then he adds the one-liner of every clever husband: "The fact is that I married up."

Her new husband brought to the marriage the lifestyle of a wealthy, powerful man in this town. "It was sort of nice to enjoy the free time of living in Washington," she says. "It also allowed me to pursue a lot of my own interests. I was very busy. And Vernon is a very—to say the least—he's fun."

Being married to Jordan also brought invitations to every important social event in Washington, including the state dinner for South African President Nelson Mandela. "It was one of the great thrills of my life," she says. Mandela told her "a very funny story about his life after he got out of prison. . . . I'm certainly grateful for those kinds of opportunities."

Aside from inaugural duties, Jordan's time these days is devoted to her five grandchildren (all under 5 years old), volunteering in the White House social office and serving on various boards: WETA, Sasha Bruce Youthworks, the Kennedy Center and the Child Welfare League of America.

She has settled into her life in the nation's capital, but her affection for Chicago is such that she travels there as often as once a month. "It's a wonderful city and people don't realize it." Washington, she says, "is a wonderful city to live in. I mean for living purposes, it's very easy to get around, the weather's wonderful, and very interesting people here."

It was Jordan who pushed to include residents of Washington in more inaugural activities. She is most excited about the public events on the Mall, and she was instrumental in bringing "King," the musical tribute to Martin Luther King Jr., to the celebration.

"I love the fact that it can be open," she says. "Not only just free events, but very well done free events." She hopes to find time to drop by the children's tent for the storytellers: "My grandchildren want to see it."

Jordan doesn't mention the glamour of the inaugural balls. She'll attend five or six, wearing a dress that she's had a long time. "I wear it every year to the Kennedy Center," she says. "It's a black velvet dress that has—I don't know what you'd call 'em, not rhinestones but sort of sparkly" decor on the shoulders. "I love the dress."

On that night, her husband says simply that he'll be doing "whatever she says."

And afterward, instead of all the exclusive after-ball parties, you might see the inaugural chairman celebrating at . . . McDonald's.

"That's my favorite," she says. "A Quarter-Pounder without cheese. Then they have to cook it fresh. We're there all the time."

RESPECT FOR DEMOCRACY AND THE STATE OF THE UNION ADDRESS

Mr. LEAHY. Mr. President, 2 weeks ago I came to this floor and spoke of an event that happened in the late 1930's in Montpelier, VT, the capital of Vermont, the city where I was born. I will recount that only briefly because we have the state of the Union message tonight. I hope it may be instructive to some.

In the late 1930's, then-President Franklin Roosevelt visited Vermont. To put this in context, during the Roosevelt landslide, President Roosevelt carried all States but two: the State of Maine and the State of Vermont. We were not a hotbed of Democratic action, Vermont.

The president of the National Life Insurance Co. of Vermont was standing on State Street. That building was directly across the street from where my family lived. He was standing next to my father, who was probably the lone Democrat in Montpelier.

President Roosevelt's car went by, and the president of National Life, an ardent, lifelong, fervent, and proud Republican, stood at attention, took his hat off, and held it over his heart as a mark of respect, as did other men on the street.

My father, who knew him well, chided him a little bit and said, "I never thought I'd see the day you would salute Franklin Roosevelt." He turned to my father and said, "Howard, I didn't salute Franklin Roosevelt. I saluted the President of the United States." As a child I remember that same gentleman repeating the story to me in my father's presence.

I mention this because he was also very proud of the fact that he was one of the ones who, as he said, voted for sanity when he voted for Alf Landon and not Franklin Roosevelt.

In a way it reflects a different time, but in many ways, a good time. The United States was, in the late 1930's, approaching our eventual entry into World War II, when we had to pull together. We also showed that we respected our institutions.

Tonight there will be some of us who agree and some of us who disagree with what President Clinton says in the state of the Union message. I hope that in expressing both our agreements and our disagreements we will resolve that there are three great institutions deserving our civil respect in this country: the institution of the Presidency; the institution of the Congress itself, which is demeaned when we do things that harm or degrade it; and the institution of the judiciary.

This great democracy exists because of the respect of its people for these three institutions. This great democracy is diminished if we, especially we in the Senate, diminish any of these. Debate, yes; but respect our institutions, also, yes.

I yield the floor.

CONCERNING THE NEED FOR ACCURATE GUIDELINES FOR BREAST CANCER SCREENING

The PRESIDING OFFICER. Under the previous order, the Senator from Maine and the Senator from Maryland are recognized to speak for up to 15 minutes each, followed by a time reserved for Senator SPECTER from Pennsylvania for 10 minutes.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res 47) expressing the sense of the Senate concerning the need for accurate guidelines for breast cancer screening for women between the ages of 40 and 49.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Maine is recognized for such time as she may consume under the previous order.

Ms. SNOWE. Mr. President, I rise to offer a sense-of-the-Senate resolution in conjunction with my colleague, the Senator from Maryland, Senator MIKULSKI, who has been a longtime advocate, proponent of advancing women's health in America. We responded to the January 23 decision that was made by the advisory panel to the National Cancer Institute that recommended that women should refrain from having mammograms in their forties.

I want to thank the majority leader, Senator LOTT, the assistant majority leader, Senator NICKLES, and Senator JEFFORDS, chairman of the Labor and Human Resources Committee for their assistance in getting this resolution to the floor so quickly. I would also want to thank the Democratic leader and my friends on both sides of the aisle for allowing us to consider this resolution under a unanimous-consent agreement. Breast cancer is an issue that transcends party and politics.

My resolution expresses the sense of the Senate that NCI should conduct studies to determine, once and for all, the true benefit of mammograms for women in their forties. It also urges the Advisory Board to NCI, which will meet later this month, to consider reissuing the mammography guideline it rescinded in 1993 recommending that women in their forties seek routine mammograms. NCI must put an end to the unfortunate confusion that may cost some women their very lives.

Breast cancer is one of the most pressing public health crises facing American women today, striking one in every eight women during their lifetime. It will strike 180,000 American women this year, and kill 44,000 women—more than 10,000 of whom will be diagnosed with breast cancer in their forties. For women in this age group, it is the leading killer, and more women this year will be diagnosed with cancer in their forties than in their fifties.

Mammograms are the most powerful weapon we have in the fight against breast cancer. They enable us to detect and treat breast cancer at its earliest stages when the tumors are too tiny to be detected by a woman or her doctor, providing a better prognosis for treatment. An estimated 23.5 million mammograms were performed in 1992 at a cost of approximately $2.5 billion—a valuable downpayment in our fight against an unmerciful killer.

The question about whether women in their forties should seek regular mammograms has been an open question for years. On January 23, an NCI consensus panel decided not to recommend that women in their forties seek routine mammograms. To justify their position, they argued that the costs associated with routine mammograms for women in this age group potentially exceed the benefits. In making its decision, the panel gave undue weight to hypothetical risks, such as false-negative results that potentially provide women with a false sense of security, false-positive results that produce unnecessary anxiety, the potential for overtreatment, and radiation exposure.

If we ever hope to improve survival rates for breast cancer, women of all ages must receive accurate and consistent information regarding the importance of mammograms. Women and their doctors look to the Nation's preeminent cancer research institution—the National Cancer Institute—for clear guidance and advice on this issue.

Confusion on this issue is not new. In 1989, NCI, along with the American Cancer Society and the American Medical Association, issued breast cancer screening guidelines which advised women to begin having mammograms at age 40. In 1993, NCI rescinded these guidelines, stating that their review of clinical trials produced no evidence that mammograms significantly reduced breast cancer deaths for women in their forties. At the time, Congress and many experts questioned the appropriateness of this conclusion, based on the available scientific evidence. This is when I first introduced legislation urging NCI to reexamine this issue.

By rescinding its guideline, NCI produced widespread confusion and concern among women and physicians regarding the appropriate age at which to seek mammograms. This confusion eroded public confidence in mammography. It also reinforced the information barrier which discourages women from seeking care. Four years later, we are still mired in this controversy.

Yet new studies strongly suggest that routine mammograms for women in their forties can save lives. For example, investigators found a 24-percent lower death rate among women who received mammograms in their forties when the world's population-based trials were combined; and Swedish researchers in 1996 in two studies found a 44- and 36-percent lower death rate among women who received mammograms in their forties. And several studies have concluded that breast tumors in women under 50 grow far more rapidly than breast cancer in older women, suggesting that annual mammograms are of value to women in their forties.

In studying the research and scrutinizing the statistics, the panel appears to have lost sight of the human dimension of this question, and gave undue weight to the costs of screening, rather than the benefits. The panel emphasized that 2,500 women would have to be screened to save one life. But this 1 life represents someone's mother, wife, sister, or daughter.

The panel also emphasized that up to one-fourth of all invasive breast cancers are not detected by mammography in women in their forties. Yet, the flip side of this statistic is that three-fourths of all cancers in this age group are detected through mammography. While it may not be perfect, that clearly amounts to saved lives.

Finally, the NCI Panel also overemphasizes the risks of false-positives, suggesting that many women would undergo unnecessary surgical procedures. Yet, most women with positive findings subsequently undergo more refined diagnostic tests, including diagnostic mammograms, ultrasounds, and needle biopsies to confirm the presence of cancer, before any treatment decisions are made.

Appropriately, the Director of NCI, Dr. Richard Klausner, expressed his surprise and disappointment over the decision of the consensus panel, and has asked the NCI Advisory Board to convene next month to revisit this issue. Former NIH Director, Dr. Bernadine Healy, affirmed his views.

I am asking the Senate to consider my resolution today because women and physicians deserve to have guidance on this issue. My resolution expresses the sense of the Senate that NCI should conduct studies to determine, once and for all, the true benefit of mammograms for women in their forties. It also urges NCI's Advisory Board, which will meet later this month, to consider reissuing the mammography guidelines it rescinded in 1993 which recommended that women in their forties seek routine mammograms. Alternatively, NCI should direct women to other organizations which have issued clear guidelines on the issue, such as the American Cancer Society. This resolution does not dictate science—it simply helps to provide women with clearer guidance as they look to answer a potentially life or death question—should they get mammograms in their forties?

Ms. MIKULSKI. Mr. President, I rise in support of this sense-of-the-Senate resolution and am pleased to be a cosponsor of the resolution with my distinguished colleague, Senator SNOWE of Maine. Senator SNOWE has been an outstanding advocate for many years on the issue of women's health. This is yet one more action on her part that shows her deep commitment in this area.

Mr. President, this is a sense-of-the-Senate resolution. I am pleased to tell you that my colleagues in the Democratic caucus join with us on a bipartisan basis and have endorsed this. All six Democratic women have cosponsored this legislation. Over 30 of the men that we call the "Galahads" also cosponsored this resolution.

What does this resolution call for? It calls for three things that would protect women's health, particularly in the area of breast cancer. No. 1, it calls for further research on the benefits of mammograms for women in their forties; No. 2, it urges the public to follow screening guidelines issued by medical groups which call for mammography screenings in women between the ages of 40 and 49; and it calls upon the National Cancer Institute to again revisit the guidelines that they themselves promulgated, also urging that women who are between the ages of 40 and 49 seek mammograms.

We already have clearly on the record, and clear guidelines have established, that women over 50 should get an annual mammogram. It is clear that often the older you get, the more likely you are to get breast cancer. But there is a particular group of women between ages 40 and 49 who are particularly prone to breast cancer, and each day we are learning more what that category is. Therefore, we are urging through this sense-of-the-Senate resolution that traditional guidelines urging annual or, at the very least, biannual mammograms for women between the ages of 40 and 49 be pursued.

I could not believe when an NIH advisory panel decided that women in this age group might not need mammograms, and at the very best, they were either silent or tepid in their recommendations. They made this decision because they felt there was not substantial evidence that this group was at risk. This flies in the face of what we know through studies done at the National Institutes of Health, through extramural programs at our great academic centers of excellence, and also in worldwide studies of women. The NIH panel should have recognized, also, the weight that their announcement carries. This panel absolutely confused the public, scared women, and gave permission to insurance companies not to pay for a mammogram for a woman between the ages of 40 and 49.

Mr. President, we think this creates a public health concern. Now, why would we believe that? First, women often have been reluctant to seek a mammogram either out of fear or because they do not have the Federal resources to do it. We have been working on education to deal exactly with those issues and even to offer opportunities for women to be able to have funding for this. Also, we have been engaged in an impressive and assertive effort to educate primary care physicians in urging women to get mammograms.

We have been dealing with the insurance companies on the whole issue of breast cancer. Now some companies have that misguided approach of insisting that women leave a hospital in less than 48 hours after they have had a mastectomy. Mr. President, we say enough is enough. We should take time out, go back to our science, go back to our research, go back to the National Institutes of Health and ask them to come up with the recommendations that we need. We are urging them to do that. Not only are we urging them to do that, but the actual Director of the National Cancer Institute, Dr. Richard Klausner, is also recommending that this advisory board go back and take another look.

Senator SNOWE has talked about the risk of cancer. We all know that any woman can fall prey to breast cancer. It does not matter how old she is or what her income bracket is. We know she needs to be screened. We know 40,000 women die every year of breast cancer. We know over 138,000 women every year have some early signs of breast cancer. What we are saying on behalf of the women and the men who support us, let us go back to our standards.

I am happy to have joined in this resolution because I know that mammograms save lives. And if breast cancer is detected early, the probability that a woman will survive is greater than 90 percent. My position is simple: Stick to science, go to the guidelines that were properly promulgated, listen to doctors and other health care providers working in this field.

Mr. President, for some time we have been working in a bipartisan bicameral basis on this. I remember back in the House of Representatives when Senator SNOWE and I introduced one of the first Women's Health Equity Acts that we called for activity in this area. We have been working on that ever since, on a bipartisan bicameral basis, and not only with the women taking the lead, but with the enthusiastic support of the men in our body.

Thanks to the work of Senators SNOWE, MIKULSKI, and BOXER, and Representative MORELLA and others, we have established the Office of Women's Health at NIH. We made more money for research available for diseases most affecting women. We ensured that women were included in the protocols of medical research, where they had been excluded not because of science but because of gender. We worked to expand the coverage for mammograms under Medicare and even provided funds for low-income women to get mammograms. We also have led the fight for mammogram quality standards, which we will be reintroducing as it expires. We hope to do this together, to show that when it comes to fighting for women's health, we are there. We want to make sure that each family is able to ensure that breast cancer does not strike them. We are going to do it not only on a bipartisan basis, we are going to do it on a nonpartisan basis.

I thank Senator SNOWE for taking the lead on this as she has done in so many other areas. We are pleased on our side of the aisle to also join with her.

I send to the desk the list of the Democratic cosponsors. I look forward to voting for this bill and continuing our advocacy on this most crucial issue.

The PRESIDING OFFICER. Without objection, the sponsors will be added to the bill as requested by the Senator from Maryland.

Ms. SNOWE. How much time remains on this side?

The PRESIDING OFFICER. The Senator from Maine has 9 minutes and 33 seconds remaining.

Ms. SNOWE. I just respond to the Senator from Maryland by commending her for her very strong statement, her commitment, and a resoluteness to this issue in the hope that women get the best health care in America. She has shown strong leadership on this issue throughout the years. As she mentioned, we worked on women's health issues beginning in the House of Representatives in making some extraordinary changes within the National Institutes of Health to create an Office of Women's Health, which was absolutely vital because women were excluded—as well as minorities, I might add—from clinical studies.

I thank the Senator and commend her for all she has done on behalf of women.

I yield 3 minutes to the Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of this resolution. For 2 weeks, like many Americans, I was disturbed by the news that the National Institutes of Health would not recommend regular mammograms for women in their forties.

Mr. President, we have to call this a deadly and silent disease. The fact is, cancer is the leading cause of death for women between the ages of 40 to 55. Mr. President, this statistic itself should dictate that women in their forties should have regular mammograms. It only makes common sense that they should. My worry is that without the National Institutes of Health's recommendation, women will be lulled

into a false sense of security and believing that they do not need a mammogram, and that doctors may not always recommend that women in their forties have one.

The last thing we need to say to women juggling family, career, and all of the problems they are faced with, is that this can wait. If we lead them to believe that, then they will let it wait, and they will face dire consequences when they do.

Too often when these matters are debated, the fact that we are talking about the lives of people, the lives of wives, mothers, daughters, and friends—by remaining silent on this issue, we are putting their health at risk. I thank Senator SNOWE for bringing this issue to the floor. It is one that deserves national attention and certainly the attention of the Senate. I am proud to be an original cosponsor of the resolution. I thank Senator SNOWE for bringing it to the Nation's attention.

I yield the floor.

Ms. SNOWE. Mr. President, I now yield 4 minutes to the Senator from Texas.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Texas [Mrs. HUTCHISON] is recognized for 4 minutes.

Mrs. HUTCHISON. Thank you, Mr. President. I thank Senator SNOWE and Senator MIKULSKI. All of the women in the Senate are cosponsoring this resolution. I will never forget 2 years ago when Senator MIKULSKI called a hearing of all of the women in the Senate on the first time we saw there was a question by the National Institutes of Health about whether women should have screening before the age of 50. All of us, resoundingly, came together and said, "Of course they should." Now we have new Members in the Senate—Senator SNOWE, Senator COLLINS, Senator LANDRIEU, who have joined us in a unanimous verdict, which is that the women of this country deserve better.

The women of this country deserve to know the facts. The facts are that the studies have come in. In 1995, a study showed a 24-percent lower death rate among women who received mammograms in their forties. That was an American study. In 1996, Swedish researchers, in two studies, found a 44-percent and a 36-percent lower death rate among women who received mammograms in their forties.

So why are we getting a mixed message? Why aren't all of the experts coming together on an issue that is killing more women in their forties than any other disease? The women of America have no guidelines. They have no guidelines because we can't get our doctors to do what they do for every other medicine and every other disease that I can think of, and that is to say we can have a 24-percent lower death rate of the women in this country in the 40-to-49 age bracket if we will have mammograms. But there is a slight chance, perhaps less than 1 percent, that having a mammogram might induce cancer.

Now, I think we are intelligent enough to receive the full facts and not have a mixed message. That is not a mixed message. When we can save thousands of lives by having mammograms between the ages 40 and 49, and there is a, perhaps, less than 1 percent chance that it might be a danger, let's give women the facts without a muddled message. That is what this resolution does today. It says to the women of our country, very clearly, that their chances of surviving breast cancer are infinitely better, and all the studies show it, if they will have a mammogram, starting at the age of 35 or 40, every 2 years, and then when you are 50, every year. It is very simple. The women of this country deserve to know that their chances are a heck of a lot better if they will have this procedure done.

Now, something that you all have not mentioned yet, which I worry about very much, is that now that we have this mixed, garbled message, are insurance companies going to step forward and say, now, wait a minute, maybe we should not cover mammograms? Is this going to open the door to questions as to whether this very basic preventive procedure will be available to the women of this country?

We must speak with a certain voice today in saying to all of our health institutes: Come forward and give us leadership. You are the experts. I think we can take the facts, and I think we can save the lives of thousands of women if we will say exactly what all of the statistics show, which is to take care of yourself. Have a mammogram, starting at the age of 35 or 40, every 2 years, and then, at 50, every year. Let's not even introduce the option of insurance perhaps not covering this kind of preventive procedure that is killing more women between the ages of 40 and 49 than any other disease in this country.

So I commend all of my women colleagues and friends for coming together, along with all of the men cosponsoring this amendment and ask for a unanimous vote today at 5 o'clock supporting this, urging experts to help the women of our country protect themselves.

Ms. MIKULSKI. Mr. President, how much time is left on our side?

The PRESIDING OFFICER. The Senator from Maryland has 6 minutes 44 seconds. The Senator from Maine has 1 minute 40 seconds.

Ms. MIKULSKI. I reserve my time. Senator SPECTER has 10 minutes on his own time. I have no objection to his proceeding.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I support the pending resolution because it focuses attention on the need for mammograms that would give the imprimatur of the U.S. Senate to this important medical testing device. I, with many other Americans, was very surprised when, on January 23, a report was issued questioning the advisability of mammograms with the essential finding that there was not enough evidence that women in their forties would benefit by advising them to have the x-ray test as part of routine health screening. The question which then came to my mind was whether there was enough evidence to conclude that women in their forties would not benefit from the mammograms as part of routine health screening.

To articulate the conclusion in the form that there was not sufficient evidence to show that women would benefit is really not to answer the question, because where the evidence may be in doubt in the minds of some scientists, the practical sense conclusion is that there is very, very substantial evidence to show that mammograms are helpful and that underlying a decision not to have mammography is a question about cost-benefit ratio and a question about certain collateral issues, which need not necessarily be faced, as to whether there will be unnecessary biopsies.

This matter struck home with me especially, because in 1993, when I sought an MRI examination of my head, I was told by the doctors that I did not need it. I then insisted on having it, and they found a potentially life-threatening problem, which was corrected after I got the MRI. There is an attitude in many quarters that unless the burden of proof rises to a certain level, and perhaps a very high level, these tests ought not to be given. I think that is the wrong standard of evaluation.

Mammograms are expensive; MRI's are expensive. But I am convinced, from the work I have done as chairman of the Appropriations Subcommittee on Health and Human Services, that we have enough mammography equipment and enough specialists and enough administrators and enough MRI machines, et cetera, to conduct the necessary tests. It may be necessary to do them in the evening. If an MRI costs $800 at a convenient time during the day, maybe it could be accomplished at 2 a.m. or 3 a.m. for $50, with a margin of cost as to what it would take.

When this report came down on January 23, 12 days ago, I immediately scheduled a hearing of the Appropriations Subcommittee on Health and Human Services. Tomorrow we will be hearing from the people who came to the conclusion that mammograms are not warranted for women in their forties, and we will also be hearing from people who have reached the opposite conclusion.

I think it is very significant that Dr. Richard D. Klausner, Director of the National Cancer Institute, expressed shock when he heard of this report that mammograms were not warranted for women in their forties.

Dr. Bernadine Healy, former Director of NIH, made this succinct statement: "What are they saying—that ignorance is bliss?"

Dr. Daniel B. Kopans of the Harvard Medical School said the committee's report was "fraudulent," which was the way he termed it.

And if you take a look at this issue historically, in 1977, the National Cancer Institute and the American Cancer Society recommended that women 40 to 49 have mammograms only if their mothers or sisters had breast cancer. In 1980, the Cancer Society recommended that one-time mammograms for women 35 to 40 were warranted to establish a baseline for future measurements for women under 50. In 1983, the Cancer Society recommended that symptom-free women 40 to 49 have mammograms every 1 or 2 years.

In 1987, the Cancer Institute adopted a working guideline to begin screening women age 40 with mammograms every 1 to 2 years. In 1989, those guidelines were officially adopted by a conference of leading cancer organizations.

Then, in 1993, the National Cancer Institute changed the recommendation, saying "Experts do not agree on the value of routine screening of mammography of women ages 40 to 49." They do not agree that women in that age category ought not to have mammograms. And I say on the face of this record with succinct evidence that women do benefit from mammograms. Even though there is conflicting evidence, we ought to err on the side of safety, and mammograms ought to be available.

But when there is a national report questioning the value for women 40 to 49, immediately it is going to send shock waves to the women of America who will say, "Well, maybe I do not really need a mammogram."

It is very difficult to get some people to take medical tests because people very understandably, very naturally, are afraid of the results. If you have this conclusion from a group of experts that you really ought not to have it, that it is not a matter of necessity, then women are not going to take it. Where you have this kind of report too, those who are responsible for paying for mammograms are going to have a good reason to say, "We are not going to cover mammograms for women in the 40 to 49 category."

When we have the hearing in the Appropriations Subcommittee on Health and Human Services tomorrow it will be a rather unusual hearing as far as I am concerned. Most of the time we have these hearings to answer questions. This is one hearing that I am approaching with the fixed opinion from all that I have studied in the past to really find a direction so that the National Cancer Institute will take whatever steps are necessary to resolve this issue in favor of having mammograms. It is simply not sufficient to say on the evidence that when there is conflicting evidence we are going to reject mammograms for women in the 40 to 49 age category.

In addition, I think that the National Cancer Institute ought to be doing more on multiinstitutional testing of MRI's on imaging. Last year, with the help of the Central Intelligence Agency and a special contribution made with the help of then-Director John Deutch, some $2 million was put up by the CIA for imaging processes on the proposition that if the CIA could image and detect through clouds and look to the Earth to find out what was going on that those processes could be helpful in the detection of breast cancer.

So I compliment my distinguished colleague from Maine and my distinguished colleague from Maryland for their leadership.

I would like to add that for the National Institutes of Health budget, specific research funding for women was added that Senator HARKIN, then-chairman of the Appropriations Subcommittee on Health and Human Services, and I as ranking member, supported. I must say that I like it better to be chairman and have Senator HARKIN as ranking member. But there has been very considerable attention to this issue not only by our very distinguished women Senators but many on the male side as well.

I hope that the vote this afternoon—and I am confident that it will be, knowing our colleagues on issues of this sort—will be a resounding vote to send a message to the women of America that they ought to get mammograms, that they ought to protect their health, and that where it is an open question as to whether it is cost-effective, let us err on the side of taking the test.

I say that with some substantial experience in the field of having undergone a test that the experts said I didn't need, which for me was a lifesaving procedure.

I thank the Chair, and I yield the floor.

Mr. MURKOWSKI. Mr. President, I rise as a cosponsor of this important resolution which expresses the sense of the Senate that further research is necessary to determine the benefits of mammography in women ages 40 to 49.

Mr. President, I have been very involved with mammography issues in Alaska and have worked with my wife Nancy to promote access to this important diagnostic tool. I would like to bring to the Senate's attention the work my wife Nancy, and others, has promoted on behalf of the Breast Cancer Detection Center of Alaska.

The Breast Cancer Detection Center of Alaska had its beginnings in 1974 when seven Fairbanks women decided that health care for women, especially in the area of breast cancer, should be made more accessible and less expensive for residents who live in remote areas of Alaska. In 1976, with very humble beginnings, the center opened its doors in Fairbanks, staffed and equipped by volunteers. The State granted the moneys for a GE mammography machine and a local bank loaned the basement of a drive-in branch for the clinic offices. Furniture, carpeting, and paint was donated by local merchants, and a nurse-administrator, radiologist, and two doctors volunteered their services. Breast examination was taught and recommended mammograms were provided free of charge.

Today, the center, housed in a very spacious office, is staffed by an executive director, two office personnel, a certified mammographer, and a radiologist. The lo-rad mammography machine is one of the finest in the State. The center still maintains the policy of waiving a fee for women who cannot afford to pay or do not have insurance.

With the unwavering support of the Fairbanks community the center has been operating for 20 years with donations, insurance, and fundraisers by local service organizations.

Three years ago, the executive director informed the board of directors that a new mammography machine was needed to keep up with advancing technology. Nancy and I offered to do a fundraising fishing event in southeastern Alaska to benefit the center. At that first event, Waterfall '94, over $140,000 was raised for the breast cancer center and completely offset the cost of the new state-of-the-art lo-rad mammography unit.

Because of the overwhelming success of Waterfall '94, we decided to hold a similar event the following year to again benefit the center. Nancy, one of the original founders of the center, had long desired to have a mobile mammogram van to serve the Yukon River system villages, and the rural bush communities of Alaska. Waterfall '95 made that dream come true with a donation of $210,000 to the center. Waterfall '96 will benefit the center with an approximate $240,000 donation. Plans are already in place for the Waterfall '97 event with plans to incorporate prostate PSA tests, and to do cervical cancer checks as well.

The Breast Cancer Detection Center of Alaska now visits remote bush villages along the river system and the highways with a 43-foot van equipped with a mammogram unit and darkroom with a film processor, two dressing rooms which double as bunks for the driver and mammography technician, a small reception area, and a bathroom

which can accommodate wheelchairs. There is a hydraulic lift for wheelchair entry into the van as well.

While most American women face a 1-in-9 risk of dying of breast cancer, Alaskan women face a 1-in-7 chance. Among Alaska Native women, cancer is the leading cause of death and breast cancer is the second most prevalent cancer. Now there is no reason for these women not to learn about early detection. Julia Roberts, from the small village of Tanana, said it all when she came to the van for her exam. "I know it's important. I know if you catch it early you can probably save your life. I have three children and I want to see my grandchildren."

Mr. President, we need more fundamental research on breast cancer. And I strongly support further study to determine the adequacy and effectiveness of mammography for women in the 40-to-49-age bracket.

Mrs. BOXER. Mr. President, I rise as an original cosponsor of this resolution concerning the need for accurate guidelines for mammography screening for women between the ages of 40 and 49.

Since 1993, when the NCI rescinded its original guidelines I have been trying to get them to return to their original position. In the past 3 years, I have written several letters to the heads of the National Cancer Institute [NCI], asking that it reconsider its position on mammography screening for women between the ages of 40 and 49.

We have seen study after study that shows that mammography screening at an earlier age can help save women's lives. Women and physicians have come to depend on the recommendations of the NCI in determining when they should begin mammography screening.

NCI's decision to back away from screening for women between the ages of 40 and 49 has led to confusion and anxiety. I applaud Dr. Klausner, head of the NCI, for convening the advisory panel. But like him, I am disappointed that the panel issued no concrete guidelines to aid women and their doctors.

Since we cannot prevent or cure breast cancer, mammography screening remains the best tool we have to detect it early when chances for survival are highest. We cannot now eliminate the only hope younger women have for fighting this dreaded disease.

This resolution is an important step in the right direction. The NCI needs to recognize the importance of mammograms for women in their forties and reissue its previous guidelines.

I ask unanimous consent that the three letters I referenced in my statement be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
HART SENATE OFFICE BUILDING,
Washington, DC, November 30, 1994.

SAMUEL BRODER, M.D.,
Director, National Cancer Institute, National Institutes of Health Buildings, Bethesda, MD.

DEAR DR. BRODER: I have previously expressed to you my deep concerns about the National Cancer Institute's position on mammography screening for women between the ages of 40 and 49. I am writing today because I believe that studies released this week underscore the need for prompt reconsideration of the position taken by the NCI.

As you probably know, two studies presented at the annual conference of the Radiological Society of North America concluded that mammography is of substantial benefit to women between 40 and 49. In a study done by the Screening Mammography Program of British Columbia, 15 percent of the cancers detected through mammography were in women under 50. Eighty-seven percent of the tumors discovered were at an early, curable stage.

Annual mammograms for women 40 and over also resulted in the greatest chance of recovery and the largest number of treatment options, in an analysis of 851 breast cancer patients at the Thomas Jefferson University Hospital in Philadelphia. The authors of this study concluded that mammography was particularly important for women under 50 due to the speed with which tumors develop in younger women.

With this new research strongly suggesting great benefit in mammography screening for women between 40 and 49, I ask the NCI once again to reconsider its position and return to its original guidelines.

Please contact me as soon as possible as I need to determine what further action I will take on this matter.

Sincerely,

BARBARA BOXER,
U.S. Senator.

U.S. SENATE,
HART SENATE OFFICE BUILDING,
Washington, DC, December 23, 1994.

Dr. SAMUEL BRODER,
Director, National Cancer Institute, National Institutes of Health Building, Bethesda, MD.

DEAR DR. BRODER: Three weeks ago I wrote to you about the National Cancer Institute's (NCI) position on mammography screening for women between the ages of 40 and 49. I continue to believe that this issue merits your immediate attention.

As I have stated previously, women and physicians have come to depend on the recommendations of the NCI in determining when they should begin mammography screening. NCI's decision to back away from screening for women between the ages of 40 and 49 has led to confusion and anxiety.

NCI's position on this issue is especially distressing in light of the conclusions found in a recent report prepared by the House Government Operations Committee titled "Misused Science: The National Cancer Institute's Elimination of Mammography Guidelines for Women in Their Forties."

This report notes that several senior scientists at NCI questioned the scope and quality of studies used by NCI to reverse its position on mammography and that NCI ignored the 14 to 1 decision by its own National Cancer Advisory Board "to defer" action on any changes to the mammography guidelines. The latter point was one which I had brought to your attention in July.

Two new research studies presented at the annual conference of the Radiological Society of North America last month now strongly support mammography screening for women under age 50. I outlined these studies and their findings in my letter to you of November 30.

It is time for the NCI to reconsider its position on mammography screening for younger women. I would like to meet with you personally to discuss what actions the NCI can take on this matter. Please contact me as soon as possible to arrange for an appointment.

Sincerely,

BARBARA BOXER,
U.S. Senator.

U.S. SENATE,
HART SENATE OFFICE BUILDING,
Washington, DC, December 3, 1996.

Dr. RICHARD KLAUSNER,
Director, National Cancer Institute, National Institutes of Health Building, Bethesda, MD.

DEAR DR. KLAUSNER: Over the past two years, I have written several letters to both you and your predecessor, Dr. Samuel Broder, asking that the National Cancer Institute (NCI) reconsider its position on mammography screening for women between the ages of 40 and 49.

As I have stated previously, women and physicians have come to depend on the recommendations of the NCI in determining when they should begin mammography screening. NCI's decision to back away from screening for women between the ages of 40 and 49 has led to confusion and anxiety.

As you know, yesterday at the Radiological Society of North America meeting in Chicago, new research was presented which supports the position that mammography screening for women should begin at age 40.

I understand that next month the NCI will convene a panel of experts to reconsider this issue. Given the new research which convincingly supports mammography screening for women between the ages of 40–49 when the panel convenes next month, I urge you to reconsider your position and reinstitute the original guidelines on mammography screening.

Since we cannot prevent or cure breast cancer, mammography screening remains the best tool we have to detect it early when chances for survival are highest. We cannot now eliminate the only hope younger women have for fighting this dreaded disease.

Sincerely,

BARBARA BOXER,
U.S. Senator.

Mr. KENNEDY. Mr. President, I support this sense-of-the-Senate resolution which calls for the National Cancer Institute to reissue guidelines for breast cancer screening for women between the ages of 40 and 50. Although an NIH advisory panel decided that women in their forties may not need mammograms, this finding continues to be a controversial one. Even though some studies have shown that mammography may not always be effective in detecting breast cancer, we can't ignore the importance of the early detection of this disease. Early detection and treatment will lead to reductions in breast cancer mortality. Failure to encourage breast cancer screening for women in their forties may well have disastrous results.

The scientific literature is controversial. In this situation, it makes no sense to rescind the current mammography guidelines and standards. The evidence is far from conclusive that screening brings no positive effect for women in their forties. Further studies need to be conducted before our choice is made. We need to do all we can to encourage the early detection of breast cancer. I commend Senator SNOWE and Senator MIKULSKI for their leadership, and I urge the Senate to pass this important resolution.

Mr. MACK. Mr. President, in 1993, the National Cancer Institute rescinded its recommendation that all women in their forties undergo mammography screening for breast cancer. Since then, American women have been receiving mixed messages about the importance of mammography.

Women are confused. Women are angry. Women are frightened. Given the wide variety of recommendations being made about mammography screening for younger women, one can certainly understand why.

The scientific community is deeply divided on the interpretation of data from mammography clinical trials conducted in the United States and elsewhere. Cancer advocacy organizations are split on the proper recommendations to give their members and the public. Physicians want to provide the best recommendations to their patients, but there is no single answer to give them. Insurance companies frequently deny coverage of benefits unless there is compelling scientific data to warrant coverage.

Clearly, women want to be more involved in making health care decisions for themselves. But when the medical, scientific, and patient advocacy communities cannot agree on the issue of mammography screening, women are being placed in a situation where they must make, at best, an educated guess as to what they should do to protect themselves from a disease which will kill an estimated 44,000 women this year.

Women and their families were hopeful they would get clear answers when the National Institutes of Health convened the Consensus Development Conference on Breast Cancer Screening for Women Ages 40–49.

Unfortunately, the Consensus Development Conference statement contains more mixed messages, more confusing data and few real answers.

The report concludes, "zero to 10 women would have their lives extended per 10,000 women ages 40–49 who are regularly screened. About 2,500 women should be screened regularly in order to extend one life." These two statements leave a great deal of room for interpretation by women, their physicians and their families.

The report concludes, "up to 25 percent of all breast cancer is not detected by mammogram in women ages 40–49." One could therefore logically conclude that 75 percent of all breast cancer is detected by mammography performed on women in this age group. To me, the fact that 75 percent of breast cancers will be detected through mammography is very significant. In addition, this conclusion also makes a compelling case for additional research to develop more sophisticated equipment which can detect breast cancer earlier than today's mammography technology can.

The report also concludes that use of mammography has contributed to a growing trend that breast cancer tumors are being detected when they are small, and at an early stage. The report states that, "the presence of smaller or earlier stage breast tumors can give a patient more choice in selecting among various treatment options." Research has shown that lumpectomy, combined with radiation therapy, is as effective as mastectomy when the tumor is detected early.

One area all parties involved in this issue can agree upon is the need for additional research. I have introduced Senate Resolution 15, to express the sense of the Senate that funding for biomedical research activities of the National Institutes of Health should be doubled over the next 5 fiscal years. It is only through research that definitive answers to these very important research questions can be obtained.

While I respect the conclusions of the consensus panel, I believe the message being sent to younger women throughout America is wrong. They are being told, in essence, that early detection of breast cancer may not be all that important. I believe most women reject that conclusion.

On numerous occasions, I have spoken about how my own family has been affected by cancer. My wife and my mother are both survivors of breast cancer because it was detected at an early stage. It haunts me to think what might have happened if they had received the message that women are currently receiving with this report.

I support this sense-of-the-Senate resolution. I believe it is important that the Senate send the message that more research is needed to further determine the benefits of mammography screening in younger women, that the National Cancer Institute should reconsider its mammography screening guidelines, and to encourage the public to consider cancer screening guidelines issued by other organizations.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I want to conclude the debate on this side by reaffirming that this resolution does not meddle with the National Institutes of Health. It does not meddle with science. It essentially says let us have more research on the subject of breast cancer in terms of its cause, in terms of its prevention, and in terms of its cures.

It also calls for the women of America and their physicians to follow those guidelines that are recommended by every physician group as well as the American Cancer Society on urging women in the age 40 to 49 group to have either an annual or biannual mammogram.

Third, it asks the National Cancer Institute to repromulgate its own guidelines urging the same.

I would like to comment that this advisory panel that made this report in January is not made up of NIH scientists. This is an outside advisory group to the National Institutes of Health.

Mr. President, I have the honor of representing the National Institutes of Health because it is in my State. How wonderful to be able to represent a Government organization devoted to saving lives by finding cures and causes for the diseases that threaten Americans and others around the world.

The National Cancer Institute has taken specific steps to be far more sensitive and to have a budget priority looking at those gender-specific diseases, particularly breast cancer and ovarian cancer. And we are pleased also with the work that is now being done in the area of prostate cancer as well.

I believe that the National Cancer Institute is on the right track. We want to be sure that they continue their scientific research, and if there is a gray area about when you should have a mammogram always go to the side of safety. Always go to the side of caution. One of the things we know is that when you are treated by a physician more information is often better information.

So, Mr. President, I urge unanimous adoption of this sense-of-the-Senate resolution.

Knowing no other Democrats who wish to comment on this issue, I yield the remainder of my time and look forward to the vote at 5 p.m.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, in conclusion I would like to make several final points.

First of all, I would like to commend Senator SPECTER for his commitment and devotion for years on this issue, and in particular tomorrow for holding a hearing as the chairman of the Labor-HHS Committee on Appropriations which I think will be very significant in highlighting and profiling the importance of this issue.

Finally, I also would like to say that I think it is critical that he send a very strong message to the Cancer Institute advisory panel that will be meeting later this month to revisit this issue,

and, if they see that we have a very strong vote here in the U.S. Senate from all Senators across the political aisle, clearly I think they will rescind the statement that they made last month in not making any recommendation for women in their forties. I think it is an abdication of their responsibility, and an abdication of their knowledge of medical science in terms of what is best for women.

I am very pleased as well that all nine women here in the U.S. Senate—all Republican and all Democratic women—are cosponsors of this resolution.

I do hope that we can get unanimous support of this issue so that we can correct what I think has been a wrong decision on the behalf of women in America and does nothing to advance women's health.

That is why this resolution becomes a critically important statement to the lives, health, and safety of women in America.

I yield the remainder of my time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the vote on this resolution will occur at the hour of 5 p.m.

In my capacity as a Senator from the State of Idaho, I suggest the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

THE ENVIRONMENT

Mr. BUMPERS. Mr. President, while I and a number of my colleagues will come to the floor in the days ahead to introduce specific proposals affecting our Nation's parks and public lands, I would like to talk very generally about the environmental and natural resources agenda of the 105th Congress. My hope is that we have learned from the lessons of the last Congress and will not once again attempt to undo the most effective and progressive network of environmental laws in the world.

Over 25 years ago, with overwhelming bipartisan support, the National Forest Management Act, the Federal Land Policy and Management Act, the Wild and Scenic Rivers Act, the National Environmental Policy Act, the Endangered Species Act, and the Clean Water Act were enacted into law.

Today, as a result of those and other laws passed with strong support from both sides of the aisle, people are more actively involved in management of their public lands, more people are using public lands for recreation than ever before, our air and waters are cleaner, hunting and fishing is better, our Government is more open about the effects of its actions on the health and safety of families and local communities, and rare species such as the bald eagle and grizzly bear are thriving.

By protecting our natural resource heritage, we have become a wiser, stronger, and healthier nation.

At times we have a tendency to overlook the value—our moral and ethical obligation—to pass on healthy lands and waters to our children's children. How else can we explain efforts in the last Congress—and proposals by some of my colleagues today—to rewrite, overturn, or significantly weaken the protections afforded all Americans by these laws?

In this regard, I was encouraged by the recent words of Mike Dombeck, the new Chief of the Forest Service. His first day on the job, Chief Dombeck said:

> More and more, people are realizing that their jobs and professions, the quality of the water they drink and the air they breathe—the very fabric of their lives—are dependent on the land that sustains them.

Dombeck told his employees that this Nation's environmental laws:

> . . . represent the conservation values of mainstream America. Do not be disturbed by the debate surrounding their execution. This is background noise to a complex society and healthy, properly functioning democracy. There is an ongoing debate in this Nation over how national forests and rangelands should be managed. That's just fine. In fact, it is healthy. Debate and information are the essence of democracy. The people we serve, all of the American people, are now more fully engaged in defining how their public land legacy should be managed.

The new Chief succinctly stated what we inside the beltway sometimes forget, "We cannot meet the needs of the people if we do not first conserve and restore the health of the land." This Nation is blessed by a public land legacy that is the envy of the world. Our taxpayer-owned lands are the refuge of last resort for vanishing species. Moreover, these lands enable our children to experience the solitude of wilderness, pristine clear lakes, and a hunting and fishing experience unexcelled in pure delight anywhere else.

Last year many Members of Congress were shocked by the outrage of our citizenry over the efforts to dramatically cut the EPA budget. In 1960, 65 percent of our lakes and streams were neither swimmable nor fishable. Today 65 percent of our lakes and streams are swimmable and are fishable, and I can tell you, our people want that progress to continue until we reach 100 percent. I applaud Chief Dombeck's views and encourage my colleagues to allow him the time and resources to make the policy and personnel changes needed to achieve his critically important vision.

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

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

TAX CUT AND MEDICARE CUT PROPOSALS

Mr. BUMPERS. Mr. President, tonight the President will address the Nation on the State of the Union. I do not know precisely what the President is going to say, particularly about the economy and about the budget, tax cuts, the deficit, crime, education, the environment, and so on. I am sure he will address each one of those things and more.

But I would be less than candid with my colleagues and my constituents—and I would be less than honest with myself—if I did not voice some concerns about what I have been reading about what the Republicans want in the way of tax cuts and what the President wants in the way of tax cuts, what the President wants in the way of Medicare cuts, and what the Republicans want in Medicare cuts, what kind of incentives we want for our children to attend college, what kind of a tax cut we want for so-called middle class people.

So let me address those issues seriatim and say, first of all, it is my understanding that the proposal which has been in the public domain for some time now to cut Medicare by $138 billion over the next 6 years will probably be fairly well applauded. Nobody is going to object to any proposal that makes the Medicare system sounder and gives our elderly Medicare recipients a better sense of security. Anything we can do to cause the American elderly population to sleep better at night because they know the Medicare system is sound and will be sound for the foreseeable future is a highly desirable goal.

Now, having said that, I think the Republicans will want to cut Medicare more than $138 billion. And I am not saying they are right or wrong. I do not know what the figure ought to be. I might support additional proposals to do anything to make the Medicare system sounder than $138 billion will make it.

But having said that, I am puzzled by how you achieve a balanced budget while you are cutting $138 billion in Medicare, which alone would go right on the budget deficit over the next 6 years, I believe it is.

But we do not stop with that. The Republicans do not stop with it and the Democrats do not stop with it.

The Republicans have a proposal of a tax cut which they call the middle-class tax cut. It is designed to provide a $500 tax credit for each child in the family, but it is not refundable.

That means that if you are making $30,000 a year, and you pay $1,500 in taxes, you would get $1,500 back if you have three children—$500 for each child.

But if you happen to have a $30,000 income, and six children, and you do not pay any tax, you get nothing.

So the simple question must be asked, who needs a tax cut more, the parents with three children or the parents with six children?

Move on down the ladder to $25,000, move on down the ladder to $20,000, a single mother with one child who is working as a waitress in a Senate cafeteria. Her tax bill is $1,000, we will say. She would get $500. But if she had three children and was still paying $1,000, she would get $1,000, but nothing for the third child.

The third scenario: If she has children and is paying no tax, she gets nothing. And on top of that, as the Presiding Officer will tell you, and recall, we cut the earned income tax credit last year, which is so beneficial to the mother who is a waitress in a Senate cafeteria that I just described because she is entitled to an earned income tax credit by staying on the job and off welfare.

No less a person than Ronald Reagan said it was the greatest incentive for staying off welfare he could think of. Every President since that thing first came into effect has said that this is one of the best incentives to keep people off welfare we have. That is to say, "If you stay on the job all year long, don't get on welfare, and if you make less than $28,000 a year, we'll give you a sum of money at the end of the year, as high as $2,000."

So what are we doing here? What kind of social policy is it? Forget economics. What kind of social policy is it when we give money to people who have one or two children and pay income tax, give no money to people who work and pay no income tax because they have enough dependents to keep them from paying taxes and maybe whose income was cut this year because we cut the earned income tax credit? What kind of fairness is that?

So, Mr. President, I am troubled about the so-called $500 tax rebate for all your children. It is not refundable. Only if you pay taxes do you get it. Obviously, the people who are hurting most are not paying taxes because they do not make enough money.

Then we have this proposed capital gains tax cut. As I read the Republican proposal, CBO scores it to cost $33 billion over the next 5 years and $111 billion over the next 10 years. And who do you think gets the majority of the benefit? Why, it is the people who own stock in Microsoft and Intel and IBM. It is the people who are big investors in the stock market.

The rate of 28 percent on capital gains may be a tad high. There is probably nobody in this room who would quarrel with that. But if you are trying to balance the budget, which we have been doing a magnificent job of for the past 4 years, why do we want to muck it up and start cutting taxes, which is absolutely guaranteed to start the deficit back up again?

We tried that in 1981, cutting taxes massively, increasing defense spending massively, and winding up today with a $5.2 trillion debt. This is the slowest learning crowd I have ever seen. It is worse than trying to housebreak a dog I had one time. We just could not do it.

So what are we doing talking about these massive tax cuts and balancing the budget at the same time? It has never worked, and it never will. Where did all this talk get started? If you are going to cut taxes, cut taxes for people who honestly need the money.

If you cut capital gains, with 75 percent of the benefit going to people who make over $100,000, where is it going to go? Probably into the stock market. The mutual funds are putting $15 billion a month into the market right now. Who here believes that the stock market can absorb those kinds of investments? Everything that goes up has to come down at some point or another. But I am talking about the Republican proposal.

And now the President is going to announce tonight apparently a proposed capital gains tax cut for people who have homes worth $500,000. If you bought a home 20 years ago for $100,000 and you sell it today for $500,000, under the proposal of the President you would not pay a nickel tax.

I remember many years ago when we passed an exemption for homeowners to exclude $150,000 of the price tag. You could do that one time in your life, a $150,000 exclusion. If you had a $500,000 home that you had paid $100,000 for, you not only get your $100,000 cost back, you can add $150,000 to that and you have $250,000 capital gains on which you would pay a 28 percent tax. The President's proposal is that if you have a $500,000 home and you sell it for $500,000 there is no tax, no matter what you paid for it. You may have paid $25,000 for it and it may be worth $500,000 today because somebody wants to build a McDonald's where you are living, no tax. Now, Mr. President, would you like to know how many people in this country have a home that is valued in excess of $500,000? The answer is 1 percent. The President's proposal of a $500,000 exclusion will take care of 99 percent of all the homeowners in America. I do not know what the cost of it is supposed to be.

These things are all laudable. I never lost a vote voting for a tax cut. When you tell people you are for tax cuts, everybody applauds. If there is anything people want to hear, it is that they are overtaxed, they are overregulated, they are overeverything. I understand their frustration.

But let me ask you this: When you have an economy that grew at 4.7 percent in the fourth quarter of 1996—that is a staggering growth rate—with an inflation rate of 2.2 percent, about as low as you can ever get it, Treasury bills at 5 percent as of yesterday, the unemployment rate as low as it ever gets, in short, you have an economy that is performing absolutely magnificently, and the deficit has gone from $290 billion in 1992 to $107 billion, a 63-percent reduction in 1996, what are we going to do? We are going to start pandering again. Why can we not focus on that deficit? The people of this country have a nonnegotiable demand that we balance the budget.

Do you know why a lot of people are going to vote for the balanced budget amendment to the Constitution of the United States? Do you think it is because they think it is sound economic or social policy? I do not like to denigrate other people. It is arrogant to do that. But I can tell you one reason is because they have seen the polls. I know what the polls show. One of the reasons the polls show so many people want a constitutional amendment to balance the budget is two things. No. 1, they think a constitutional amendment to balance the budget and a balanced budget are the same thing. A constitutional amendment does not guarantee you anything. Yes, it does, too: It guarantees you chaos. It is the biggest political scam ever perpetrated and foisted off on an unsuspecting public that can bring nothing but utter chaos to this Nation down the road.

Do you know something? People did not elect 100 Senators to come up here and vote however the polls show every time. They elected people to come up here and to think, to read the Constitution, understand the sacredness of the Constitution, understanding that every single little problem that comes up ought not to be solved by tinkering with that sacred document. I have never voted for a constitutional amendment. I thought in 1984 when I voted against that great constitutional amendment of prayer in school that I was serving my last term in the Senate. Do you know something? I went home and I went from one end of the State to the other explaining to the people of my State what that meant, how the school boards could pick the prayers the children would say and tell them how many times a day they would say them. What kind of nonsense is that, giving up the greatest religious freedoms we have to the local school board? Do you know what? I had the

fundamentalists and the mainliners and everybody clapping and cheering because they did not want that either. But at least I did not hesitate to talk to them about it and tell them where it would lead us.

So I do not have any hesitancy today in coming to the floor and saying I am very apprehensive about all the tax cut proposals. Why are we going to cut $138 billion from Medicare and turn right around and give it away in tax cuts to the wealthiest people in America? That is not my idea of responsible legislation. That is not my idea of a responsible economy. If you want a balanced budget, now is the time to show it, and do not tell me you will hide behind this constitutional amendment and go home and say, "I did my part. I cut taxes and then I voted for a constitutional amendment to balance the budget."

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

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

CONCERNING THE NEED FOR ACCURATE GUIDELINES FOR BREAST CANCER SCREENING

The Senate continued with the consideration of the resolution.

Mr. BOND. Mr. President, I ask unanimous consent to be added as a cosponsor and urge my colleagues to vote for the resolution.

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

Mr. BOND. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from South Carolina [Mr. THURMOND] is necessarily absent.

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is absent because of attending a funeral.

The PRESIDING OFFICER (Mr. BROWNBACK). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—98

Abraham	Biden	Bryan
Akaka	Bingaman	Bumpers
Allard	Bond	Burns
Ashcroft	Boxer	Byrd
Baucus	Breaux	Campbell
Bennett	Brownback	Chafee
Cleland	Hagel	Mikulski
Coats	Harkin	Moseley-Braun
Cochran	Hatch	Moynihan
Collins	Helms	Murkowski
Conrad	Hollings	Nickles
Coverdell	Hutchinson	Reed
Craig	Hutchison	Reid
D'Amato	Inhofe	Robb
Daschle	Inouye	Roberts
DeWine	Jeffords	Rockefeller
Dodd	Johnson	Roth
Domenici	Kempthorne	Santorum
Dorgan	Kennedy	Sarbanes
Durbin	Kerrey	Sessions
Enzi	Kerry	Shelby
Faircloth	Kohl	Smith (NH)
Feingold	Kyl	Smith (OR)
Feinstein	Landrieu	Snowe
Ford	Lautenberg	Specter
Frist	Leahy	Stevens
Glenn	Levin	Thomas
Gorton	Lieberman	Thompson
Graham	Lott	Torricelli
Gramm	Lugar	Warner
Grams	Mack	Wellstone
Grassley	McCain	Wyden
Gregg	McConnell	

NOT VOTING—2

Murray	Thurmond

The resolution (S. Res. 47) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, read as follows:

S. RES. 47

Whereas the National Cancer Institute is the lead Federal agency for research on the causes, prevention, diagnosis, and treatment of cancer;

Whereas health professionals and consumers throughout the United States regard the guidelines of the National Cancer Institute as reliable scientific and medical advice;

Whereas it has been proven that intervention through routine screening for breast cancer through mammography can save the lives of women at a time when medical science is unable to prevent this disease;

Whereas the National Cancer Institute issued a guideline in 1989 recommending that women in their forties seek mammograms, but rescinded this guideline in 1993;

Whereas in 1993, it was difficult to have the same degree of scientific confidence about the benefit of mammography for women between the ages of 40 and 49 as existed for women between the ages of 50 and 69 due to inherent limitations in the studies that were conducted as of that date;

Whereas at that time, the American Cancer Society and 21 other national medical organizations and health and consumer groups were at variance with the decision of the National Cancer Institute to rescind the guidelines of the Institute for mammography for women between the ages of 40 and 49;

Whereas the statement of scientific fact on breast cancer screening issued by the National Cancer Institute on December 3, 1993, caused widespread confusion and concern among women and physicians, eroded confidence in mammography, and reinforced barriers and negative attitudes that keep women of all ages from being screened;

Whereas in 1995, investigators found a 24 percent lower death rate among women who received mammograms in their forties when the world's population-based trials were combined;

Whereas in 1996, Swedish researchers in 2 studies found a 44 and 36 percent lower death rate among women who received mammograms in their forties;

Whereas a number of studies have shown that breast tumors in women under the age of 50 may grow far more rapidly than in older women, suggesting, that annual mammograms are of value to women in this age group;

Whereas on January 23, 1997, a panel convened by the National Institutes of Health reviewed these and other compelling studies but decided not to recommend that the National Cancer Institute reissue its earlier guidelines;

Whereas the Director of the National Cancer Institute and other major national organizations, including the American Cancer Society, expressed surprise and disappointment with this decision;

Whereas the majority (approximately 80 percent) of women who are diagnosed with breast cancer have no identifiable risk for this disease;

Whereas breast cancer is the single leading cause of death for women in their forties and fifties, and a leading cause of death for women between the ages of 30 and 60; and

Whereas more women will be diagnosed with breast cancer this year in their forties (over 33,000 women) than in their fifties: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) adequately designed and conducted studies are needed to further determine the benefits of screening women between the ages of 40 and 49 through mammography and other emerging technologies; and

(2)(A) the Senate strongly urges the Advisory Panel for the National Cancer Institute to consider reissuing the guideline rescinded in 1993 for mammography for women between the ages of 40 and 49 when it convenes in February; or

(B) until there is more definitive data, direct the public to consider guidelines issued by the other organizations.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MIKE DOMBECK, CHIEF OF THE U.S. FOREST SERVICE

Mr. LEAHY. Mr. President, I rise today to echo the words of Senator BUMPERS regarding national forest policy and to welcome Mike Dombeck as Chief of the U.S. Forest Service. The Forest Service is one of the oldest and one of the largest stewards of our public lands. This year marks the 100th anniversary of the Organic Act in which Congress laid out the purposes for our national forests. Since the Forest Service was created in 1905, it has grown to manage over 190 million acres of forest lands. These lands span the entire United States, ranging from the small

national forests of the East to the multimillion-acre forests of the West. The mission of the Forest Service is to manage all of these forests under the principles of multiple use and sustained yield. As Gifford Pinchot, the first Forest Service Chief, declared in 1905, the role of the Forest Service was to achieve "the greatest good for the greatest number in the long run." This mandate still stands today and should guide us into the next century of national forest management.

As the Green Mountain National Forest in my State begins review of its forest plan, the Pinchot vision is what I would like to see the Forest Service follow. The challenges facing the Green Mountain in many ways reflect the challenges facing the Forest Service as we move into the next century—increased recreational use, pressure to increase timber production, and protection of the forest's wildlife habitat, streams, and wilderness areas. Over the last decade we have witnessed a boom in recreational use of the Green Mountain, with more than 1.5 million visitors using the forest for skiing, hiking, hunting, snowmobiling, and fishing. All of our national forests together host over 820 million visits a year.

Although visitor use is a valuable indication of the importance of these national forests, we must not forget the equally compelling reason to protect these national treasures. They represent some of our Nation's most unique ecosystems, from the tropical rainforests in the South, the alpine meadows of the Rocky Mountains, the coastal redwoods of the Pacific coast, and the hardwood forests in the East. This network of forests preserves natural resources for scientific, educational, and historical values. New scientific information and advances in technology have allowed us to improve the management of our forests to protect these values. I applaud Chief Dombeck's call for increased use of available technology, enhanced conservation education, and insistence on personal accountability to protect these natural resources.

At the same time, the resources available to the Forest Service to move our national forests into the next century must keep pace with the demands. The Forest Service is developing joint business ventures and cooperative agreements with both public and private partners to address this situation. It has looked to its neighbors to share in the responsibility and caretaking of the forests. It has reached out to private enterprises to operate facilities and develop viable business ventures to provide quality recreational opportunities while ensuring ecosystem protection.

In Vermont, the Green Mountain National Forest has worked with numerous volunteer organizations to maintain and develop campgrounds and trails in the forest. The Green Mountain also has been participating in a cooperative effort with the University of Vermont to develop a database of resource information to analyze different management scenarios in the forest. I appreciate Chief Dombeck's recognition of the value of these multipartner projects in reaching out to the communities who live near our national forests.

Although some people feel that these increasing pressures and sometimes conflicting demands on our national forests is reason to completely overhaul the laws that govern our forests, I believe that these laws are sound. When the National Forest Management Act [NFMA] was drafted in the mid-1970's there was a crisis facing the management of our forest, the competing interests of timber production and forest conservation were colliding. That environment created what I believe is a law that offers the flexibility, public participation, and accountability necessary to guide our national forests into the next century.

The responsibility of guiding our national forests into the next century lays on the shoulders of both the Chief and the many employees who serve him. The relationship between the Chief, Forest Service employees, and the public will become increasingly important as the demands on the National Forest System continue to grow and diversify. I have great admiration for the traditions and mission of the Forest Service; I have confidence that it has the statutory and administrative ability to maintain the balance between multiple-use and sustained yield management of our forests; I have respect for the knowledge and skills of the people that work for the Forest Service; but, I also have concerns that as the Agency faces the pressure to maintain timber production and expand recreational opportunities we could compromise the debt we owe to our children—conserving these forests for their use and enjoyment.

As the 14th Chief of the Forest Service, Chief Dombeck will have to lead the Agency through the swirling debate on how to manage our forests for multiple-use while protecting them for future generations. I believe Chief Dombeck has the vision and leadership ability to achieve this goal. I welcome the opportunity to work with him to implement his philosophy of collaborative stewardship and accountability to the public as a whole and to the direct neighbors of the national forests. Chief Dombeck has already laid out some changes to move in this direction. I urge my colleagues in Congress to work with Chief Dombeck to pursue changes that will enable the Forest Service to address the growing demands on our forests.

I do not see anybody seeking recognition, Mr. President, so 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. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

IMPLEMENTATION OF MANAGEMENT REFORMS AT THE DEPARTMENT OF COMMERCE

Mr. THOMPSON. Mr. President, I want to take this opportunity to address some vital management issues at the Department of Commerce and urge Secretary-designate Daley to make use of the management tools Congress has provided to obtain better results for the taxpayers' investment. The Department of Commerce must tackle some endemic management problems before it can successfully carry out its mission of promoting the Nation's international trade, economic growth, and technological advancement.

The main problem with the Department of Commerce may be in the breadth of its mission. Commerce's writ runs from promoting American competitiveness in the global marketplace to providing the weather data we see on the news each night. The Department, which employs 35,000 people and spends $3.5 billion of taxpayer dollars is, in reality, a loose collection of more than 100 programs. In the last Congress, many questioned the value added of this departmental bureaucracy. This culminated in action by the Senate Governmental Affairs Committee to report out a bill that would have abolished the Department, as such, and reassigned many of its functions.

Clearly, the Department's new leadership will have a task ahead of it to ensure that its many bureaus and offices are efficiently run and are effectively serving the taxpayers' interest. For example, the General Accounting Office [GAO] has identified the National Weather Service's modernization efforts as being a high risk area which is especially vulnerable to the problems of waste, fraud, abuse, and mismanagement. This year, planning for the decennial census is expected to be added to that list. In addition, auditors have found significant accounting problems at the National Oceanic and Atmospheric Administration.

I hope that the Department of Commerce will be able to improve its operations through effective implementation of recently enacted legislation. Congress has given the agencies like the Department of Commerce the tools to improve their management operations, most notably by passing the Chief Financial Officers Act of 1990, the Government Performance and Results

Act [GPRA] of 1993, and the information management and procurement reforms of the 104th Congress. These laws are designed to get the Federal Government to operate in a sound, businesslike manner and implementing these management reforms is a major responsibility for each department head.

The Government Performance and Results Act, for example, can be an effective tool to make Government work better by measuring the success or failure of Government programs and using this information to support budget decisions. For example, GAO found that the Commerce Department shares its mission with at least 71 Federal departments, agencies, and offices. With this type of overlap and duplication, the Department needs to have a clear idea of its primary missions, otherwise it risks doing a lot of things poorly and nothing well at all. GPRA, by focusing on agency missions and results, will give Commerce, the Office of Management and Budget, and Congress the information necessary to consolidate and eliminate wasteful and redundant programs at the Department.

I submitted to Secretary-designate Daley several questions regarding his views on implementing GPRA and improving Commerce's financial accountability and information resources management as part of his confirmation process. I look forward to receiving from him a firm commitment to use GPRA's strategic planning process, performance goals, and performance measures to radically transform his agency to better serve the taxpayers.

There are many challenges ahead for Congress and Secretary-designate Daley as we address the problems at the Department of Commerce identified by GAO, the Department's inspector general and others. Certainly, the bipartisan management reforms we have enacted should be implemented to assist in that process. I am sure that together we can work to effectively implement sound management policies and practices and I look forward to achieving those objectives in the coming Congress.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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 one nomination which was referred to the Committee on Banking, Housing, and Urban Affairs.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT ON AGREEMENT BETWEEN THE UNITED STATES AND LITHUANIA—MESSAGE FROM THE PRESIDENT—PM 7

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to Public Law 94-265, 16 U.S.C. 1823(b), to the Committee on Commerce, Science, and Transportation and to the Committee on Foreign Relations.

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement between the Government of the United States of America and the Government of the Republic of Lithuania Extending the Agreement of November 12, 1992, Concerning Fisheries Off the Coasts of the United States, with annex, as extended ("the 1992 Agreement"). The Agreement, which was effected by an exchange of notes at Vilnius on June 5 and October 15, 1996, extends the 1992 Agreement to December 31, 1998.

In light of the importance of our fisheries relationship with the Republic of Lithuania, I urge that the Congress give favorable consideration to this Agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 4, 1997.*

REPORT ON AGREEMENT BETWEEN THE UNITED STATES AND ESTONIA—MESSAGE FROM THE PRESIDENT—PM 8

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to Public Law 94-265, 16 U.S.C. 1823(b), to the Committee on Commerce, Science, and Transportation and to the Committee on Foreign Relations.

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement between the Government of the United States of America and the Government of the Republic of Estonia Extending the Agreement of June 1, 1992, Concerning Fisheries Off the Coasts of the United States, with annex, as extended ("the 1992 Agreement"). The Agreement, which was effected by an exchange of notes at Tallinn on June 3 and 28, 1996, extends the 1992 Agreement to June 30, 1998.

In light of the importance of our fisheries relationship with the Republic of Estonia, I urge that the Congress give favorable consideration to this Agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 4, 1997.*

REPORT OF THE STATE OF THE UNION—MESSAGE FROM THE PRESIDENT—PM 9

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was ordered to lie on the table.

The PRESIDENT. Mr. Speaker, Mr. Vice-President, Members of the 105th Congress, distinguished guests, my fellow Americans:

I come before you tonight with a challenge as great as any in our peacetime history—and a plan of action to meet that challenge, to prepare our people for the bold new world of the 21st Century.

We have much to be thankful for. With four years of growth, we have won back the basic strength of our economy. With crime and welfare rolls declining, we are winning back our basic optimism, the enduring faith that we can master any difficulty. With the Cold War receding and global commerce at record levels, we are helping to win unrivaled peace and prosperity all across the world.

My fellow Americans, the state of our union is strong, but now we must rise to the decisive moment, to make a nation and a world better than any we have ever known. The new promise of the global economy, the Information Age, unimagined new work, life-enhancing technology—all are ours to seize. That is our honor and our challenge. We must be shapers of events, not observers. For if we do not act, the moment will pass—and we will lose the best possibilities of our future.

We face no imminent threat, but we do have an enemy: The enemy of our time is inaction.

So tonight, I issue a call to action—action by this Congress, by our states, by all our people, to prepare America for the 21st Century. Action to keep our economy and our democracy strong and working for all our people; action to strengthen education and harness the forces of technology and science; action to build stronger families and stronger communities and a safer environment; action to keep America the world's strongest force for peace and freedom and prosperity. And above all, action to build a more perfect union here at home.

The spirit we bring to our work will determine its success. We must all be committed to the pursuit of opportunity for all Americans, and responsibility for all Americans, in a community of all Americans, and to a new kind of government—not to solve all our problems for us, but to give all our people the tools to make the most of their own lives.

And we must work together. The people of this nation elected us all. They want us to be partners, not partisans. They put us all here in the same boat, they gave us all oars, and they told us to row. Here's the direction I think we should take.

First, we must move quickly to complete the unfinished business of our country—to balance our budget, renew our democracy, and finish the job of welfare reform.

Over the last four years, we brought new economic growth by investing in our people, expanding our exports, cutting our deficits, creating over 11 million new jobs. Now we must keep our economy the strongest in the world.

We here tonight have an historic opportunity. Let this Congress be the Congress that finally balances the budget.

In two days, I will propose a detailed plan to balance the budget by 2002.

This plan will balance the budget and invest in our people while protecting Medicare, Medicaid, education, and the environment. It will balance the budget and build on the Vice President's efforts to make our government work better, even as it costs less. It will balance the budget and provide middle class tax relief to pay for education and health care, to help raise a child, to buy and sell a home.

Balancing the budget requires only your vote and my signature. It does not require us to rewrite our Constitution. I believe it is unnecessary and unwise to adopt a balanced budget amendment that could cripple our country in time of crisis later on, and force unwanted results such as judges halting Social Security checks or increasing taxes. Let us agree: We should not pass any measure that threatens Social Security. We don't need a Constitutional amendment—we need action.

Whatever our differences, we should balance the budget now, and then, for the long-term health of our society, we must agree to a bipartisan process to preserve Social Security and reform Medicare, so that these fundamental programs will be as strong for our children as they are for our parents.

Our second piece of unfinished business requires us to commit ourselves tonight, before the eyes of America, to enacting bipartisan campaign finance reform.

Senators MCCAIN and FEINGOLD, Representatives SHAYS and MEEHAN, have reached across party lines to craft tough and fair campaign reform. Their proposal would curb spending, reduce the role of special interests, create a level playing field between challengers and incumbents and ban contributions from noncitizens and all corporate sources, and the other large soft money contributions that both parties receive.

You know and I know that delay will mean the death of reform. So let's set our own deadline. Let's work together to write bipartisan campaign finance reform into law, and pass McCain-Feingold by the day we celebrate the birth of our democracy—July the 4th.

There is a third piece of unfinished business: Over the last four years, we moved a record two and a quarter million people off the welfare rolls. Then last year we enacted landmark welfare reform, demanding that able-bodied recipients assume the responsibility of moving from welfare to work.

Now each and every one of us has to fulfill our responsibility—indeed, our moral obligation—to make sure that people who must work, can work. Now we must act to meet a new goal: two million more people off the welfare rolls by the Year 2000.

Here is my plan: Tax credits and other incentives to businesses that hire people off welfare. Incentives for job placement firms and for states to create more jobs for welfare recipients. Training, transportation and child care to help people go to work.

Now I challenge every state: turn those welfare checks into private sector paychecks. I challenge every religious congregation, every community non-profit, and every business: hire someone off welfare. And I say especially to every employer in this country who has ever criticized the old welfare system: You cannot blame that old system anymore. We have torn it down. Now do your part. Give someone on welfare the chance to work.

Tonight, I am pleased to announce that five major corporations—Sprint, Monsanto, UPS, Burger King, and United Airlines—will be the first to join in a new national effort to marshal America's businesses, large and small, to create jobs so people on welfare can move to work.

We passed welfare reform. We were right to do it. But no one can walk out of this chamber with a clear conscience unless you are prepared to finish the job.

And we must join together to do something else too—something both Republican and Democratic governors have asked us to do—to restore basic health and disability benefits when misfortune strikes immigrants who came to this country legally, who work hard, pay taxes, and obey the law. To do otherwise is simply unworthy of a great nation of immigrants.

Next, the greatest step of all—the high threshold to the future we now must cross—and my number one priority as President for the next four years—is to ensure that Americans have the best education in the world.

Let's work together to meet these goals: Every 8 year old must be able to read; every 12 year old must be able to log on to the Internet; every 18 year old must be able to go to college, and every adult American must be able to keep on learning.

My balanced budget makes an unprecedented commitment to these goals—$51 billion dollars next year. But far more than money is required.

I have a plan, a Call to Action for American Education, based on these ten principles.

First, a national crusade for education standards—not federal government standards, but national standards representing what all of our students must know to succeed in the knowledge economy of the 21st Century. Every state and school must shape the curriculum to reflect these standards, and train teachers to lift students up to meet them. To help schools meet the standards and measure their progress, we will lead an effort over the next two years to develop national tests of student achievement in reading and math.

Tonight, I issue a challenge to the nation: Every state should adopt high national standards, and by 1999, every state should test every 4th grader in reading and every 8th grader in math to make sure these standards are met.

Raising standards will not be easy, and some of our children will not be able to meet them at first. The point is not to put our children down, but to lift them up. Good tests will show us who needs help, what changes in teaching to make, and which schools to improve. They can help us to end social promotion. For no child should move from grade school to junior high, or junior high to high school until he or she is ready.

Last month, Secretary of Education Dick Riley and I visited Northern Illinois, where 8th grade students from 20 school districts, in a project called "First in the World," took the Third International Math and Science Study—a test that reflects the world-class standards our children must meet for the new era. And those students in Illinois tied for first in the world in science, and came in second in math. Two of them, Kristin Tanner, and Chris Getsla are here tonight, with their teacher, Sue Winski. They prove that when we aim high and challenge our students, they will be the best in the world.

Second, to have the best schools, we must have the best teachers. Most of us would not be here tonight without the help of such teachers. I know I wouldn't be. For years, many educators, led by North Carolina's Governor Jim Hunt and the National Board for Professional Teaching Standards, have worked hard to establish nationally accepted credentials for excellence in teaching. Just 500 of these master teachers have been certified since 1995. My budget will enable 100,000 more to seek national certification as master teachers. We should reward our best teachers, quickly and fairly remove those few who don't measure up, and challenge our finest young people to consider teaching as a career.

Third: we must do more to help all our children read. 40% of our 8 year

olds cannot read on their own. That's why we have just launched the America Reads initiative—to build a citizen army of one million volunteer tutors to make sure every child can read independently by the end of the 3rd grade. We will use thousands of AmeriCorps volunteers to mobilize this citizen army. We want at least 100,000 college students to help. And tonight, I am pleased that 60 college presidents have answered my call, pledging that thousands of their work study students will serve for one year as reading tutors.

This is also a challenge to every teacher and every principal: use these tutors to help students read. And it is especially a challenge to our parents: Read with your children every night.

This leads to the fourth principle: Learning begins in the first days of life. Scientists are now discovering how young children develop emotionally and intellectually from their first days, and, therefore, how important it is for parents to begin immediately talking, singing, even reading to their infants. The First Lady has spent years studying and writing about this issue. She and I will convene a White House Conference on Early Learning and the Brain this Spring, to explore how parents and educators can best use these startling new findings.

We already know we should start teaching children before they start schools. That's why my budget expands Head Start to one million children by 2002. And, in June, the Vice President and Mrs. Gore will host their annual family conference. This one will focus on the importance of parents' involvement throughout a child's education.

Fifth, every state should give parents the power to choose the right public school for their children. Their right to choose will foster the competition and innovation that can make our public schools better. We should also make it possible for more parents and teachers to start charter schools, schools that set and meet the highest standards, and survive only as long as they do. Our plan will help America create 3,000 of these charter schools by the next century—nearly seven times as many as there are today—so that parents will have even more choices in sending their children to the best public schools.

Sixth: character education must be taught in our schools. We must teach our children to be good citizens. And we must continue to promote order and discipline, supporting communities that introduce school uniforms, impose curfews, enforce truancy laws, remove disruptive students from the classroom, and have zero tolerance for guns and drugs.

Seventh: we cannot expect our children to raise themselves up in schools that are literally falling down. With the student population at an all time high, and record numbers of school buildings falling into disrepair, this has now become a serious national concern. My budget includes a new initiative: $5 billion to help communities finance $20 billion in school construction over the next four years.

Eighth: We must make the 13th and 14th years of education—at least two years of college—just as universal in America as a high school education is today, and we must open the doors of college to all.

To do that, I propose America's HOPE scholarship, based on Georgia's pioneering program: two years of a $1,500 tax credit for college tuition, enough to pay for the typical community college. I also propose a tax deduction of up to $10,000 a year for all tuition after high school; an expanded IRA you can withdraw from tax free for education; and the largest increase in Pell Grant scholarships in 20 years. This plan will give most families the ability to pay no taxes on money saved for college tuition. I ask you to pass it—to give every American who works hard the chance to go to college.

Ninth: In the 21st Century, we must expand the frontiers of learning across a lifetime. All our people, of whatever age, must have a chance to learn new skills. Most Americans live near a community college. The roads that take them there can be paths to a better future. My G.I. Bill for Workers will transform the confusing tangle of federal training programs into a simple skill grant that will go directly into eligible workers' hands. For too long, this bill has been sitting on that desk down there without action—and I ask you to pass it now. Let's give more of our workers the ability to learn and to earn.

Tenth: we must bring the power of the Information Age into all our schools. Last year, I challenged America to connect every classroom and library to the Internet by the year 2000, so that, for the first time in history, a child in the most isolated rural town, the most comfortable suburb, the poorest inner city school, will have the same access to the same universe of knowledge. I ask your support to complete this historic mission.

That is my plan—a Call to Action for American Education.

We must understand the significance of this endeavor: One of the greatest sources of our strength throughout the Cold War was a bipartisan foreign policy; because our future was at stake, politics stopped at the water's edge. Now I ask you—I ask all our nation's governors—and I ask teachers, parents and citizens all across America—for a new nonpartisan commitment to education—because education is one of the critical national security issues for our future—and politics must stop at the classroom door.

I pledge to take this Call to Action to our country, so that together, we can make American education, like America itself, the envy of the world.

To prepare America for the 21st century, we must harness the powerful forces of science and technology to benefit all Americans.

This is the first State of the Union carried live over the Internet. But we have only begun to spread the benefits of a technology revolution that should be the modern birthright of every citizen.

Our effort to connect every classroom is just the beginning. Now, we should connect every hospital to the Internet, so doctors can instantly share data about their patients with the best specialists in the field. And I challenge the private sector to start by connecting every children's hospital as soon as possible, so that a child in bed can stay in touch with school, family and friends. A sick child need no longer be a child alone.

We must build the second generation of the Internet so our leading universities and national laboratories can communicate at speeds 1000 times faster than today, to develop new medical treatments, new sources of energy, and new ways of working together.

But we cannot stop there. As the Internet becomes our new town square, a computer in every home—a teacher of all subjects, a connection to all cultures—this will no longer be a dream, but a necessity. And over the next decade, that must be our goal.

We must continue to explore the heavens, pressing on with the Mars probes and the international space station, both of which will have practical applications for our everyday living.

We must speed the remarkable advances in medical science. The human genome project is now decoding the genetic mysteries of life. American scientists have discovered genes linked to breast cancer and ovarian cancer, and medication that stops a stroke in progress and begins to reverse its effects—and treatments that dramatically lengthen the lives of people with HIV and AIDS.

Since I took office, funding for AIDS research at the National Institutes of Health has increased dramatically, to $1.5 billion. With new resources, NIH will now become the most powerful discovery engine for an AIDS vaccine, working with other scientists to finally end the threat of AIDS. Every year we move up the discovery of an AIDS vaccine, we can save millions of lives around the world.

To prepare America for the 21st Century, we must build stronger families.

Over the past 4 years, the Family and Medical Leave Act has helped millions of Americans take time off to be with their families. With new pressures on people in the way they work and live, we should expand Family Leave so that workers can take time off for teacher conferences and a child's medical

checkup. We should pass flextime so workers can choose to be paid for overtime in income, or trade it for time off to be with their families.

We must continue, step-by-step, to give more families access to affordable, quality health care. 40 million Americans still lack health insurance. 10 million children still lack health insurance. 80% of them have working parents who pay taxes. That is wrong. My balanced budget will extend health coverage to up to five million of those children. Since nearly half of all children who lose their insurance do so because their parents lose or change jobs, my budget will also ensure that people who temporarily lose their jobs can still afford to keep their health insurance. No child should be without a doctor just because a parent is without a job.

My Medicare plan modernizes Medicare, increases the life of the Trust Fund to 10 years, provides support for respite care for the many families with loved-ones afflicted with Alzheimers—and for the first time, it would fully pay for annual mammograms.

Just as we ended drive through deliveries of babies last year, we must now end the dangerous and demeaning practice of forcing women home from the hospital only hours after a mastectomy. I ask your support for bipartisan legislation to guarantee that women can stay in the hospital for 48 hours after a mastectomy. With us tonight is Dr. Kristen Zarfos, a Connecticut surgeon whose outrage at this practice spurred a national movement and inspired this legislation. We thank her for her efforts.

In the last four years, we have increased child support collections by 50%. Now, we should go further, and make it a felony for any parent to cross state lines in an attempt to flee from this, his or her most sacred obligation.

Finally, we must also protect our children by standing firm in our determination to ban the advertising and marketing of cigarettes that endanger their lives.

To prepare America for the 21st Century, we must build stronger communities.

We should start with safe streets. Serious crime has dropped five years in a row. The key has been community policing—and we must finish the job of putting 100,000 community police on our streets. We should pass the Victims' Rights Amendment to the Constitution.

And I ask you to join me in mounting a full scale assault on juvenile crime, with legislation that: declares war on gangs, with new prosecutors and tougher penalties; extends the Brady Bill so violent teen criminals will never be able to buy handguns; requires child safety locks on handguns to prevent unauthorized use; and helps to keep our schools open after hours, on weekends, and in the summer, so young people will have someplace to go and something to say yes to.

My balanced budget includes the largest anti-drug effort ever: to stop drugs at their source, punish those who push them, and teach our young people that drugs are wrong, drugs are illegal, and drugs will kill them.

Our growing economy has helped to revive poor urban and rural neighborhoods. But we must do more, to empower them to create the conditions in which families can flourish, and to create jobs through investment by business and loans by banks.

We should double the number of empowerment zones. They have already brought hope to communities like Detroit, where the unemployment rate has been cut in half in four years. We should restore contaminated urban land and buildings to productive use. We should expand the network of community development banks.

And together, we must pledge tonight that we will use this empowerment approach—including private sector tax incentives—to renew our capital city, so that Washington is a great place to live and work, and is once again the proud face America shows to the world.

We must protect our environment in every community. In the last four years, we cleaned up 250 toxic waste sites, as many as in the previous twelve. Now we should clean up 500 more of them, so that our children grow up next to parks, not poison. Big polluters must live by this simple rule: If you pollute our environment, you pay to clean it up.

In the last four years, we strengthened the nation's safe food and clean drinking water laws. We protected some of America's rarest, most beautiful land in Utah's Red Rocks region, created three new national parks in the California desert, and began to restore Florida's Everglades. Now we must be as vigilant with our rivers as we are with our land. Tonight, I announce that this year I will designate 10 American Heritage Rivers, to help communities alongside them revitalize their waterfronts and clean up pollution in the rivers, proving once again that we can grow the economy as we protect the environment.

We must also protect our global environment, working to ban the worst toxic chemicals and to reduce the greenhouse gasses that challenge our health even as they change our climate.

We all know that in all of our communities, some of our children simply do not have what they need to grow and learn in their homes, or schools, or neighborhoods. The rest of us must do more, for they are our children too. That is why President Bush, General Colin Powell, and former Housing Secretary Henry Cisneros will join Vice President GORE and me to lead the President's Summit of Service in Philadelphia in April.

Our national service program, Americorps, has already helped 70,000 young people work their way through college as they serve America. Now we intend to mobilize millions of Americans to serve in thousands of ways. Citizen service is an American responsibility, which all Americans should embrace.

I'd like to make one last point about our national community. Our economy is measured in numbers and statistics, and it's very important. But the enduring worth of our nation lies in our values and our soaring spirit. So instead of cutting back on our modest efforts to support the arts and humanities, I believe we should stand by them, and challenge our artists, musicians and writers, our museums, libraries and theaters, to join with all Americans to make the Year 2000 a national celebration of the American spirit in every community—a celebration of our common culture in the century that has passed, and in the new one to come in the new millennium, so that we can remain the world's beacon of liberty and creativity, long after the fireworks have faded.

To prepare America for the 21st Century, we must master the forces of change in the world and keep American leadership strong and sure for an uncharted time.

Fifty years ago, a farsighted America led in creating the institutions that secured victory in the Cold War and built a growing world economy. As a result, today more people than ever embrace our ideals and share our interests.

Already, we have dismantled many of the blocs and barriers that divided our parents' world. For the first time, more people live under democracy than dictatorship, including every nation in our hemisphere but one—and its day too will come.

Now, we stand at another moment of change and choice—and another time to be farsighted, to bring America 50 more years of security and prosperity.

Our first task is to help build, for the first time, an undivided, democratic Europe. When Europe is stable, prosperous and at peace, America is more secure.

To that end, we must expand NATO by 1999, so that countries that were once our adversaries can become our allies. At the special NATO summit this summer, that is what we will begin to do. We must strengthen NATO's Partnership for Peace with non-member allies. And we must build a stable partnership between NATO and a democratic Russia.

An expanded NATO is good for America. And a Europe in which all democracies define their future not in terms of what they can do to each other, but

in terms of what they can do together for the good of all—that kind of Europe is good for America.

Second, America must look to the East no less than the West. Our security demands it: Americans have fought three wars in Asia this century. Our prosperity requires it: more than 2 million American jobs depend upon trade with Asia.

There, too, we are helping to shape an Asian Pacific community of cooperation, not conflict. But we must not let our progress there mask the peril that remains. Together with South Korea, we must advance peace talks with North Korea and bridge the Cold War's last divide. And I call on this Congress to fund our share of the agreement under which North Korea must continue to freeze and then dismantle its nuclear weapons program.

We must pursue a deeper dialogue with China—for the sake of our interests and our ideals. An isolated China is not good for America. A China playing its proper role in the world is. I will go to China and I have invited China's president to come here, not because we agree on everything, but because engaging China is the best way to work on common challenges like ending nuclear testing—and to deal frankly with fundamental differences like human rights.

Third, the American people must prosper in the global economy. We have worked hard to tear down trade barriers abroad, so that we can create good jobs at home. I am proud to say that today, America is once again the most competitive nation, and the number one exporter in the world.

Now, we must act to expand our exports, especially to Asia and Latin America, the two fastest growing regions on earth—or be left behind as these emerging economies forge new ties with other nations. That is why we need the authority now to conclude new trade agreements that open markets to our goods and services even as we preserve our values.

We need not shrink from the challenge of the global economy. We have the best workers and the best products. In a truly open market, and we can out-compete anyone in the world.

But this is about more than economics. By expanding trade, we can advance the cause of freedom and democracy around the world.

We should all be proud that America led the effort to rescue our neighbor Mexico from its economic crisis—and we should all be proud that last month, Mexico repaid the United States, three years ahead of schedule, with a half a billion dollars profit for us. And today our exports to Mexico are at an all time high.

Fourth, America must continue to be an unrelenting force for peace—from the Middle East to Haiti—from Northern Ireland to Africa. Taking reasonable risks for peace keeps us from being drawn into far more costly conflicts later.

With American leadership, the killing has stopped in Bosnia. Now, the habits of peace must take hold. The new NATO force will allow reconstruction and reconciliation to accelerate. Tonight, I ask Congress to continue its strong support for our troops there. They are doing a remarkable job for America—and America must do right by them.

Fifth, we must move strongly against new threats to our security. In the past four years, we agreed to ban nuclear testing. With Russia, we dramatically cut our nuclear arsenal; we stopped targeting each others citizens. We are acting to rid the world of landmines, and prevent nuclear materials from falling into the wrong hands. We are working with other nations, with renewed intensity, to stop terrorists and drug traffickers before they act, and to hold them fully accountable if they do.

Now, we must rise to a new test of leadership: ratifying the Chemical Weapons Convention. It will make our troops safer from chemical attack. It will help us to fight terrorism. We have no more important obligations—especially in the wake of what we now know about the Gulf War. This treaty has been bipartisan from the beginning, supported by Republican and Democratic administrations alike—and Republican and Democratic Members of Congress alike—and already approved by 68 nations. If we do not act by April 29—when this Convention goes into force, with us or without us—we will lose the chance to have Americans leading and enforcing this effort. Together, we must make the Chemical Weapons Convention law, so that at last we can begin to outlaw poison gas from the earth.

Finally, we must have the tools to meet all these challenges.

We must maintain a strong and ready military. We must increase funding for weapons modernization by the Year 2000, and we must take good care of our men and women in uniform. They are the world's finest.

We must also renew our commitment to America's diplomacy—and pay our debts and dues to international financial institutions like the World Bank, and to a reforming United Nations. Every dollar we devote to preventing conflicts, to promoting democracy, to stopping the spread of disease and starvation, brings a sure return in security and savings. Yet international affairs spending today is just one percent of the federal budget—a tiny fraction of what America invested in diplomacy to choose leadership over escapism at the start of the Cold War. If America is to continue to lead the world, we here who lead America simply must find the will to pay our way.

A farsighted America moved the world to a better place over these last fifty years. And it can do so for another fifty years. But a shortsighted America will soon find its words falling on deaf ears all around the world.

Almost exactly fifty years ago, in the first winter of the Cold War, President Harry Truman stood before a Republican Congress and called upon our country to meet its responsibilities of leadership. This was his warning: "If we falter, we may endanger the peace of the world—and we shall surely endanger the welfare of this nation." That Congress, led by Republicans like Senator Arthur Vandenberg, answered President Truman's call. Together, they made the commitments that strengthened our country for fifty years. Now let us do the same. Let us do what it takes to remain the indispensable nation—to keep America strong, secure and prosperous for another fifty years.

In the end, more than anything else, our world leadership grows out of the power of our example here at home, out of our ability to remain strong as one America.

All over the world, people are being torn asunder by racial, ethnic, and religious conflicts that fuel fanaticism and terror. We are the world's most diverse democracy. And the world looks to us to show that it is possible to live and advance together across those kinds of differences.

America has always been a nation of immigrants. From the start, a steady stream of people, in search of freedom and opportunity, have left their own lands to make this land their home. We started as an experiment in democracy fueled by Europeans. We have grown into an experiment in democratic diversity fueled by openness and promise.

My fellow Americans, we must never believe that diversity is a weakness—it is our greatest strength. Americans speak every language, know every country. People on every continent can look to us and see the reflection of their own greatness, as long as we give all of our citizens, whatever their background, an opportunity to achieve their greatness.

We are not there yet. We still see evidence of abiding bigotry and intolerance, in ugly words and awful violence, in burned churches and bombed buildings. We must fight against this, in our country and in our hearts.

A few days before my second inauguration, one of America's best known pastors, Rev. Robert Schuller, suggested that I read Isaiah 58:12. It says: "Thou shalt raise up the foundations of many generations, and thou shalt be called, the repairer of the breach, the restorer of paths to dwell in." I placed my hand on that verse when I took the oath of office, on behalf of all Americans. For no matter what our differences—in our faiths, our backgrounds, our politics—we must all be repairers of the breach. We may not

share a common past, but surely we share a common future.

I want to say a word about two other Americans who show us the way to that common future. Congressman FRANK TEJEDA was buried yesterday, a proud American whose family came from Mexico. He was only 51 years old. He earned the Silver Star, the Bronze Star and the Purple Heart fighting for his country in Vietnam, and he went on to serve Texas and America fighting for our future in this chamber. We are grateful for his service and honored to have his mother, Lillie Tejeda, with us tonight.

Gary Locke, the newly elected Governor of Washington State, is our first Chinese-American Governor, the proud son of two of the millions of Asian-American immigrants who have strengthened America with their hard work, family values, and good citizenship.

Rev. Schuller, Congressman TEJEDA, Governor Locke, along with Kristin Tanner, Chris Getsla, Sue Winski and Dr. Kristen Zarfos—all Americans from different roots, whose lives reflect our shared values and the best of what we can become when we are one America.

Building that one America is our most important mission, "the foundation of many generations," of every other strength we must build for the new century. Money cannot buy it. Power cannot compel it. Technology cannot create it. It must rise from the human spirit.

America is far more than a place. It is an idea, the most powerful idea in the history of nations. We are now the bearers of that idea, leading a great people into a new world. A child born tonight will have almost no memory of the 20th Century. Everything that child will know of America, will be because of what we do now to build a new century.

We don't have a moment to waste. Tomorrow morning, there will be just over 1,000 days until the Year 2000. 1,000 days to prepare our people. 1,000 days to work together. My fellow Americans, we have work to do. Let us seize the days and the century.

Thank you, God bless you, and God bless America.

MESSAGES FROM THE HOUSE

At 4:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following resolution:

H. Res. 35. That the House has heard with profound sorrow of the death of the Honorable FRANK TEJEDA, a Representative from the State of Texas.

The message also announced that pursuant to the provisions of section 637(b) of Public Law 104–52, as amended by section 2904 of Public Law 104–134, the Speaker reappoints Mr. PORTMAN of Ohio to the National Commission of Restructuring the Internal Revenue Service.

The message further announced that pursuant to section 637(b) of Public Law 104–52, the minority leader accepts the resignation of ROBERT T. MATSUI of California from the National Commission on Restructuring the Internal Revenue Service and hereby appoints Mr. WILLIAM J. COYNE of Pennsylvania to the Commission for the remainder of its term.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–942. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, reports of three deferrals of budget authority; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Finance, and to the Committee on Foreign Relations.

EC–943. A communication from the Acting Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule relative to financial reporting, received on January 29, 1997 to the Committee on Agriculture, Nutrition, and Forestry.

EC–944. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report on salary range structure and performance merit pay matrix for 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–945. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to the fluid milk promotion program, received on January 27, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–946. A communication from the President of the United States, transmitting, pursuant to law, the report concerning the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process; to the Committee on Banking, Housing, and Urban Affairs.

EC–947. A communication from the Assistant to the Board of Governors of the Federal Reserve Board, transmitting, pursuant to law, the report a rule relative to home mortgage disclosure, received on January 28, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–948. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules including one rule relative to National Emission Standards, (FRL–5682–3, 5584–5), received on January 29, 1997; to the Committee on Environment and Public Works.

EC–949. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to the weighted average interest rate, received on January 29, 1997; to the Committee on Finance.

EC–950. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to the alternative minimum tax, received on January 29, 1997; to the Committee on Finance.

EC–951. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Ruling 97–8, received on January 30, 1997; to the Committee on Finance.

EC–952. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Federal Managers' Financial Integrity Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC–953. A communication from the Deputy Associate Administrator for Acquisition Policy, Office of Governmentwide Policy, General Services Administration, transmitting, pursuant to law, the report of a rule relative to real property, (RIN3090–AF92) received on January 29, 1997; to the Committee on Governmental Affairs.

EC–954. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–955. A communication from the Director of the Office of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC–956. A communication from the General Counsel and Corporate Secretary of the Legal Services Corporation, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC–957. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a rule entitled "Exceptions to the Educational Requirements for Naturalization for Certain Applicants" (RIN1115–AE05) received on January 29, 1997; to the Committee on the Judiciary.

EC–958. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to the disaster reserve assistance program, received on January 30, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–959. A communication from the Secretary of Energy, transmitting, pursuant to law, the semi-annual report on programs for the protection, control and accountability of fissile materials in the countries of the former Soviet Union; to the Committee on Armed Services.

EC–960. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding transactions involving exports to Turkey; to the Committee on Banking, Housing, and Urban Affairs.

EC–961. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding transactions involving exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC-962. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule relative to liquefied natural gas, (RIN2137-AC91) received on January 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC-963. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule relative to fishing quotas, (RIN0648-XX70) received on January 30, 1997; to the Committee on Commerce, Science, and Transportation.

EC-964. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 542, received on January 30, 1997; to the Committee on Commerce, Science, and Transportation.

EC-965. A communication from the Director of the Office of Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of rule relative to endangered and threatened wildlife and plants, (RIN1018-AB88) received on January 31, 1997; to the Committee on Environment and Public Works.

EC-966. A communication from the Director of the Office of Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of rule relative to endangered and threatened wildlife and plants, (RIN1018-AC83) received on January 31, 1997; to the Committee on Environment and Public Works.

EC-967. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, a rule regarding the release of individuals administered radioactive materials, (RIN3150-AE41) received on January 29, 1997; to the Committee on Environment and Public Works.

EC-968. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report of the Treasury Bulletin for December 1996; to the Committee on Finance.

EC-969. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on the Human Rights Pratices for 1996; to the Committee on Foreign Relations.

EC-970. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC-971. A communication from the Secretary of State, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC-972. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report relative to bid protest for fiscal year 1996; to the Committee on Governmental Affairs.

EC-973. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report under the Government in the Sunshine Act during calendar year 1996; to the Committee on Governmental Affairs.

EC-975. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-414 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC-976. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-495 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-977. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-499 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-978. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-498 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-979. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-507 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-980. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-510 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-981. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-511 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-982. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-513 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-983. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-514 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-984. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-515 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-985. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-516 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-986. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-517 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-987. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-518 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-988. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-519 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-989. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-520 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-990. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-521 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-991. A communication from the Chairman Pro Tempore of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-523 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-992. A communication from the President of the United States, transmitting, pursuant to law, the report on the impact to delaying USAID population funding; to the Committee on Appropriations.

EC-993. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, the Office's Sequestration Preview Report for fiscal year 1998; pursuant to the order of August 4, 1977; referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

EC-994. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to parity price regulations, (RIN0560-AF08) received on February 3, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-995. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report on contributions from other nations for relocation costs; to the Committee on Armed Services.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 30, 1997, the following reports of committees were submitted on February 3, 1997, during the adjournment of the Senate:

By Mr. WARNER, from the Committee on Rules and Administration, without amendment:

S. Res. 42: An original resolution authorizing expenditures by the Committee on Rules and Administration.

Under the authority of the order of the Senate of January 30, 1997, the following reports of committees were submitted on February 3, 1997:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S.J. Res. 1: A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget (Rept. No. 105-3).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. Res. 43: An original resolution authorizing expenditures by the Committee on the Judiciary.

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 44: An original resolution authorizing expenditures by the Committee on the Budget.

By Mr. ROTH, from the Committee on Finance, without amendment and with a preamble:

S.J. Res. 5: A joint resolution waiving certain provisions of the Trade Act of 1974 relating to the appointment of the United States Trade Representative.

REPORTS OF COMMITTEES

The following reports of committees were submitted on February 4, 1997:

By Mr. SPECTER, from the Committee on Veterans' Affairs, without amendment:

S. Res. 45. An original resolution authorizing expenditures by the Committee on Veterans' Affairs.

By Mr. CAMPBELL, from the Committee on Indian Affairs, without amendment:

S. Res. 46. An original resolution authorizing expenditures by the Committee on Indian Affairs.

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. MCCAIN:

S. 255. A bill to amend the Communications Act of 1934 to provide for the reallocation and auction of a portion of the electromagnetic spectrum to enhance law enforcement and public safety telecommunications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 256. A bill to amend the Commodity Exchange Act to require the Commodity Futures Trading Commission to regulate certain cash markets, such as the National Cheese Exchange, until the Commission determines that the markets do not establish reference points for other transactions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LUGAR (for himself, Mr. HARKIN, and Mr. LEAHY):

S. 257. A bill to amend the Commodity Exchange Act to improve the Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 258. A bill to improve price discovery in milk and dairy markets by reducing the effects of the National Cheese Exchange on the basic formula price established under milk marketing orders, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRAIG:

S. 259. A bill to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ABRAHAM (for himself, Mr. HATCH, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. KYL, Mr. HUTCHINSON, Mr. ROBERTS, and Mr. ROBB):

S. 260. A bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. FORD, Ms. SNOWE, Mr. THOMPSON, Mr. THOMAS, Mr. ROTH, Mr. MOYNIHAN, Mr. NICKLES, Mr. MCCAIN, Mr. CONRAD, Mr. ABRAHAM, Mr. FRIST, Mr. GRAMS, Mr. LUGAR, Ms. COLLINS, Mr. BREAUX, Mr. DEWINE, Mr. BURNS, Mr. WARNER, Mr. ROBERTS, Mr. COATS, Mr. MACK, Mr. KEMPTHORNE, Mr. D'AMATO, and Mr. ENZI):

S. 261. A bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. WELLSTONE:

S. 262. A bill to amend title 18, United States Code, to provide for the prospective application of certain prohibitions relating to firearms; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. DASCHLE) (by request):

S.J. Res. 14. A joint resolution affirming certain findings of the President of the United States with regard to programs concerning international family planning; to the Committee on Appropriations, for not to exceed five calendar days pursuant to section 518A(d) of Public Law 104-208.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Res. 45. An original resolution authorizing expenditures by the Committee on Veterans' Affairs; from the Committee on Veterans' Affairs; to the Committee on Rules and Administration.

By Mr. CAMPBELL:

S. Res. 46. An original resolution authorizing expenditures by the Committee on Indian Affairs; from the Committee on Indian Affairs; to the Committee on Rules and Administration.

By Ms. SNOWE (for herself, Ms. MIKULSKI, Mrs. HUTCHISON, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Ms. LANDRIEU, Ms. COLLINS, Mr. LEVIN, Mr. AKAKA, Mr. BRYAN, Mr. CLELAND, Mr. TORRICELLI, Mr. HOLLINGS, Mr. FORD, Mr. BINGAMAN, Mr. BREAUX, Mr. KERREY, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. WELLSTONE, Mr. GRAHAM, Mr. DODD, Mr. KERRY, Mr. KENNEDY, Mr. GLENN, Mr. LIEBERMAN, Mr. SARBANES, Mr. LAUTENBERG, Mr. WYDEN, Mr. BAUCUS, Mr. MOYNIHAN, Mr. BIDEN, Mr. DORGAN, Mr. DURBIN, Mr. CONRAD, Mr. BUMPERS, Mr. LEAHY, Mr. FAIRCLOTH, Mr. ROBB, Mr. SPECTER, Mr. D'AMATO, Mr. ABRAHAM, Mr. GRASSLEY, Mr. COATS, Mr. COVERDELL, Mr. KEMPTHORNE, Mr. WARNER, Mr. MURKOWSKI, Mr. THOMAS, and Mr. BOND):

S. Res. 47. A resolution expressing the sense of the Senate concerning the need for accurate guidelines for breast cancer screening for women between the ages of 40 and 49; considered and agreed to.

By Mr. LOTT:

S. Res. 48. A resolution providing for service on a temporary and intermittent basis by the Director of the Office of Senate Fair Employment Practices, and for other purposes; considered and agreed to.

By Mrs. HUTCHISON (for herself and Mr. GRAMM):

S. Res. 49. A resolution expressing the condolences of the Senate on the death of Representative Frank Tejeda; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN:

S. 255. A bill to amend the Communications Act of 1934 to provide for the reallocation and auction of a portion of the electromagnetic spectrum to enhance law enforcement and public safety telecommunications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE LAW ENFORCEMENT AND PUBLIC SAFETY TELECOMMUNICATIONS EMPOWERMENT ACT

Mr. MCCAIN. Mr. President, I rise to introduce the Law Enforcement and Public Safety Telecommunications Empowerment Act. This legislation addresses a longstanding need by police, fire departments, and emergency medical services for more channels of radio communication and for more state-of-the-art technology to use in their efforts to safeguard life and property.

Mr. President, the telecommunications needs of the public safety community have been a subject of widespread concern for many years. In many instances, channel capacity for safety-of-life communications is dangerously low. In many others, budgetary constraints have kept law enforcement and other public safety officials from getting new communications equipment and services that would make their transmissions more efficient and reliable.

Most recently, a Federal advisory committee documented these needs for more spectrum. There are clearly ways this can be done. But spectrum is a limited, and therefore very valuable, resource, and big businesses that would compete for this same spectrum must not be allowed to divert it for commercial use. Further, this bill creates specific mechanisms that will continue over the years to assure that money and equipment are available for the continuing need of those whose job is to safeguard our lives, our health, and our property.

Let me outline the provisions of this bill. First, the bill orders the FCC to give public safety radio users four new radio channels. These new channels are currently allocated to television use and are located between TV channels 60 and 69. Ongoing plans to convert television broadcasting to more spectrum-efficient digital transmission technology is expected to make this channel reallocation possible without significant impact on the television service people receive.

Next, this legislation provides that the rest of the available spectrum between TV channels 60 and 69 will be auctioned to the highest bidder for commercial use. Of the money raised, 10 percent, or a sum of not less than $200,000,000 or more than $750,000,000, is earmarked for distribution to the Governors of each of the States for use in purchasing services and equipment that would increase the ability of public safety radio users to communicate quickly and easily in times of emergency.

Third, to make sure that the four new public safety radio channels are

used in as efficient a manner as possible and to provide added public safety communications resources tailored to their specific needs, this legislation gives the Governors the authority to lease, sell, or otherwise dispose of any extra channel capacity they may have. This will enable them to procure new technology or services that will further improve the effectiveness of public safety communications. The remainder of the money raised at auction would be used for deficit reduction.

Mr. President, in closing, this is a fair bill. The spectrum is owned by the public and the public should benefit from its use. This plan benefits the public in two ways: It helps protect the public by augmenting police and fire services, and it helps pay down the deficit.

Mr. President, I hope my colleagues will support this measure. 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. 255

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Law Enforcement and Public Safety Telecommunications Empowerment Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Improvements in technology have made it possible for television broadcast stations to offer advanced television services.

(2) To facilitate the transition to advanced television services, the Federal Communications Commission is issuing additional licenses to existing broadcast licensees and permittees under section 336 of the Communications Act of 1934 (47 U.S.C. 336).

(3) As part of the transition to advanced television services, the Federal Communications Commission will develop and implement an allotment plan that will permit the repacking of television broadcast station licenses into a smaller segment of the Very High Frequency and Ultra High Frequency bands than presently used for broadcast television.

(4) Implementation of the advanced television service transition plan will enable the Federal Communications Commission to allocate spectrum to other purposes.

(5) Implementation of the advanced television service transition plan will permit recovery for the public of a portion of the value of the public spectrum resource made available for commercial use.

(6) Many of the State and local agencies responsible for law enforcement and public safety have inadequate spectrum and inadequate funding to maintain the existing level of, or to effect improvements in, the radio communications on which they depend to perform their missions.

(7) Implementation of the advanced television service transition plan will permit State and local law enforcement and public safety agencies to secure additional spectrum and additional funding for mission-related activities.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "Board" means the Board of Directors of the Institute;

(2) "Director" means the Executive Director of the Institute;

(3) "Governor" means the Chief Executive Officer of a State;

(4) "Institute" means the Public Safety Telecommunications Institute;

(5) "Recipient" means any grantee, contractor, or recipient of financial assistance under this Act; and

(6) "State" means any State of the United States and includes the District of Columbia.

SEC. 4. RECLAMATION OF SPECTRUM.

(a) COMMISSION ACTION.—Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end thereof the following:

"SEC. 337. RECLAMATION AND REALLOCATION OF SPECTRUM FOR LAW ENFORCEMENT, PUBLIC SAFETY, AND COMMERCIAL PURPOSES.

"(a) IN GENERAL.—The Commission may not issue new broadcast station licenses in the spectrum between 746 and 806 megahertz after the date of enactment of the Law Enforcement and Public Safety Telecommunications Empowerment Act, except as provided by this section and that Act.

"(b) INCUMBENT BROADCAST LICENSEES.—Any person who, on the date of enactment of that Act, holds a license to operate a television broadcasting station, or a permit to construct such a station, between 746 and 806 megahertz—

"(1) may not operate at that frequency after the date on which the advanced television services transition period terminates, as determined by the Commission; and

"(2) shall surrender any license to operate such a television broadcast station, or permit to construct such a television broadcasting station, to the Commission for reallocation under this Act within 30 days after that date.

"(c) SPECTRUM BETWEEN 746 AND 806 MEGAHERTZ.—

"(1) PUBLIC SAFETY.—Within 30 days after the date of enactment of that Act, the Commission shall allocate and assign 24 megahertz of electromagnetic spectrum to law enforcement and public safety use. The provisions of chapter 5 of title 5, United States Code, do not apply to the allocation and assignment of spectrum under this paragraph, and such allocation and assignment shall be carried out as expeditiously as possible without regard to any other provision of law or regulation thereunder relating to notice and opportunity for a hearing.

"(2) COMMERCIAL USE.—Within 1 year after the date of enactment of that Act, the Commission shall allocate 36 megahertz of electromagnetic spectrum between 746 and 806 megahertz for commercial uses.

"(d) TRANSFER OF ASSIGNMENT AUTHORITY.—The Commission shall transfer to the Public Safety Telecommunications Institute established under section 8 of that Act the right to assign spectrum allocated under subsection (c)(2) in accordance with this section and the provisions of that Act.

"(e) ASSIGNMENT BY PUBLIC SAFETY TELECOMMUNICATIONS INSTITUTE.—Within 5 years after the date of enactment of that Act, the Institute shall assign licenses for the commercial use of the spectrum for which assignment authority was transferred to it under subsection (d) by competitive bidding carried out in a manner consistent with section 309(j) of this Act. The Institute shall work closely with the Commission in assigning licenses for the commercial use of that spectrum, and shall make such assignments in accordance with rules established by the Commission.

"(f) SEQUENTIAL ASSIGNMENT OF SURPLUS PUBLIC SAFETY SPECTRUM.—If the Governor of any State to which spectrum is assigned for law enforcement and public safety purposes determines that a portion of that spectrum is excess to the needs of the State for such purposes, then the Governor may lease, sell, or otherwise assign any such excess portion to any person for any lawful purpose under this Act under such terms and conditions as the Governor may require. Any term used in this subsection that is defined in section 3 of the Law Enforcement and Public Safety Telecommunications Empowerment Act has the meaning given to it by that section.

"(g) EFFECTIVE DATE FOR AUCTIONED SPECTRUM.—Licenses assigned under subsection (e) shall become effective on the day after the date on which the advanced television services transition period terminates, as determined by the Commission. A license assigned under subsection (f) shall become effective on the next business day following the date on which it is assigned.".

(b) CLERICAL AMENDMENT.—The table of sections for the Communications Act of 1934 is amended by inserting after the item relating to section 336 the following:

"337. Reclamation and reallocation of spectrum for law enforcement, public safety, and commercial purposes

SEC. 5. USE OF PROCEEDS FROM AUCTION.

(a) ESTABLISHMENT OF ACCOUNT.—There is hereby established on the books of the Treasury an account for the proceeds of the auction conducted under section 8(b). Except as provided in subsections (b) and (c), all proceeds from that auction shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code, and credited to the account established by this subsection.

(b) LAW ENFORCEMENT AND PUBLIC SAFETY.—

(1) AMOUNT.—Out of the amounts received from the auction of spectrum under section 8(b), the Institute shall retain amounts equal to 10 percent of the sum of the amounts credited to that account, but not less than $200,000,000 nor more than $750,000,000, for use in funding State and local law enforcement and public safety agencies' mission-related radio communications capabilities.

(2) ALLOCATION AMONG STATES.—Amounts retained under paragraph (1) shall be distributed to each State in proportion to its share of the population of the United States according to the latest decennial census, subject to such procedures and conditions as the Commission may establish to ensure proper accounting for the use of distributed amounts.

(3) USE OF AMOUNTS RECEIVED.—The chief executive officer of each State shall use amounts received under this section exclusively for the purpose for which such amounts are authorized under this Act. In administering any amounts received under this section, that chief executive officer shall give due regard to opportunities that—

(A) commercially-provided services; and

(B) the sharing of resources and facilities by law enforcement and public safety agencies,

afford for improved and more efficient law enforcement and public safety radio communications.

(c) ADMINISTRATIVE EXPENSES.—

(1) INSTITUTE.—Out of amounts received from the auction under section 8(b) of this

Act remaining after provision is made for the distribution under subsection (b) of this section, the Institute shall—

(A) retain such amounts as may be necessary to fund its administrative expenses; and

(B) transfer to the Federal Communications Commission such sums as may be necessary to compensate it for its costs incurred in support of the Institute's operations.

(2) FEDERAL COMMUNICATIONS COMMISSION.—The salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be transferred to the Commission under paragraph (1) to cover the costs of developing and implementing the program required by this Act. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Any funds appropriated to the Commission for fiscal year during which the auction generates proceeds shall be used by the Commission to implement this Act. Such offsetting collections are authorized to remain available until expended.

SEC. 6. PERMANENT AUCTION AUTHORITY.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by striking paragraph (11) and redesignating paragraphs (12) and (13) as paragraphs (11) and (12).

SEC. 7. RELATIONSHIP TO OTHER LAW.

(a) IN GENERAL.—Nothing in this Act, or in section 309(j) or 337 of the Communications Act of 1934 (as added by this Act), may be construed as a violation of any provision of the Omnibus Budget Reconciliation Act of 1990, or any other provision of law prohibiting or limiting the earmarking of revenues.

(b) EFFECTIVE DATE.—The provisions of subsection (a) apply to any auction of spectrum under this Act, or under the Communications Act of 1934, that takes place after January 31, 1997.

SEC. 8. PUBLIC SAFETY TELECOMMUNICATIONS INSTITUTE.

(a) ESTABLISHMENT; PURPOSE; INCORPORATION; POWERS.—There is established a private nonprofit corporation which shall be known as the Public Safety Telecommunications Institute. The purposes of the Institute are—

(1) to auction and assign spectrum in accordance with section 337 of the Communications Act of 1934 and this Act;

(2) to award grants and contracts under this Act;

(3) to certify programs that are intended to use funds made available under this Act to aid and improve State law enforcement and public safety telecommunications systems; and

(4) to carry out its other duties under this Act. The Institute may be incorporated in any State under section 9(a) of this Act. To the extent consistent with the provisions of this Act, the Institute may exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) DUTIES.—

(1) IN GENERAL.—The Institute shall—

(A) auction spectrum transferred to it under section 337 of the Communications Act of 1934 in accordance with section 309(j) of the Communications Act of 1934;

(B) assign licenses for the commercial use of such spectrum in accordance with section 337; and

(C) administer the proceeds received from the auction in accordance with the provisions of this Act.

(2) APPLICATION OF SECTION 309(j).—For the purpose of applying section 309(j) of the Communications Act of 1934 to the Institute—

(A) the term "Institute", as defined in section 3 of this Act, shall be substituted for "Commission" each place it appears; and

(B) paragraph (8) of section 309(j) of such Act shall not apply.

(c) MAINTENANCE OF OFFICES IN STATE OF INCORPORATION; AGENT FOR RECEIPT OF SERVICE OF PROCESS.—The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(d) TAX STATUS OF INSTITUTE AND PROGRAMS ASSISTED THEREBY.—The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 170(c)(2)(B)) and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) which is exempt from taxation under section 501(a) of such Code (26 U.S.C. 501(a)). If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) RULES, REGULATIONS, ETC.; NOTICE AND COMMENT.—The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this Act, and it shall publish in the Federal Register all rules, regulations, guidelines, and instructions. The publication of a substantive rule shall not be made less than 30 days before the effective date of such rule, except as otherwise provided by the Institute for good cause found and published with the rule.

SEC. 9. BOARD OF DIRECTORS.

(a) APPOINTMENT AND MEMBERSHIP.—

(1) The Institute shall be supervised by a Board of Directors, consisting of—

(A) 6 members to be appointed by the President, by and with the advice and consent of the Senate; and

(B) the Chairman of the Federal Communications Commission, ex officio.

(2) The President shall make the initial appointments of members of the Board under this subsection 90 days after the effective date of this Act. In the case of any other appointment of a member, the President shall make the appointment not later than 90 days after the previous term expires or the vacancy occurs, as the case may be.

(3) The initial members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b) TERM OF OFFICE.—

(1) Except as provided in paragraph (2), the term of each appointed member of the Board shall be 5 years. Each such member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Three of the members first appointed by the President shall serve for a term of 2 years. Any member appointed to serve an unexpired term which has arisen by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) REAPPOINTMENT.—No member shall be reappointed to more than 2 consecutive terms immediately following such member's initial term.

(d) COMPENSATION; REIMBURSEMENT FOR EXPENSES.—Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) STATUS OF MEMBERS OF BOARD AS OFFICERS AND EMPLOYEES OF UNITED STATES.—The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) VOTING RIGHTS OF BOARD MEMBERS; QUORUM; ACTION OF BOARD ON CONCURRENCE OF MAJORITY.—Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) CHAIRMAN; INITIAL SELECTION AND TERM OF OFFICE; SUBSEQUENT ANNUAL ELECTION.—The Board shall select from among the appointed members of the Board a chairman, the first of whom shall serve for a term of 3 years. Thereafter, the Board shall annually elect a chairman from among its appointed members.

(h) GROUNDS FOR REMOVAL OF MEMBERS.—An appointed member of the Board may be removed by a vote of 4 members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

(i) QUARTERLY MEETINGS OF BOARD; SPECIAL MEETINGS.—Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any 3 members.

(j) OPEN MEETINGS.—All meetings of the Board, any executive committee of the Board, and any council established in connection with this Act, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) DUTIES AND FUNCTIONS OF BOARD.—In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish policies and develop such programs for the Institute that will further the achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the employment of telecommunications in connection with law enforcement and public safety, the recommendations of the Institute for the improvement of such programs or activities; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 11.

SEC. 10. OFFICERS AND EMPLOYEES.

(a) DUTIES OF DIRECTOR; APPOINTMENT AND REMOVAL OF EMPLOYEES; POLITICAL TESTS OR QUALIFICATIONS PROHIBITED.—

(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this Act.

(b) COMPENSATION.—Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c) STATUS OF INSTITUTE AS DEPARTMENT, AGENCY, OR INSTRUMENTALITY OF FEDERAL GOVERNMENT; AUTHORITY OF OFFICE OF MANAGEMENT AND BUDGET.—

(1) Except as otherwise specifically provided in this Act, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This Act does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d) STATUS OF OFFICERS AND EMPLOYEES OF INSTITUTE AS OFFICERS AND EMPLOYEES OF UNITED STATES.—

(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code; Subchapter I of chapter 81 (5 U.S.C. 8101 et seq.) (relating to compensation for work injuries); chapters 83 and 84 (5 U.S.C. 8301 et seq. and 8401 et seq.) (relating to civil service retirement); chapter 87 (5 U.S.C. 8701 et seq.) (relating to life insurance); and chapter 89 (5 U.S.C. 8901 et seq.) (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) FREEDOM OF INFORMATION REQUIREMENTS.—The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

SEC. 11. GRANTS AND CONTRACTS.

(a) AUTHORITY OF INSTITUTE; PURPOSE OF GRANTS.—The Institute is authorized—

(1) to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b);

(2) to evaluate, when appropriate, the programs and projects carried out under this Act to determine the extent to which they have met or failed to meet the purposes of this Act; and

(3) to encourage, assist, and serve in a consulting capacity to State and local law enforcement and public safety system agencies in the development, maintenance, and coordination of telecommunications programs and services.

(b) PRIORITY IN MAKING AWARDS; ALTERNATIVE RECIPIENTS; APPROVAL OF APPLICATIONS; RECEIPT AND ADMINISTRATION OF FUNDS; ACCOUNTABILITY.—The Institute may award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute may award grants to or enter into cooperative agreements or contracts with the chief executive officer of each State to carry out the purposes of this Act.

(2) The Institute may, if the objective can better be served thereby, award grants to or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in law enforcement and public safety telecommunication;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in law enforcement and public safety telecommunication administration.

(3) The Institute may enter into contracts with Federal agencies to carry out the purposes of this Act.

(c) PERMISSIBLE USES OF FUNDS.—Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local law enforcement and public safety administrations in establishing, improving, and integrating telecommunications;

(2) to support education and training programs for law enforcement and public safety officials and other state and local personnel in the effective use of telecommunications in carrying out their law enforcement and public safety functions;

(3) to support studies of the adequacy of law enforcement and public safety telecommunications systems for State and local governments and to implement and evaluate innovative responses to law enforcement and public safety telecommunications problems; and

(4) to carry out such other programs, consistent with the purposes of this Act, as may be deemed appropriate by the Institute.

SEC. 12. LIMITATIONS ON GRANTS AND CONTRACTS.

(a) DUTIES OF INSTITUTE.—With respect to grants made and contracts or cooperative agreements entered into under this Act, the Institute shall—

(1) ensure that no funds made available to recipients by the Institute shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any State or local agency, or to undertake to influence the passage or defeat of any legislation or constitutional amendment by the Congress of the United States, or by any State or local legislative body, or any State proposal by initiative petition, or of any referendum, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this Act of the recipient or the Institute; and

(2) ensure all personnel engaged in grant, cooperative agreement, or contract assistance activities supported in whole or part by the Institute refrain, while so engaged, from any partisan political activity.

(b) PROHIBITED USES OF FUNDS.—To ensure that funds made available under this Act are used to supplement and improve the operation of State and local government law enforcement and public safety telecommunications systems, rather than to support basic existing systems, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct telecommunications facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

SEC. 13. RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE.

(a) ISSUANCE OF SHARES OF STOCK; DECLARATION OF DIVIDENDS; COMPENSATION FOR SERVICES; REIMBURSEMENT FOR EXPENSES; POLITICAL ACTIVITIES.—

(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall enure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum.

(c) IDENTIFICATION OF INSTITUTE WITH POLITICAL ACTIVITIES.—Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SEC. 14. PRESIDENTIAL COORDINATION.

The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this Act.

SEC. 15. RECORDS AND REPORTS.

(a) REPORTS.—The Institute is authorized to require such reports as it deems necessary from any recipient with respect to activities carried out pursuant to this Act.

(b) RECORDS.—The Institute is authorized to prescribe the keeping of records with respect to funds provided by any grant, cooperative agreement, or contract under this Act and shall have access to such records at all reasonable times for the purpose of ensuring compliance with such grant, cooperative agreement, or contract or the terms and conditions upon which financial assistance was provided.

(c) SUBMISSION OF COPIES OF REPORTS TO RECIPIENTS; MAINTENANCE IN PRINCIPAL OFFICE OF INSTITUTE; AVAILABILITY FOR PUBLIC INSPECTION; FURNISHING OF COPIES TO INTERESTED PARTIES.—Copies of all reports pertinent to the evaluation, inspection, or monitoring of any recipient shall be submitted on a timely basis to such recipient, and shall be maintained in the principal office of the Institute for a period of at least 5 years after

such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

SEC. 16. AUDITS.

(a) TIME AND PLACE OF AUDITS; STANDARDS; AVAILABILITY OF BOOKS, ACCOUNTS, FACILITIES, ETC., TO AUDITORS; FILING OF REPORT AND AVAILABILITY FOR PUBLIC INSPECTION.—

(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b) ADDITIONAL AUDITS; REQUIREMENTS; REPORTS AND RECOMMENDATIONS TO CONGRESS AND ATTORNEY GENERAL.—

(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 3523(c) of title 31, United States Code.

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.

(c) ANNUAL AUDITS BY INSTITUTE OR RECIPIENTS; REPORTS; SUBMISSION OF COPIES TO COMPTROLLER GENERAL; INSPECTION OF BOOKS, ACCOUNTS, ETC.; AVAILABILITY OF AUDIT REPORTS FOR PUBLIC INSPECTION.—

(1) The Institute shall conduct, or require each recipient to provide for, an annual fiscal audit of the use of funds received under this Act. The report of each such audit shall be maintained for a period of at least 5 years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 256. A bill to amend the Commodity Exchange Act to require the Commodity Futures Trading Commission to regulate certain cash markets, such as the National Cheese Exchange, until the Commission determines that the markets do not establish reference points for other transactions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE NATIONAL CHEESE EXCHANGE OVERSIGHT AND IMPROVEMENT ACT

• Mr. KOHL. Mr. President, I am introducing legislation to address a matter of great concern to all dairy farmers in the Nation—the lack of a credible milk-pricing system. Though there are many aspects of the milk-pricing system in need of reform, the legislation that I am introducing today seeks to address concerns about the potential for manipulation on the National Cheese Exchange [NCE] in Green Bay, WI, and the influence of the NCE on farmers' milk prices.

Last year, a 3-year study funded by USDA, and conducted by economists at the University of Wisconsin-Madison, highlighted the flaws of the National Cheese Exchange. Specifically, the report showed that although less than 1 percent of the nation's cheese is traded on the exchange, the price resulting from the exchange's weekly trading sessions acts as a reference price for nearly 95 percent of the commercial bulk cheese sales in the country. Further, the NCE price is also used by the U.S. Department of Agriculture as a factor in calculating the monthly minimum price that farmers receive for their milk.

The report raised serious concerns about the appropriateness of allowing a market that is as thinly traded, highly concentrated, unregulated, and subject to manipulation as the NCE to have such extreme influence over farmers' milk checks and national cheese prices.

Since the report was released, a great deal of time has been devoted to a discussion of whether certain companies or cooperatives have intentionally manipulated the exchange. I personally asked the Department of Justice and the Federal Trade Commission to review the report, to determine if any antitrust laws had been violated. While I am not convinced that either agency gave much attention to the matter, both replied that they saw no sign of illegality in the activities by large traders on the NCE.

While these questions of legality and manipulation are valid, they are questions that may never be resolved to anyone's satisfaction. Ultimately what I believe to be the most important exercise is to find a market that will be more reflective of supply and demand, and to eliminate any potential for manipulation in price discovery. Farmers and consumers alike deserve to know that markets are fair and aboveboard.

With that goal in mind, my colleagues from Wisconsin, Senator FEINGOLD and Congressman OBEY, and I have worked continuously on several initiatives to create and promote alternative price discovery mechanisms, and to urge Federal and State regulatory agencies to exercise any authorities they might have to oversee the operations of the exchange.

NEED FOR AN ALTERNATIVE CASH MARKET FOR CHEESE

With regard to the possible establishment of alternative cash markets for cheese, several months ago, Senator FEINGOLD and I asked the Coffee, Sugar, and Cocoa Exchange [CSCE] to explore the possibility of establishing such an alternative. The CSCE, which already trades futures contracts for cheese, is regulated by the U.S. Commodity Futures Trading Commission, and imposes strict self-regulatory guidelines on its traders as well.

Further, there is some hope that the establishment of cash market for cheese on the CSCE, and the more direct connection to the existing cheese futures trading business, would lead to an increased volume of trading on both the cash and futures markets for cheese.

I have been very pleased to see that the CSCE is seriously considering our proposal, and is actively exploring the possibility of creating a cash market for cheese in the near term. While there is no guarantee that such a market will be successful, it is my hope that the CSCE leadership will opt to establish such a market, and will establish and enforce guidelines to assure that the new market does not merely mimic the flaws of the National Cheese Exchange.

However, even if the CSCE decides to establish an alternative market for cheese, it will be some time before the influence of the National Cheese Exchange over farmers' milk prices and national cheese prices is diminished. Therefore, I have tried to deal with that problem directly and immediately.

EFFORTS TO REDUCE THE INFLUENCE OF THE NCE ON FARMERS' MILK PRICES

First, since I believe that it is inappropriate for an unregulated and thinly traded market like the NCE to be used

in setting farmers' milk prices, I and other members of the Wisconsin congressional delegation have asked Secretary Glickman to delink the NCE from the calculation of the basic formula price [BFP]. Therefore, I was very pleased last week when Secretary Glickman announced a 60-day comment period to solicit comments about whether to delink the NCE from the calculation of the BFP. I am hopeful that this process will free farmers' milk checks from the direct connection to NCE within a few short months.

But even if the Secretary decides to eliminate the direct link between the NCE price and the basic formula price, farmers' milk prices will still be indirectly linked to the NCE, as long as industry leaders continue to use the NCE as a reference price for forward contracts for bulk cheese. Since cheese is such a dominant end product for milk, especially in Wisconsin, as long as cheese prices are set off the NCE, the NCE will be remain a major factor in milk prices.

That is why, in the long term, I believe the creation of an alternative market for cheese, which could become the new reference price for bulk cheese contracts, will be in the best interest of farmers, consumers, and cheese manufacturers.

However, until that happens, we must continue in the efforts to fix some of the flaws of the National Cheese Exchange. And it is with that purpose that I am introducing the National Cheese Exchange Oversight and Improvement Act, to require the U.S. Commodity Futures Trading Commission to oversee the activities of the NCE.

LEGISLATION NEEDED TO REQUIRE FEDERAL REGULATORY OVERSIGHT OF THE NCE

In October of 1996, Senator FEINGOLD, Congressman OBEY, and I wrote to the CFTC to urge them to oversee the activities of the National Cheese Exchange. This month, we received a response letter explaining that the CFTC, as a futures market regulatory agency, has very limited authority over cash markets. In the letter, CFTC Acting Director Theodore C. Barreaux states,

> The Commodity Exchange Act does not provide the CFTC with regulatory jurisdiction over the day-to-day operations of cash commodity markets * * * The Commodity Exchange Act does confer on the CFTC the authority to investigate possible manipulation of cash markets and to impose sanctions based on its findings, if appropriate. Historically, given the Commission's principal regulatory responsibility over futures and options markets and its relatively limited resources, the CFTC has focused its investigative attention on cash market activity that involves possible adverse impact on one or more of the numerous futures and option markets which it regulates.

However, it seems very likely that the industrywide concern about the lack of viability of the cash market for cheese, is a direct factor in the reluctance of the industry to participate more fully in the trading of futures contracts for cheese on the CSCE. Therefore, I believe that the NCE does have a more direct nexus with the futures market than the CFTC is acknowledging.

However, accepting CFTC's claim that it lacks the necessary authority to oversee or regulate the NCE, this legislation is intended to give the Commission the explicit authority to do so, at least until the Commission determines that the NCE is no longer acting as a reference price for commercial sales of bulk cheese of the NCE.

While I understand the concern of the Commission that requiring CFTC regulation of cash markets would open a Pandora's box of new work for the Commission, the bill has been written in a very narrow manner, so as only to require regulation of the NCE, or other concentrated cash markets that share the specific flaws of the NCE.

I believe there are certain circumstances where a cash market has such great influence over national prices, and is so subject to manipulation, that it needs to be regulated. And the cheese exchange is perhaps the best example of that.

When you have a cash market that is very thinly traded, completely unregulated, and used as a reference price for both raw product prices paid to farmers and commercial end product sales, something must be done to bring some credibility to the market.

It is my hope that this legislation could be attached as an amendment to the Commodity Exchange Act reauthorization, which is on the Senate Agriculture Committee agenda for early action this year. I look forward to working with Chairman LUGAR, Senator HARKIN, and the other members of the committee to assure that the necessary Federal oversight of the NCE is put in place.

Further, I welcome my colleague Senator FEINGOLD as an original cosponsor of this legislation, and thank Congressman OBEY and other members of the Wisconsin House delegation for introducing companion legislation in the House today as well. It is very gratifying that the Wisconsin delegation is working cooperatively and constructively in advancing these necessary dairy pricing reforms.

In that regard, I am also pleased to be an original cosponsor of the Milk Price Discovery Improvement Act of 1997, as introduced today by Senator FEINGOLD. This legislation will make the U.S. Department of Agriculture an equal partner in the NCE reform efforts by: First, requiring USDA to delink the NCE opinion price from the USDA basic formula price [BFP], which establishes minimum milk prices paid to farmers; second, requires USDA to take steps to improve price discovery for cheese, in order to reduce the influence of the NCE on farmers' milk prices; and third, requires USDA to prohibit competitive practices on any cash market that may affect milk prices regulated under Federal milk marketing orders.

While my legislation requires CFTC oversight of the NCE and its day-to-day rules of operation, Senator FEINGOLD's legislation requires USDA authority to prohibit anticompetitive actions by traders on the NCE. These two roles are entirely compatible and complementary.

Mr. President, I ask unanimous consent that the bill summary, and the full text of the bill, be included in the RECORD.

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

S. 256

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 Cheese Exchange Oversight and Improvement Act of 1997".

SEC. 2. FINDINGS.

The Congress finds that the operation of the National Cheese Exchange and other cash markets is of national concern and in need of Federal oversight because of the following:

(1) The National Cheese Exchange, located in Green Bay, Wisconsin, is the dominant cash market for bulk cheese in the United States.

(2) While less than 1 percent of the cheese produced in the United States is sold on the National Cheese Exchange, the price determined by the National Cheese Exchange acts as a reference price for as much as 95 percent of the commercial cheese transactions conducted in the United States.

(3) A three-year federally funded investigation into the activities of the National Cheese Exchange determined that the National Cheese Exchange is very thinly traded, highly concentrated, completely unregulated, and subject to manipulation.

(4) The Coffee, Sugar, and Cocoa Exchange in New York, an exchange regulated by the Commodity Futures Trading Commission, trades futures contracts for cheese.

(5) The low volume in trading of cheese futures contracts on the Coffee, Sugar, and Cocoa Exchange is partially related to concerns about the lack of viability, and potential for manipulation, in the dominant cash market for cheese, the National Cheese Exchange.

(6) The National Cheese Exchange is completely unregulated by any Federal or State agency.

(7) The Commodity Futures Trading Commission claims a lack of authority to regulate or oversee the National Cheese Exchange and similar cash markets.

SEC. 3. COMMODITY FUTURES TRADING COMMISSION REGULATION OF NATIONAL CHEESE EXCHANGE AND SIMILAR CASH MARKETS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 20 (7 U.S.C. 24) the following new section:

"SEC. 21. COMMISSION REGULATION OF NATIONAL CHEESE EXCHANGE AND SIMILAR CASH MARKETS.

"(a) DEFINITION OF CONCENTRATED CASH MARKET.—In this section, the term 'concentrated cash market' means—

"(1) the National Cheese Exchange located in Green Bay, Wisconsin; and

"(2) a cash market for a commodity if the Commission determines that—

"(A) the cash market is geographically centralized in the form of a market or exchange;

"(B) the cash market is very thinly traded or highly illiquid;

"(C) the price established by the cash market functions as a reference price for a majority of commercial transactions off the cash market for the commodity being traded;

"(D) trading in the cash market is concentrated among relatively few buyers and sellers;

"(E) the cash market is substantially unregulated by any other regulatory structure (including State regulation or self-regulation);

"(F) a futures market regulated under this Act also exists for the commodity that is being traded on the cash market; and

"(G) the instability, illiquidity, or potential for manipulation for on the cash market could be a deterrent to the use of the futures market for that commodity.

"(b) REGULATION OF CONCENTRATED CASH MARKETS.—In consultation with the Secretary of Agriculture, the Commission shall regulate a concentrated cash market under this Act until such time as the Commission determines that the concentrated cash market is not functioning as a reference price for a majority of commercial transactions off the cash market for the commodity being traded on the concentrated cash market.

"(c) SUBMISSION AND REVIEW OF OPERATING RULES.—The Commission shall require a cash market that is subject to this section to:

"(1) SUBMISSION REQUIRED.—The Commission shall require a concentrated cash market subject to regulation under subsection (b) to submit to the Commission for approval a set of rules governing the operation of the concentrated cash market; and

"(2) TIME FOR SUBMISSION.—In the case of the National Cheese Exchange, the operating rules required under this subsection shall be submitted not later than 90 days after the date of enactment of this section. In the case of other concentrated cash markets, the operating rules shall be submitted not later than 90 days after the date on which the Commission notifies the concentrated cash market that it is subject to regulation under this section.

"(3) NOTIFICATION OF COMMISSION ACTION.—The Commission shall promptly review operating rules submitted by a concentrated cash market under this subsection to determine whether the rules are sufficient to govern the operation of the concentrated cash market. Not later than 60 days after receiving the rules from a concentrated cash market, the Commission shall notify the concentrated cash market of the result of the review, including whether the rules are approved or disapproved. If disapproved, the Commission shall provide such recommendations regarding changes to the rules as the Commission considers necessary to secure approval and provide a schedule for resubmission of the rules.

"(4) SUBSEQUENT RULE CHANGES.—A concentrated cash market may not change approved operating rules unless the proposed change is also submitted to the Commission for review and the Commission approves the change in the manner provided in paragraph (3).

"(d) EFFECT OF FAILURE TO SUBMIT OR RECEIVE APPROVAL OF RULES.—Beginning one year after the date of the enactment of this section, the National Cheese Exchange may operate only in accordance with rules approved by the Commission under subsection (c). In the case of other concentrated cash markets, beginning one year after the date on which the concentrated cash market is notified that it is subject to regulation under this section, the concentrated cash market may operate only in accordance with rules approved by the Commission under subsection (c).".

SUMMARY OF THE BILL

Amends the Commodity Exchange Act, to require the Commodity Futures Trading Commission (CFTC) to regulate the National Cheese Exchange (NCE), in consultation with USDA, until such time as the NCE is no longer used as a reference price for the majority of commercial cheese sales off the exchange.

Require the NCE (or any other cash market regulated by the CFTC as a result of this bill) to submit to the CFTC for approval a set of rules of operation, and to enforce those rules.

Further, the bill would give the CFTC authority to regulate other cash markets, if the conditions similar to those on the NCE were to occur on another cash market. Specifically, CFTC would be required to regulate a cash market when the following conditions coincide:

Trading is geographically centralized.

The cash market is very thinly traded or highly illiquid.

The price established by the market or exchange acts as a reference price for a majority of commercial transactions off the market.

The market is concentrated among relatively few buyers and sellers.

The market is substantially unregulated by any other regulatory structure (included state regulation or regulation by the market itself).

Manipulation on the cash market is a deterrent to the use of the futures market for the same commodity.•

By Mr. LUGAR (for himself, Mr. HARKIN, and Mr. LEAHY):

S. 257. A bill to amend the Commodity Exchange Act to improve the act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE COMMODITY EXCHANGE ACT AMENDMENTS OF 1997

• Mr. LUGAR. Mr. President, today I am introducing, along with Senators HARKIN and LEAHY, legislation to amend the Commodity Exchange Act. This bill is very similar to S. 2077, which Senator LEAHY and I introduced last September after several months of hearings and informal consultations with industry, academics, and regulators. The legislation streamlines U.S. futures trading law, conforming it to changing competitive realities.

In many ways, regulation has benefited the U.S. futures industry. Prudent regulation enhances customer protection, prevents and punishes fraud and other abuses, and makes futures markets better able to provide risk management, price discovery, and investment opportunity.

Regulation, however, also has its costs. U.S. futures markets face competition that is, in some cases, less regulated or differently regulated. In the years ahead, our challenge is to balance the need for adequate regulation with the need to offer cost-competitive products.

This bill tries to strike such a balance. It requires the Commodity Futures Trading Commission to consider the costs for industry of the regulations it imposes. The bill streamlines the process of introducing new futures contracts, reducing the time that is required to begin trading these new products. It makes similar reforms to the process by which exchanges' rules are reviewed by the CFTC.

Where additional authority for the CFTC is needed, the bill provides it. The CFTC will have the authority to require U.S. delivery points for overseas futures markets to provide information that is also regularly demanded of American market participants. This is eminently reasonable, and may assist the CFTC and other regulators in the future if situations similar to the 1996 London copper market scandal recur.

The bill will also provide greater legal certainty for swaps, over-the-counter products that are of increasing importance to many businesses. It is important that these contracts' enforceability be made more certain, so that legal risk does not compound the other risks inherent in any financial transaction. In one important addition to last year's legislation, the new bill will also provide this legal certainty for swaps that are based on equities, as well as for hybrid instruments. In a more limited way, the bill will establish the terms of exemptions for on-exchange products traded solely among professional investors.

Another addition to last year's legislation is a major rewrite of the so-called Treasury amendment, a provision of the Commodity Exchange Act that excludes some financial products from its regulatory coverage. This controversial section is at best unclear, and needs a fresh look from Congress. I hope the proposals we have made in this bill—which are explained in a discussion document I will mention in a moment—will both stimulate dialog and find wide acceptance.

It is unfortunate that the CFTC and the Treasury Department, which discussed this subject at Senator LEAHY's and my request, were unable to agree on a common approach. However, the committee will work with both agencies as we move forward. Despite some differences in drafting, I believe the Treasury Department's ideas are basically consistent with what Senators HARKIN, LEAHY, and I have proposed. The Treasury did not propose, as we do, to allow futures exchanges to create professionals-only markets in Treasury

amendment products. However, Senator HARKIN and I are informed that while the Treasury is still studying this proposal, in principle the Department does not object to treating exchange affiliates in a manner similar to other sophisticated market participants.

The bill contains a number of other provisions. Senator HARKIN and I have prepared a section-by-section discussion document, which may be helpful to our colleagues.

On February 11 and 13, the committee will hold hearings on this legislation. It is a priority for the committee during the coming weeks and months.

I would like to thank Senator HARKIN for his extraordinary cooperation in putting this bill together. As the new ranking member of the committee, he has been gracious and collegial. Likewise, Senator LEAHY's efforts both last year and this year deserve special praise. I salute them both for their leadership.

Mr. President, I ask unanimous consent that the bill and additional material be printed in the RECORD.

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

S. 257

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 "Commodity Exchange Amendments Act of 1997".

SEC. 2. TREASURY AMENDMENT.

Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2) is amended by striking clause (ii) and inserting the following:

"(ii) TREASURY AMENDMENT.—

"(I) IN GENERAL.—Nothing in this Act shall be deemed to govern or in any way be applicable to transactions in or involving foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof to the general public for future delivery conducted on a board of trade.

"(II) OTHER AGENCIES.—Nothing in subclause (I) shall affect the powers of the Securities and Exchange Commission, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Department of the Treasury, the Federal Deposit Insurance Corporation, any agency of State government with the authority to charter, regulate, or license banks, or any State insurance regulatory agency, under this Act or any other provision of law.

"(III) DEFINITIONS.—

"(aa) BOARD OF TRADE; FOREIGN EXCHANGE TRANSACTIONS.—The term 'board of trade', as applied to foreign exchange transactions described in subclause (I), shall include unsupervised entities that are engaged in the systematic marketing of standardized, non-negotiable foreign currency transactions to retail investors.

"(bb) BOARD OF TRADE; GOVERNMENT SECURITIES.—The term 'board of trade', as used in subclause (I), shall not include a government securities dealer or government securities broker, to the extent the dealer or broker engage in transactions in government securities, as the terms 'government securities', 'government securities dealer', and 'government securities broker' are defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

"(cc) GENERAL PUBLIC; RETAIL INVESTORS.—The Commission shall define the terms 'general public' as used in subclause (I) and 'retail investors' as used in item (aa), taking into account, to the extent practicable, section 4(c)(3) of this Act and section 35(b)(2) of title 17, Code of Federal Regulations. In carrying out the preceding sentence, the Commission shall not include in the definition of 'retail investors' a natural person with total assets that exceeds $10,000,000.

"(dd) OPTION.—For purposes of this clause, an 'option' shall be considered to be a transaction at the time it is purchased or sold and at the time, if any, that it is exercised.

"(IV) EMERGENCY AUTHORITY.—Nothing in this clause shall restrict the powers of the Commission under section 8a(9) as they apply to designated contract markets.".

SEC. 3. HEDGING.

Section 3 of the Commodity Exchange Act (7 U.S.C. 5) is amended in the fourth sentence by striking "through fluctuations in price".

SEC. 4. DELIVERY POINTS FOR FOREIGN FUTURES CONTRACTS.

Section 4(b) of the Commodity Exchange Act (7 U.S.C. 6(b)) is amended—

(1) in the third sentence—

(A) by striking "(1)" and "(2)" and inserting "(A)" and "(B)", respectively; and

(B) by striking "No rule" and inserting "Except as provided in paragraph (2), no rule";

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end the following:

"(2)(A) The Commission shall consult with a foreign government, foreign futures authority, or department, agency, governmental body, or regulatory organization empowered by a foreign government to regulate a board of trade, exchange, or market located outside the United States, or a territory or possession of the United States, that has 1 or more established delivery points in the United States, or a territory or possession of the United States, for a contract of sale of a commodity for future delivery that is made or will be made on or subject to the rules of the board of trade, exchange, or market.

"(B) In the consultations, the Commission shall endeavor to secure adequate assurances, through memoranda of understanding or any other means the Commission considers appropriate, that the presence of the delivery points will not create the potential for manipulation of the price, or any other disruption in trading, of a contract of sale of a commodity for future delivery traded on or subject to the rules of a contract market, or a commodity, in interstate commerce.

"(C) Any warehouse or other facility housing an established delivery point in the United States, or a territory or possession of the United States, described in subparagraph (A) shall—

"(i) keep books, records, and other information specified by the Commission pertaining to all transactions and positions in all contracts made or carried on the foreign board of trade, exchange, or market in such form and manner and for such period as may be required by the Commission;

"(ii) file such reports regarding the transactions and positions with the Commission as the Commission may specify; and

"(iii) keep the books and records open to inspection by a representative of the Commission or the United States Department of Justice.".

SEC. 5. EXEMPTION AUTHORITIES.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6(c)) is amended by adding at the end the following:

"(e) PRIVATE TRANSACTION EXEMPTION.—

"(1) IN GENERAL.—Notwithstanding subsection (c)(1), to the extent, if any, that an agreement, contract, or transaction (or class thereof) is otherwise subject to this Act, it shall be exempt from all provisions of this Act and any person or class of persons offering, entering into, rendering advice, or rendering other services with respect to the agreement, contract, or transaction (or class thereof), shall be exempt for the activity from all provisions of this Act (except in each case the provisions of sections 4b and 4o, any antifraud provision adopted by the Commission pursuant to section 4c(b), and the provisions of section 6(c) and 9(a)(2) to the extent the provisions prohibit manipulation of the market price of any commodity in interstate commerce for future delivery on or subject to the rules of any contract market) if—

"(A) the agreement, contract, or transaction (or class thereof) is entered into only between appropriate persons at the time the persons enter into the agreement, contract, or transaction (or class thereof);

"(B) the agreement, contract, or transaction (or class thereof) is not part of a fungible class of agreements, contracts, or transactions that are standardized as to their material economic terms;

"(C) the creditworthiness of any party having an actual or potential obligation under the agreement, contract, or transaction (or class thereof) would be a material consideration in entering into or determining the terms of the agreement, contract, or transaction (or class thereof), including pricing, cost, or credit enhancement terms of the agreement, contract, or transaction (or class thereof); and

"(D) the agreement, contract, or transaction (or class thereof) is not entered into and traded on or through a multilateral transaction execution facility.

"(2) EXCEPTIONS.—Paragraph (1) shall not preclude—

"(A) arrangements or facilities between parties to an agreement, contract, or transaction (or class thereof) that provide for netting of payment obligations resulting from the agreement, contract, or transaction (or class thereof);

"(B) arrangements or facilities among parties to an agreement, contract, or transaction (or class thereof) that provide for netting of payments resulting from the agreement, contract or transaction (or class thereof); or

"(C) the prohibition of transactions covered under section 32.2 of title 17, Code of Federal Regulations.

"(3) DEFINITION OF APPROPRIATE PERSON.—In paragraph (1), the term 'appropriate person' means—

"(A) a person (as defined in subsection (c)(3)); or

"(B) a natural person whose total assets exceed $10,000,000.

"(4) HYBRID INSTRUMENT EXEMPTION.—

"(A) DEFINITIONS.—In this paragraph:

"(i) COMMODITY-DEPENDENT COMPONENT.—The term 'commodity-dependent component' means a component of a hybrid instrument, the payment of which results from indexing to, or calculation by reference to, the price of a commodity.

"(ii) COMMODITY-DEPENDENT VALUE.—The term 'commodity-dependent value' means

the value of a commodity-dependent component, which when decomposed into an option payout or payouts, is measured by the absolute net value of the put option premia with strike prices less than or equal to the reference price plus the absolute net value of the call option premia with strike prices greater than or equal to the reference price, calculated as of the time of issuance of the hybrid instrument.

"(iii) COMMODITY-INDEPENDENT COMPONENT.—The term 'commodity-independent component' means the component of a hybrid instrument, the payments of which do not result from indexing to, or calculation by reference to, the price of a commodity.

"(iv) COMMODITY-INDEPENDENT VALUE.—The term 'commodity-independent value' means the present value of the payments attributable to the commodity-independent component calculated as of the time of issuance of the hybrid instrument.

"(v) HYBRID INSTRUMENT.—The term 'hybrid instrument' means an equity or debt security or depository instrument with 1 or more commodity-dependent components that have payment features similar to commodity futures or commodity option contracts or combinations thereof.

"(vi) OPTION PREMIUM.—The term 'option premium' means the value of an option on the referenced commodity of the hybrid instrument, calculated by using—

"(I) the same method as that used to determine the issue price of the instrument; or

"(II) a commercially reasonable method appropriate to the instrument being priced where the premia are not explicitly calculated in determining the issue price of the instrument.

"(vii) REFERENCE PRICE.—The term 'reference price' means a price nearest the current spot or forward price, whichever is used to price the instrument, at which a commodity-dependent payment becomes nonzero, or, in the case in which 2 potential reference prices exist, the price that results in the greatest commodity-dependent value.

"(B) EXEMPTION.—Notwithstanding subsection (c)(1), a hybrid instrument is exempt from all provisions of this Act, and any person or class of persons offering, entering into, or rendering advice or other services with respect to the hybrid instrument is exempt for such activity from all provisions of this Act, if the following terms and conditions are satisfied:

"(i) The instrument is—

"(I) an equity or debt security (within the meaning of section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b); or

"(II) a demand deposit, time deposit or transaction account within the meaning of subsections (b)(1),(c)(1), and (e) of section 204.2 of title 12, Code of Federal Regulations, respectively, that are offered by—

"(aa) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

"(bb) an insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)); or

"(cc) a Federal or State branch or agency of a foreign bank (as defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101)).

"(ii) The sum of the commodity-dependent values of the commodity-dependent components is less than the commodity-independent value of the commodity-independent component.

"(iii) Provided that—

"(I) an issuer must receive full payment of the purchase price of the hybrid instrument, and a purchaser or holder of a hybrid instrument may not be required to make additional out-of-pocket payments to the issuer during the life of the instrument or at maturity;

"(II) the instrument is not marketed as a futures contract or a commodity option or, except to the extent necessary to describe the functioning of the instrument or to comply with applicable disclosure requirements, as having the characteristics of a futures contract or a commodity option; and

"(III) the instrument does not provide for settlement in the form of a delivery instrument that is specified as such in the rules of a designated contract market.

"(iv) The instrument is initially issued or sold subject to applicable Federal or State securities or banking laws to persons who are permitted under the laws to purchase or enter into the hybrid instrument.

"(C) PROVISION NOT EXEMPTED.—The prohibition of transactions covered under section 32.2 of title 17, Code of Federal Regulations, shall apply to a hybrid instrument under this paragraph.

"(5) APPLICATION OF EXEMPTIONS.—Subsection (c) shall not restrict the authority of the Commission to grant an exemption under this subsection that is in addition to or independent of an exemption provided under paragraph (1) or (4). An exemption provided under subsection (c) may not be applied in a manner that restricts the exemption provided under either paragraph (1) or (4).

"(6) EXEMPTION BY COMMISSION.—

"(A) IN GENERAL.—The Commission may exempt an agreement, contract, or transaction (or class thereof), or a hybrid instrument under this subsection, to the extent that the agreement, contract, or transaction (or class thereof), or hybrid instrument, may be subject to this Act.

"(B) NO PRESUMPTION CREATED.—An exemption under this subsection shall not create a presumption that the exempted agreement, contract, or transaction (or class thereof), or hybrid instrument, is subject to this Act.".

SEC. 6. EXEMPTION FOR PROFESSIONAL MARKETS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 5) is amended by adding at the end the following:

"(f) EXEMPTION FOR PROFESSIONAL MARKETS.—

"(1) DEFINITIONS.—In this subsection:

"(A) APPROPRIATE PERSON.—The term 'appropriate person' means—

"(i) a person (as defined in subsection (c)(3)); or

"(ii) a natural person whose total assets exceed $10,000,000.

"(B) PROFESSIONAL MARKET.—The term 'professional market' means a market—

"(i) that is traded on a board of trade that is otherwise designated by the Commission as a contract market; and

"(ii) on which only an appropriate person (as defined in subparagraph (A)) may enter into an agreement, contract, or transaction (or class thereof) on the market.

"(2) EXEMPTION.—

"(A) IN GENERAL.—An agreement, contract, or transaction (or class thereof) that is traded on a professional market and is, or may be, subject to this Act shall be exempt from this Act.

"(B) CONTRACTS NOT EXEMPTED.—The exemption provided under subparagraph (A) shall not apply to—

"(i) any individual agreement, contract, or transaction that has been transacted for the product involved as of the effective date of this subsection; or

"(ii) an agreement, contract, or transaction (or class thereof) that involves an agricultural commodity referred to in section 1a.

"(3) APPLICABILITY OF CERTAIN PROVISIONS.—An agreement, contract, or transaction (or class thereof) for which an exemption is provided under paragraph (2)(A), shall, to the extent applicable, in each case be subject to—

"(A) sections 2(a)(1)(B), 4b, and 4o;

"(B) the provisions of sections 6(c) and 9(a)(2) to the extent the provisions prohibit manipulation of the market price of any commodity in interstate commerce for future delivery on or subject to the rules of a contract market;

"(C) prohibitions adopted by the Commission against fraud or manipulation under section 4c(b); and

"(D) the powers of the Commission to respond to emergencies as provided in section 8a(9).".

SEC. 7. CONTRACT DESIGNATION.

(a) IN GENERAL.—Section 5 of the Commodity Exchange Act (7 U.S.C. 7) is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

"SEC. 5. DESIGNATION OF A BOARD OF TRADE AS A CONTRACT MARKET.

"(a) IN GENERAL.—The Commission shall designate a board of trade as a contract market if the board of trade complies with and carries out the following conditions and requirements:";

(2) by striking paragraph (7);

(3) by redesignating paragraph (8) as paragraph (7); and

(4) by adding at the end the following:

"(b) EXISTING AND FUTURE DESIGNATIONS.—

"(1) IN GENERAL.—If a board of trade is designated as a contract market by the Commission under subsection (a) and section 6, the board of trade shall retain the designation for all existing or future contracts, unless the Commission suspends or revokes the designation or the board of trade relinquishes the designation.

"(2) EXISTING DESIGNATIONS.—A board of trade that has been designated as a contract market as of the date of enactment of this subsection shall retain the designation unless the Commission finds that a violation of this Act or a rule, regulation, or order of the Commission by the contract market justifies suspension or revocation of the designation under section 6(b), or the board of trade relinquishes the designation.

"(c) NEW CONTRACT SUBMISSIONS.—Except as provided in subsection (e), a board of trade that has been designated as a contract market under subsection (a) shall submit to the Commission all rules that establish the terms and conditions of a new contract of sale in accordance with subsection (d) (referred to in this section as a 'new contract'), other than a rule relating to the setting of levels of margin and other rules that the Commission may specify by regulation.

"(d) PROCEDURES FOR NEW CONTRACTS.—

"(1) REQUIRED SUBMISSION TO COMMISSION.—Except as provided in subsection (e), a contract market shall submit new contracts to the Commission in accordance with subsection (c).

"(2) EFFECTIVENESS OF NEW CONTRACTS.—A contract market may make effective a new contract and may implement trading in the new contract—

"(A) not earlier than 10 business days after the receipt of the new contract by the Commission; or

"(B) earlier if authorized by the Commission by rule, regulation, order, or written notice.

"(3) NOTICE TO CONTRACT MARKET.—The new contract shall become effective and may be traded on the contract market, unless, within the 10-business-day period beginning on the date of the receipt of the new contract by the Commission, the Commission notifies the contract market in writing—

"(A) of the determination of the Commission that the proposed new contract appears to—

"(i) violate a specific provision of this Act (including paragraphs (1) through (7) of section 5(a)) or a rule, regulation, or order of the Commission; or

"(ii) be contrary to the public interest; and

"(B) that the Commission intends to review the new contract.

"(4) NOTICE IN THE FEDERAL REGISTER.—Notwithstanding the determination of the Commission to review a new contract under paragraph (3) and except as provided in subsection (e), the contract market may make the new contract effective, and may implement trading in the new contract, on a date that is not earlier than 15 business days after the determination of the Commission to review the new contract unless within the period of 15 business days the Commission institutes proceedings to disapprove the new contract by providing notice in the Federal Register of the information required under paragraph (5)(A).

"(5) DISAPPROVAL PROCEEDINGS.—

"(A) NOTICE OF PROPOSED VIOLATIONS.—If the Commission institutes proceedings to determine whether to disapprove a new contract under this subsection, the Commission shall provide the contract market with written notice, including an explanation and analysis of the substantive basis for the proposed grounds for disapproval, of what the Commission has reason to believe are the grounds for disapproval, including, as applicable—

"(i) the 1 or more specific provisions of this Act or a rule, regulation, or order of the Commission that the Commission has reason to believe the new contract violates or, if the new contract became effective, would violate; or

"(ii) the 1 or more specific public interests to which the Commission has reason to believe the new contract is contrary, or if the new contract became effective would be contrary.

"(B) DISAPPROVAL PROCEEDINGS AND DETERMINATION.—

"(i) OPPORTUNITY TO PARTICIPATE; HEARING.—Before deciding to disapprove a new contract, the Commission shall give interested persons (including the board of trade) an opportunity to participate in the disapproval proceedings through the submission of written data, views, or arguments following appropriate notice and an opportunity for a hearing on the record before the Commission.

"(ii) DETERMINATION OF DISAPPROVAL.—At the conclusion of the disapproval proceeding, the Commission shall determine whether to disapprove the new contract.

"(iii) GROUNDS FOR DISAPPROVAL.—The Commission shall disapprove the new contract if the Commission determines that the new contract—

"(I) violates this Act or a rule, regulation, or order of the Commission; or

"(II) is contrary to public interest.

"(iv) SPECIFICATIONS FOR DISAPPROVAL.—Each disapproval determination shall specify, as applicable—

"(I) the 1 or more specific provisions of this Act or a rule, regulation, or order of the Commission, that the Commission determines the new contract violates or, if the new contract became effective, would violate; or

"(II) the 1 or more specific public interests to which the Commission determines the new contract is contrary, or if the new contract became effective would be contrary.

"(C) FAILURE TO TIMELY COMPLETE DISAPPROVAL DETERMINATION.—If the Commission does not conclude a disapproval proceeding as provided in subparagraph (B) for a new contract by the date that is 120 calendar days after the Commission institutes the proceeding, the new contract may be made effective, and trading in the new contract may be implemented, by the contract market until such time as the Commission disapproves the new contract in accordance with this paragraph.

"(D) APPEALS.—A board of trade that has been subject to disapproval of a new contract by the Commission under this subsection shall have the right to an appeal of the disapproval to the court of appeals as provided in section 6(b).

"(6) CONTRACT MARKET DEEMED DESIGNATED.—A board of trade shall be deemed to be designated a contract market for a new contract of sale for future delivery when the new contract becomes effective and trading in the new contract begins.

"(e) REQUIRED INTERAGENCY REVIEW.—Notwithstanding subsection (d), no board of trade may make effective a new contract (or option on the contract) that is subject to the requirements and procedures of clauses (ii) through (v) of paragraph (1)(B), and paragraph (8)(B)(ii), of section 2(a) until the requirements and procedures are satisfied and carried out.".

(b) CONFORMING AMENDMENT.—Section 6(a) of the Commodity Exchange Act (7 U.S.C. 8(a)) is amended in the first sentence by striking "Any board of trade desiring" and inserting "A board of trade that has not obtained any designation as a contract market for a contract of sale for a commodity under section 5 that desires".

SEC. 8. DELIVERY BY FEDERALLY LICENSED WAREHOUSES.

Section 5a(a) of the Commodity Exchange Act (7 U.S.C. 7a(a)) is amended by striking paragraph (7) and inserting the following:

"(7) Repealed;".

SEC. 9. SUBMISSION OF RULES TO COMMISSION.

Section 5a(a) of the Commodity Exchange Act (7 U.S.C. 7a(a)(12)) is amended by striking paragraph (12) and inserting the following:

"(12)(A)(i) except as otherwise provided in this paragraph, submit to the Commission all bylaws, rules, regulations, and resolutions (collectively referred to in this subparagraph as 'rules') made or issued by the contract market, or by the governing board or committee of the contract market (except those relating to the setting of levels of margin, those submitted pursuant to section 5 or 6(a), and those the Commission may specify by regulation) and may make a rule effective not earlier than 10 business days after the receipt of the submission by the Commission or earlier, if approved by the Commission by rule, regulation, order, or written notice, unless, within the 10-business-day period, the Commission notifies the contract market in writing of its determination to review such rules for disapproval and of the specific sections of this Act or the regulations of the Commission that the Commission determines the rule would violate. The determination to review such rules for disapproval shall not be delegable to any employee of the Commission. Not later than 45 calendar days before disapproving a rule of major economic significance (as determined by the Commission), the Commission shall publish a notice of the rule in the Federal Register. The Commission shall give interested persons an opportunity to participate in the disapproval process through the submission of written data, views, or arguments. The determination by the Commission whether a rule is of major economic significance shall be final and not subject to judicial review. The Commission shall disapprove, after appropriate notice and opportunity for hearing (including an opportunity for the contract market to have a hearing on the record before the Commission), a rule only if the Commission determines the rule at any time to be in violation of this Act or a regulation of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, the Commission shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific sections of this Act or the regulations of the Commission that would be violated. At the conclusion of the proceedings, the Commission shall determine whether to disapprove the rule. Any disapproval shall specify the sections of this Act or the regulations of the Commission that the Commission determines the rule has violated or, if effective, would violate. If the Commission does not institute disapproval proceedings with respect to a rule within 45 calendar days after receipt of the rule by the Commission, or if the Commission does not conclude a disapproval proceeding with respect to a rule within 120 calendar days after receipt of the rule by the Commission, the rule may be made effective by the contract market until such time as the Commission disapproves the rule in accordance with this paragraph.

"(B)(i) The Commission shall issue regulations to specify the terms and conditions under which, in an emergency as defined by the Commission, a contract market may, by a two-thirds vote of the governing board of the contract market, make a rule (referred to in this subparagraph as an 'emergency rule') immediately effective without compliance with the 10-day notice requirement under subparagraph (A), if the contract market makes every effort practicable to notify the Commission of the emergency rule, and provide a complete explanation of the emergency involved, prior to making the emergency rule effective.

"(ii) If the contract market does not provide the Commission with the requisite notification and explanation before making the emergency rule effective, the contract market shall provide the Commission with the notification and explanation at the earliest practicable date.

"(iii) The Commission may delegate the power to receive the notification and explanation to such individuals as the Commission determines necessary and appropriate.

"(iv) Not later than 10 days after the receipt from a contract market of notification of such an emergency rule and an explanation of the emergency involved, or as soon as practicable, the Commission shall determine whether to suspend the effect of the rule pending review by the Commission under the procedures of subparagraph (A).

"(v)(I) The Commission shall submit a report on the determination of the Commission on the emergency rule under clause (iv), and the basis for the determination, to the affected contract market, the Committee on

Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(II) If the report is submitted more than 10 days after the Commission's receipt of notification of the emergency rule from a contract market, the report shall explain why submission within the 10-day period was not practicable.

"(III) A determination by the Commission to suspend the effect of a rule under this subparagraph shall be subject to judicial review on the same basis as an emergency determination under section 8a(9).

"(IV) Nothing in this paragraph limits the authority of the Commission under section 8a(9);".

SEC. 10. AUDIT TRAIL.

Section 5a(b) of the Commodity Exchange Act (7 U.S.C. 7a(b)) is amended—

(1) in paragraph (3), by inserting "selected by the contract market" after "means" each place it appears; and

(2) by adding at the end the following:

"(7) The requirements of this subsection establish performance standards and do not mandate the use of a specific technology to satisfy the requirements.".

SEC. 11. CONSIDERATION OF EFFICIENCY, COMPETITION, RISK MANAGEMENT, AND ANTITRUST LAWS.

Section 15 of the Commodity Exchange Act (7 U.S.C. 19) is amended—

(1) by striking "SEC. 15. The Commission" and inserting the following:

"SEC. 15. (a)(1) Prior to adopting a rule or regulation authorized by this Act or adopting an order (except as provided in subsection (b)), the Commission shall consider the costs and benefits of the action of the Commission.

"(2) The costs and benefits of the proposed Commission action shall be evaluated in light of considerations of protection of market participants, the efficiency, competitiveness, and financial integrity of futures markets, price discovery, sound risk management practices, and other appropriate factors, as determined by the Commission.

"(b) Subsection (a) shall not apply to the following actions of the Commission:

"(1) An order that initiates, is part of, or is the result of an adjudicatory or investigative process of the Commission.

"(2) An emergency action.

"(3) A finding of fact regarding compliance with a requirement of the Commission.

"(c) The Commission"; and

(2) by striking "requiring or approving" and inserting "requiring, reviewing, or disapproving".

SEC. 12. DISCIPLINARY AND ENFORCEMENT ACTIVITIES.

(a) IN GENERAL.—It is the sense of Congress that the Commodity Futures Trading Commission should—

(1) to the extent practicable, avoid unnecessary duplication of effort in pursuing disciplinary and enforcement actions if adequate self-regulatory actions have been taken by contract markets and registered futures associations; and

(2) retain an oversight and disciplinary role over the self-regulatory activities by contract markets and registered futures associations in a manner that is sufficient to safeguard financial and market integrity and the public interest.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that evaluates the effectiveness of the enforcement activities of the Commission, including an evaluation of the experience of the Commission in preventing, deterring, and disciplining violations of the Commodity Exchange Act (7 U.S.C. 1 et seq.) and Commission regulations involving fraud against the public through the bucketing of orders and similar abuses.

SEC. 13. DELEGATION OF FUNCTIONS BY THE COMMISSION.

(a) IN GENERAL.—It is the sense of Congress that the Commodity Futures Trading Commission should—

(1) review its rules and regulations that delegate any of its duties or authorities under the Commodity Exchange Act (7 U.S.C. 1 et seq.) to contract markets or registered futures associations;

(2) consistent with the public interest and law, determine which additional functions, if any, performed by the Commission should be delegated to contract markets or registered futures associations; and

(3) establish procedures (such as spot checks, random audits, reporting requirements, pilot projects, or other means) to ensure adequate performance of the additional functions that are delegated to contract markets or registered futures associations.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall report the results of its review and actions under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 14. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 1a(13)(B) of the Commodity Exchange Act (7 U.S.C. 1a(13)(B)) is amended by striking "state" and inserting "State".

(b) Section 2(a)(1)(B)(iv)(I) of the Commodity Exchange Act (7 U.S.C. 2a(iv)(I)) is amended in the last sentence by striking "section 6 of this Act" and inserting "section 6(a)".

(c) Section 4(c)(3)(H) of the Commodity Exchange Act (7 U.S.C. 6(c)(3)(H)) is amended by striking "state" and inserting "State".

(d) Section 4a(e) of the Commodity Exchange Act (7 U.S.C. 6a(e)) is amended in the last sentence by striking "section 9(c) of this Act" and inserting "section 9(a)(5)".

(e) Section 4c(d)(2)(A)(iv) of the Commodity Exchange Act (7 U.S.C. 6c(d)(2)(A)(iv)) is amended by striking "78c(a)(12)),'' and inserting "78c(a)(12))),".

(f) Section 4f(c)(4)(B)(i) of the Commodity Exchange Act (7 U.S.C. 6f(c)(4)(B)(i)) is amended—

(1) by striking "compiled" and inserting "complied"; and

(2) by striking "1817(a),'' and inserting "1817(a)),".

(g) Section 5a(a) of the Commodity Exchange Act (7 U.S.C. 7a(a)) is amended—

(1) in paragraph (11)(ii), by striking the second semicolon at the end;

(2) in paragraph (15)(C), by striking "categories as" and inserting "categories as—"; and

(3) in paragraph (17)—

(A) in subparagraph (A), by striking "minimum, that" and inserting "minimum, that—"; and

(B) in subparagraph (B)(ii), by striking "affect" and inserting "effect".

(h) Sections 5b, 6(b), 6(c), 6(d), and 13(c) of the Commodity Exchange Act (7 U.S.C. 7b, 8(b), 9, 13b, and 13c(c)) are amended by striking "or the Commission" after "the Commission" each place it appears.

(i) Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9) is amended in the tenth sentence by inserting a comma after "such violation".

(j) Section 6a(a) of the Commodity Exchange Act (7 U.S.C. 10a(a)) is amended in the second sentence by striking "Such Commission" and inserting "The Commission".

(k) Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended—

(1) in subsection (a)(1)(B), by striking "in any receivership proceeding commenced involving a receiver appointed in a judicial proceeding by the United States or the Commission" and inserting "in any receivership proceeding involving a receiver appointed in a judicial proceeding commenced by the United States or the Commission"; and

(2) in the last sentence of subsection (e), by striking "authority." and inserting "authority".

(l) Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking "the provisions of paragraph (3) of this section" and inserting "the provisions of this paragraph or paragraph (3)";

(B) in subparagraph (C), by adding a semicolon at the end;

(C) in subparagraph (D), by inserting "pleaded guilty to or has" after "such person has"; and

(D) in subparagraph (E), by striking "Investors" and inserting "Investor";

(2) in paragraph (3)—

(A) in subparagraph (B), by striking "Investors" and inserting "Investor";

(B) by striking subparagraph (D) and inserting the following:

"(D) the person has pleaded guilty to or has been convicted of a felony other than a felony of the type specified in paragraph (2)(D), or has pleaded guilty to or has been convicted of a felony of the type specified in paragraph (2)(D) more than 10 years preceding the filing of the application;"; and

(C) in subparagraph (H), by striking "or has been convicted in a State court," and inserting "or has pleaded guilty to, or has been convicted, in a State court,"; and

(3) in paragraph (11)(F), by striking "section 6(b)" and inserting "section 6(c)".

(m) Section 8c(a)(2) of the Commodity Exchange Act (7 U.S.C. 12c(a)(2)) is amended in the second sentence by inserting after "denied access," the following: "to any other exchange, to any other registered futures association,".

(n) Section 8e(d)(1) of the Commodity Exchange Act (7 U.S.C. 12e(d)(1)) is amended by striking "section 6b" and inserting "section 6(c)".

(o) Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(1) by redesignating subsection (f) as subsection (e); and

(2) in subsection (e)(1) (as so redesignated), by striking the period at the end and inserting "; or".

(p) Section 12(b) of the Commodity Exchange Act (7 U.S.C. 16(b)) is amended by aligning the margin of paragraph (4) so as to align with paragraph (3).

(q) Section 14(a) of the Commodity Exchange Act (7 U.S.C. 18(a)) is amended by aligning the margin of paragraph (2) so as to align with subsection (b).

(r) Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended—

(1) in subsection (b)—

(A) in paragraph (9)(D), by striking the semicolon at the end and inserting a period;

(B) in paragraph (10)(C)(ii), by striking "and" at the end;

(C) in paragraph (11), by striking the period at the end and inserting a semicolon;

(D) in paragraph (12)—

(i) by striking "(12)(A)" and inserting "(12)"; and

(ii) by striking the period at the end and inserting "; and"; and

(E) in paragraph (13), by striking "A major" and inserting "a major";

(2) in subsection (h)(1)—

(A) in the first sentence, by inserting after "person associated with a member," the following: "takes any membership action against any member or associate responsibility action against any person associated with a member,"; and

(B) by adding at the end the following: "The association shall make public its findings and the reasons for the association action (including the action and penalty imposed) in any action described in the first sentence, except that evidence obtained in the action shall not be disclosed other than to an exchange, the Commission, or the member or person who is being disciplined, who is subject to a member responsibility action, who is being denied admission to the futures association, or who is being barred from associating with members of the futures association.";

(3) in the last sentence of subsection (j)—

(A) by striking "one hundred and eighty days" and inserting "45 calendar days"; and

(B) by striking "one year" and inserting "120 calendar days"; and

(4) by redesignating subsection (q) (as added by section 206(b)(2) of the Futures Trading Practices Act of 1992 (Public Law 102–546)) as subsection (r) and moving such subsection to the end of the section.

SUMMARY AND DISCUSSION—THE COMMODITY EXCHANGE ACT AMENDMENTS OF 1997

SECTION 1. SHORT TITLE

The bill is entitled the "Commodity Exchange Act Amendments of 1997."

SEC. 2. TREASURY AMENDMENT

The "Treasury amendment" to the Commodity Exchange Act (so called because it was added in 1974 at the request of the Treasury Department) excludes certain transactions from the Act altogether, so that the CFTC has no authority to regulate them. Foreign currency and government securities transactions are the most prominent categories of transactions excluded by the Treasury amendment, though there are several others. The history, purpose and scope of the Treasury amendment have been the subject of frequent disagreement even among federal agencies, and the provision has been frequently litigated.

The CFTC has historically asserted that the amendment permits it to enforce the Act against firms offering Treasury amendment products to the general public, arguing that the amendment's purpose was merely to exclude such institutional markets as the interbank currency market from regulation. Other agencies have dissented from this view. In addition, futures exchanges have argued that they should be able to offer contracts in Treasury amendment products that would not be subject to CFTC regulation, as long as they did not offer these contracts to the general public but only to a sophisticated, institutional or professional clientele.

The Committee, in mid-1996, asked the CFTC and the Treasury Department to arrive at a consensus on how the Treasury amendment should be interpreted and, if necessary, re-written. Unfortunately, the agencies were unable to agree and have formulated recommendations that are quite different in both intent and effect.

This legislation reflects a view that there should be a federal role in protecting retail investors from abusive, improper or fraudulent activity in connection with the sale of foreign currency futures or options by an otherwise unregulated entity. By the same token, the legislation provides no role for the CFTC where other regulators—including the banking and securities agencies—already provide federal regulatory oversight. Similarly, the bill views current regulation of other off-exchange Treasury amendment products as adequate and does not provide a role for the CFTC in this regard. For example, federal agencies and private firms alike have widely agreed that it would be unnecessary and inappropriate for the CFTC to regulate the "when-issued" market in Treasury securities.

The bill defines more clearly the CFTC's role in regulating retail transactions and affords equivalent opportunities for futures exchanges to develop markets in Treasury amendment products for professional investors. In particular, the bill states that an unsupervised entity systematically marketing standardized, non-negotiable foreign currency transactions to retail investors will be considered a "board of trade,"and hence subject to the CFTC's jurisdiction.

The bill instructs the CFTC to define the term "retail investors," and provides some guidance on how to do so. It further clarifies that an option involving a Treasury amendment product is a "transaction," meaning that it is excluded from the Act to the same extent as other transactions. Finally, the bill retains the current Treasury amendment provision which extends CFTC jurisdiction to products offered on a board of trade, but makes this provision apply only when these products are offered to the general public. The effect is that futures exchanges would be able to develop separate markets in Treasury amendment products. As is the case when such products are traded over the counter among institutions today, the Act and its regulations would not apply. The bill instructs the CFTC to define the term "the general public," in order to make clear the parameters under which exchanges may establish these markets. The bill also confirms the CFTC's ability, acting pursuant to its emergency powers under Sec. 8a(9) of the Act, to secure the integrity and viability of approved contract markets in the event that market factors, including the establishment by futures exchanges of markets in Treasury amendment products, adversely affect them.

SEC. 3. HEDGING

The CEA does not directly define the term "hedging." In Section 3 of the CEA, which contains various legislative findings that justify regulation of futures markets, the statute speaks of business operators "hedging themselves against possible loss through fluctuations in price." Questions have been raised whether hedging can occur against risks other than price risks—for instance, in new futures contracts that are based on yields of specified crops in particular States. The bill deletes the phrase "through fluctuations in price." It makes clear that risks to be hedged may be risks other than those directly resulting from price changes. This change will not affect the authority to establish speculative limits, require reporting of large trader positions and otherwise ensure market integrity.

In the course of hearings and discussions on the proposed legislation, the Committee may also consider whether to revise Section 3 of the Act more extensively in order to bring it up to date with market needs and conditions, preserving the Act's important functions of facilitating price discovery and customer protection while recognizing the changes that have occurred in the composition and sophistication of market participants as well as the more competitive environment in which the futures industry now operates.

SEC. 4. DELIVERY POINTS FOR FOREIGN FUTURES CONTRACTS

In recent years, some overseas futures exchanges have established delivery points in the United States. The implications of making and taking delivery of a physical commodity that is priced on a foreign exchange may differ, depending on the comparability of price discovery on that exchange and on U.S. exchanges, as well as other factors. Serious questions were raised last year, as various allegations about the copper markets were made and investigated, about what role, if any, delivery points for foreign futures contracts may have played in that affair. These questions are not yet answered. However, the legislation makes changes that will be appropriate regardless of the outcome of specific investigations.

The bill directs the CFTC to consult with overseas regulators and other appropriate parties in countries where futures exchanges have established U.S. delivery points. The aim of the consultations will be to secure adequate assurances against any adverse effect on U.S. markets because of these delivery points. Such assurances could take the form of changes to regulations or trading rules in the overseas market.

The bill also gives the CFTC authority to obtain information from warehouses that are delivery points for foreign exchanges. This information would be similar to that which the CFTC may already require of persons making trades on overseas futures markets, and will assist the CFTC in ensuring market integrity, preventing abuses, and otherwise discharging its responsibilities.

SEC. 5. EXEMPTION AUTHORITY AND SWAP EXEMPTION

The Act gives the CFTC authority to exempt transactions from its regulatory requirements, either completely or on stated terms. In 1993, the CFTC used this authority to exempt swap agreements from most, but not all, portions of the Act. This exemption generally has worked well, facilitating a climate in which swaps, which offer numerous benefits to their users if properly and prudently employed, could trade with secure legal status. (It was the lack of such legal certainty which, in part, prompted Congress to enact the exemptive authority.) Despite the CFTC's prompt action following the 1992 enactment of exemptive authority, the status of swaps remains subject to a change in regulations that could subject these instruments to renewed legal uncertainty.

The bill will provide additional legal certainty for swaps and similar transactions in three ways. First, the bill codifies the present exemption from regulation for transactions that meet its requirements, either now or in the future. For these qualifying instruments—which now rely on the exemptions for swaps in Part 35 of the Code of Federal Regulations and for hybrid instruments in Part 34—a statutory change would be required in order for the exemption to become more restrictive than it now is. The codification does not affect the CFTC's power to grant additional exemptions that would be less restrictive than, or independent of, the

current exemption. Nor does it limit the CFTC's ability to enforce antimanipulation or anti-fraud provisions of the CEA as they may apply to these transactions or as the present exemptions may be conditioned on compliance with their provisions. The CFTC will have, under the codified exemption, the same authority to enforce these provisions of the Act as it has retained under its current policies. In addition, the CFTC would implement the conditions for an exemption, such as making creditworthiness a material consideration, in a manner consistent with its current interpretations. (It has been suggested that some additional conforming changes may also be appropriate to Section 12(e) of the Act.)

Second, the bill codifies two important elements of the present swaps exemptive authority, again to enhance legal certainty. The legislation clarifies that the CFTC may issue an exemption that is applicable to the extent the exempted transaction may have been subject to the Act—i.e., without requiring a prior decision on whether the transaction actually was, in fact, subject to the Act. Relatedly, the legislation states that the mere fact that a transaction was exempted from the Act does not, in itself, create a presumption that the transaction was one that would have fallen under the Act's regulatory requirements had it not been exempted. Thus, the bill makes the existence of an exemption a neutral event, for purposes of determining whether the exempted transaction was subject to the Act: No inference for or against such a determination is warranted by the mere fact of an exemption. Both these clarifications are consistent with present regulations for these exemptions.

Third, the bill for the first time extends the same legal certainty to swaps based on equities as is now available for other swaps. Although the great majority of swaps involve interest rates or currencies, there presently exist swaps based on equities or equity indices. The legal status of these instruments has been less certain than that of other swaps; they rely primarily on a 1989 policy statement by the CFTC which predates the present swaps exemption. The bill codifies, for these swaps, the same exempt status as for other similar instruments: To the extent they may be subject to the Act's provisions, they will be exempt from those provisions (other than anti-fraud and anti-manipulation strictures) as long as they satisfy the terms and conditions of the present swaps exemption as to the way in which they are structured and traded, and as to the persons who may enter into them.

SEC. 6. EXEMPT TRANSACTIONS ON CONTRACT MARKETS

In contrast to the exemptions for swaps and hybrids, the Commission's exemptive terms for on-exchange professionally traded markets (codified in Part 36 of the Code of Federal Regulations) have not led to significant commercial activity. The legislation provides that such markets may be established by futures exchanges, subject to some limitations. In particular, the bill does not exempt such "professional markets" from the so-called "Shad-Johnson" accord, which governs on-exchange products involving equities. Moreover, the legislation excludes agricultural commodities from the list of products for which the professional markets must be recognized.

SEC. 7. CONTRACT DESIGNATION

The Act now requires futures exchanges to be "designated" as a "contract market" for each futures contract they trade. This process has been streamlined by the CFTC in recent years, but the statute continues to reflect a rather elaborate process in which, in many ways, the burden of proof is placed on exchanges to demonstrate why they should be able to offer new products for trading. Even for a sector like the the futures industry, where the public interest requires regulation, this implicit presumption against new product development is out of date.

The bill streamlines the process of introducing new futures contracts, both by compressing the time available for agency review and by creating a presumption that products developed by exchanges should be permitted to trade unless the CFTC finds compellingly why they should not. The legislation treats new contract applications as rules, albeit under somewhat different procedures from other exchange rules. Under the new procedure, an exchange submits a new contract to the CFTC. The new contract may trade after 10 business days, unless the CFTC states an intention to review it for possible disapproval. After a further 15 business days, the new contract can be traded unless the CFTC institutes proceedings to disapprove it. These proceedings are to be completed within 120 days; if not, the new contract can trade until and unless it is finally disapproved. In contrast to the present burden on an exchange to show that a contract is in "the public interest," the CFTC could only disapprove a contract by showing that it was "contrary to the public interest" (or by showing that it violated law or regulations). The philosophy is a fairly simple one: Subject to prudent regulatory limits, private futures exchanges can more appropriately and efficiently decide which new products are ripe for trading than can the government. The exchanges may sometimes err in these judgments, but that is the way markets work.

SEC. 8. DELIVERY BY FEDERALLY LICENSED WAREHOUSES

An obscure provision of the Act now allows any federally licensed grain warehouse to make delivery against a futures contract, on giving reasonable notice. Though seldom if ever used, this provision appears to conflict with the ability of exchanges to establish their own trading procedures, including delivery points. In an extremely tight market, the current provision could in some circumstances facilitate market manipulation. The bill repeals this provision.

SEC. 9. SUBMISSION OF RULES TO COMMISSION

The bill revises current requirements for submitting exchange rules to the CFTC. These rules affect the everyday procedures for doing business on the exchange, as well as the ground rules for trading. They run the gamut from major to minor. As with the procedures for approving new contracts, the legislation compresses the time available for federal review and generally streamlines procedures. Rules are to be submitted to the CFTC and can become effective in 10 business days unless the CFTC notifies the exchange that it will review them for possible disapproval. If the CFTC does not institute disapproval proceedings within 45 days of receiving the proposed rule, or conclude its proceedings within 120 days, the rule can become effective until and unless disapproved.

The authors of the bill intend that its legislative history will also discuss the implementation of statutory requirements for the composition of exchange boards of directors. The CFTC will be directed to report, on an ongoing basis, its evaluation of how fully these requirements are being met. The report language will provide further clarification of Congressional intent with regard to the qualification of individuals to satisfy particular requirements for board representation.

SEC. 10. AUDIT TRAIL

Futures exchanges are subject to audit trail requirements that are intended to ensure market integrity, and to deter and detect abuse. The bill clarifies these requirements in one respect. It states—consistent with testimony by the CFTC before Congress in 1995—that the audit trail requirements establish a performance standard, not a mandate for any particular technological means of achieving the standard. In further support of this clarification, the bill speaks of the "means selected by the contract market" for meeting audit trail standards. The authors of the bill intend that its legislative history will also note further CFTC testimony that, in assessing the "practicability" of various components of the audit trail standards, the cost to exchanges of meeting the standards is one factor to be taken into account.

SEC. 11. MISCELLANEOUS TECHNICAL AMENDMENTS

The bill makes several technical changes to correct omissions in the current statute. Moreover, it makes additional technical amendments, in many cases as a result of CFTC suggestions, that correct previous errors or inconsistencies as to typography, proper citation and the like.

SEC. 12. CONSIDERATION OF EFFICIENCY, COMPETITION, RISK MANAGEMENT, AND ANTITRUST LAWS

The bill requires the CFTC, in issuing rules, regulations and some types of orders, to take into account the costs and benefits of the action it contemplates. The requirement is not for a quantitative cost-benefit analysis, but a mandate to consider both costs and benefits, as well as other enumerated factors. The authors of the bill believe that in establishing its policies and giving direction to market participants, the CFTC should weigh how its actions may affect the participants' costs of doing business, as well as what benefits may accrue from the action.

Some activities of the CFTC, of course, do not call for this kind of approach, and indeed applying a cost-benefit requirement to them would be inappropriate. Thus, the bill exempts the CFTC's adjudicatory and investigative processes, emergency actions and certain findings of fact that are objective, quantitative or otherwise unsuitable for a cost-benefit approach. The bill's eventual legislative history will further discuss Congressional intent in enacting this requirement.

SEC. 13. DISCIPLINARY AND ENFORCEMENT ACTIVITIES

Enforcement is a priority for the CFTC. Like other financial regulators, the CFTC is assisted in its enforcement activities by the complementary rules, surveillance and disciplinary actions of self-regulatory organizations (SROs). These include both the futures exchanges themselves and the National Futures Association. The bill provides guidance to the CFTC on the deployment of enforcement resources, and requires a report in one year on the overall enforcement program. The legislation expresses the sense of Congress that the CFTC should avoid unnecessary duplication of effort where SROs have taken adequate action to deter abuse and ensure customer protection. It further states that the CFTC's oversight and disciplinary role should be sufficient to safeguard market

integrity and protect public confidence in markets.

SEC. 14. DELEGATION OF FUNCTIONS BY THE COMMISSION

The CFTC, under current law, has delegated some limited duties to the National Futures Association. Today's austere budget climate makes it prudent for the commission to assess whether other functions could appropriately be delegated. The bill calls on the CFTC to determine which, if any, additional functions should be delegated to SROs, suggesting the use of procedures like spot checks and random audits to ensure that any delegated functions are adequately performed, and requires a report in one year with the results of the review. The authors intend that the bill's legislative history will cite several current CFTC activities that could be considered for delegation.•

• Mr. HARKIN. Mr. President, I am pleased to join Chairman LUGAR and Senator LEAHY in introducing legislation to amend the Commodity Exchange Act. This bill updates and streamlines U.S. futures trading law, and provides needed clarification to several critical issues facing today's vast derivative markets.

After reviewing the committee testimony taken last year, and meeting informally with industry, regulators, and academics, Chairman LUGAR, Senator LEAHY, and I are convinced that these changes are appropriate and necessary if the United States is to maintain its dynamic, world-class futures trading industry.

There is a strong public interest in maintaining a competitive and sound futures market in the United States. These markets are critical because they allow farmers, ranchers, and other businesses to manage risk and maximize their investment opportunities. At the same time, the committee has an obligation to protect the public trust through effective enforcement and regulatory measures that prevent and punish fraud and other abuses that may, and have, occurred in the international financial markets—including the futures market.

This bill is a bipartisan effort to find the balance between the need for prudent regulation with industry's need for changes so that the U.S. futures market continues to be the driving force in today's competitive global financial markets.

Introduction of this legislation is timely. President Clinton's 1998 budget, due for release later this week, challenges Federal agencies to do more with less. It will ask Federal agencies to improve programs and services and streamline procedures.

This legislation provides legislative backing to accomplish this crucial goal. The bill proposes specific changes that will further assist the Commodity Futures Trading Commission, the primary regulator of the futures industry, to continue its on-going effort to focus scarce resources where they are most effective—in enforcement—preventing consumer fraud and manipulation of market prices.

The legislation allows industry to focus on product innovation and marketing so that the end users—farmers, ranchers, and other businesses—have available to them, free of fraud and at a competitive price, the most state-of-the-art financial products.

The bill also provides the CFTC with additional authority to require U.S. delivery points for overseas futures markets to provide information similar to that currently demanded of American market participants. This provision may help prevent a repeat of last summer's 1996 London/Tokyo copper market crisis where billions of dollars were lost due, in part, to lack of sufficient information and Government oversight by the CFTC's foreign counterparts.

I am pleased that this legislation addresses the uncertainty that currently exists in the so-called "Treasury amendment", a 1974 provision of the Commodity Exchange Act that excludes certain financial products from its regulatory coverage. This provision has long been controversial and our proposal suggests one solution.

It is unfortunate that the Treasury Department and the CFTC were unable to negotiate a resolution of this issue in time for this bill's reintroduction. But I remain open to alternative proposals, and look forward to hearing the views of all interested regulators, industry participants, and users of these products at next week's hearings.

Two other important aspects of this legislation are a provision that provides greater legal certainty for the over-the-counter financial tools such as swaps and hybrids, and a provision that codifies a 1992 provision to allow on-exchange products to be traded solely among professional investors. Both of these provisions are important to the ability of private enterprises to manage business risk.

I am very pleased to join my colleagues in offering this bill. Chairman LUGAR, Senator LEAHY, and I have worked together on futures issues for many years. We did the same on this bill—working to ensure that these markets remain competitive while maintaining effective provisions on customer protection and market integrity.

Introducing this bill early in the 105th Congress offers ample time to continue last year's public discussion and debate over what changes are appropriate and necessary to maintaining a viable U.S. futures market.

It is my experience that such a dialogue helps develop solid bipartisan legislation. As with most issues, there are many interests that must be balanced, and this bill strives to find that balance. I am certainly open to further input as we hold hearings next week.

I look forward to continuing the process.•

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 258. A bill to improve price discovery in milk and dairy markets by reducing the effects of the National Cheese Exchange on the basic formula price established under milk marketing orders, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE MILK PRICE DISCOVERY IMPROVEMENT ACT OF 1997

• Mr. FEINGOLD. Mr. President, I introduce the Milk Price Discovery Improvement Act of 1997 with my senior Senator from Wisconsin [Mr. KOHL]. Mr. President, this bill addresses longstanding farmer concerns that milk prices can be manipulated by those with the incentive and ability to do so. Those concerns were validated by a March 1996 University of Wisconsin study funded by the Department of Agriculture which concluded that the National Cheese Exchange, a cash market for cheese located in Green Bay, WI, directly and indirectly influences farm milk prices and is highly vulnerable to price manipulation by its major traders.

Concern about trader concentration and price manipulation is not exclusive to the dairy industry, Mr. President. Two weeks ago, the minority leader, Senator DASCHLE, introduced the Cattle Industry Improvement Act which addressed concerns about growing concentration in the livestock industry and the lack of market information available to livestock producers. Less than 2 percent of the cattle in the U.S. are sold on markets with open and competitive bidding and the top four packing firms in this country slaughter 80 percent of all cattle.

The unfortunate trend of increasing concentration throughout agriculture and the growing scarcity of reliable market information has placed farmers at an extreme disadvantage compared to powerful corporate traders. Mr. President, I was pleased to cosponsor the Cattle Industry Improvement Act, which seeks to prevent noncompetitive practices in the livestock industry and improve market information because I believe this trend must be stopped.

The bill I am introducing today addresses these same alarming trends in the dairy industry and seeks to prevent manipulation of farm-level milk prices. Dairy farmers must not be held captive to a market that cannot be relied upon to provide accurate information about the value of the milk they produce. Unfortunately, farm milk prices are currently determined by such a market—the National Cheese Exchange.

The National Cheese Exchange is the only cash market in the United States for the sale of bulk cheese. Located in Green Bay, WI, the Exchange trades cheese each Friday for half an hour. Between 1988 and 1993, only 1 percent of all bulk cheese sold nationally was traded on the NCE. During this 5-year period, eight buyers and sellers dominated much of the exchange trading,

despite exchange membership of 30 to 40 companies. The top seller on the exchange accounted for 75 percent of all sales during this period.

Thus, the exchange is not only thin with respect to the volume of cheese bought and sold, it is also thinly traded with the same small number of large firms dominating the trading activity. The opinion price on the National Cheese Exchange, and other markets with these characteristics, is easily influenced by one trade. In addition, unlike other cash markets which trade more frequently, when the price changes at the National Cheese Exchange it stays at that level until one week later at the next trading session. This infrequency of trading lends greater significance to any trading activity which alters the price of cheese.

The existence of such a market on its own would not be a problem if it did not affect dairy farmers and others off the exchange. Unfortunately, the opinion price of the National Cheese Exchange directly and decisively affects the price that farmers throughout the Nation receive for their milk. A 1-cent change in the opinion price at the exchange generally translates into a 10-cent change in the price of milk to farmers. When prices on the exchange drop suddenly and precipitously, dairy farmers nationally lose millions of dollars in producer receipts. In the last 3 months of 1996, cheese prices on the National Cheese Exchange fell by more than 50 cents per pound, with an unprecedented price plunge of 21 cents in one trading session. As a result, as many of my colleagues are aware, milk prices fell by more than $4 per hundredweight—a 26-percent decline in income. In Wisconsin alone, this price decline has cost dairy farmers more than $165 million in lost income.

The price decline has been extremely painful for dairy farmers still struggling with high feed bills but what has made the pain more difficult to bear is the general belief held by many dairy economists that the price fell too far too fast and could not be justified based on prevailing market conditions. Whether the price declined so drastically simply because the National Cheese Exchange is a poor indicator of market conditions or because traders intentionally drove the price down is irrelevant. The perception of farmers that the exchange price was manipulated warrants its retirement as the mover of milk prices in this country. The reality that the exchange clearly overreacted to market conditions with record-setting price declines necessitates it.

The National Cheese Exchange has such a dramatic effect on milk prices for two reasons. First, milk prices are tied directly to the exchange opinion price through the basic formula price [BFP], calculated by USDA. The BFP determines the class III price for milk regulated under the Federal milk marketing order system. Second, even if the formal linkage did not exist, milk prices would still be dramatically affected by the exchange opinion because it is used as the benchmark in virtually all forward contracts for bulk cheese; 90 to 95 percent of bulk cheese in the United States is sold through forward contracts. In other words, virtually all cheese sold in the country is priced based on the opinion price at the Cheese Exchange. That is, at least in part, due to the lack of any alternative market information on the value of cheese.

The combination of thin nature of the National Cheese Exchange and its influence on milk prices nationally, creates a situation in which there is both the opportunity and the incentive for price manipulation. Anyone buying or selling cheese on the National Cheese Exchange may be able to affect the price of milk throughout the country. The extensive report issued by the University of Wisconsin last year concluded that the trading patterns on the NCE suggest that lead traders use the NCE to influence exchange prices with the intent of affecting milk and cheese prices nationwide.

Unfortunately, no viable alternative to the National Cheese Exchange currently exists for cheese price discovery. While there is a futures market for cheese and other dairy products, trading of futures contracts have been weak making the futures prices unreliable benchmarks. Furthermore, there is little or no market information on prices for off-exchange spot transactions of cheese collected by the Department of Agriculture. Secretary of Agriculture Dan Glickman recently announced a new cheese price series that should improve market information for off-exchange transactions. However, such information may not be adequate to supplant the role of the National Cheese Exchange. Of even greater concern is that despite its influence over milk prices nationwide and its vulnerability to manipulation, the exchange is not regulated by any State or Federal entity.

Mr. President, farmers throughout the country are frustrated by a pricing system that can no longer guarantee that milk prices are determined competitively and without manipulation and that they believe led to the severe and unwarranted price decline last fall. They have rightfully demanded that we change the way milk prices are set by U.S. Department of Agriculture to reduce the influence of the exchange on farm-level prices. In addition, farmers have called for increased regulation of the exchange to prohibit manipulation of milk and cheese prices.

Mr. President, that is my goal in introducing this legislation today. Farmers must not be held hostage to this market any longer. First, my legislation directs USDA to break the direct link between the basic formula price and the National Cheese Exchange. Second, it requires USDA to develop alternative sources of cheese market information so that buyers and sellers of cheese need no longer rely on the exchange as a reference price for forward contracts. Finally, my legislation will provide USDA with clear authority to prohibit noncompetitive practices on any cash market that affects the price of milk regulated under Federal milk marketing orders, including the National Cheese Exchange. By law, USDA has been charged with ensuring orderly conditions for the marketing of milk. The agency cannot meet that charge without greater authority to oversee the National Cheese Exchange and prevent those who benefit from low milk prices from driving them down. Ultimately, the solution to these problems lies in the creation of a reliable price discovery system for milk and dairy products that the dairy industry can rely on. But it will take time to develop those alternatives, and it will take time for the dairy industry to come to rely on them. Until we reach that goal, it is absolutely critical that USDA prohibit noncompetitive activities on the National Cheese Exchange.

Mr. President, I am also pleased to be a cosponsor of the National Cheese Exchange Oversight and Improvement Act introduced by my senior Senator from Wisconsin, Senator KOHL. This bill provides the Commodity Futures Trading Commission [CFTC] with day-to-day regulatory jurisdiction over the activities of the National Cheese Exchange. While the CFTC has some limited jurisdiction over the exchange, they do not have the authority to impose trading rules on the exchange. The new authority provided in our respective bills for USDA and CFTC to oversee the exchange should ensure farmers that until the functions of the exchange can be replaced by alternative price discovery mechanisms, we will do all we can to prevent manipulation of farm milk prices.

Mr. President, I believe the combination of the provisions of the Milk Price Discovery Improvement Act and the National Cheese Exchange Oversight and Improvement Act will go far toward resolving some of the problems that have led to the recent milk price plunge that has cost this country's family farmers so dearly. This legislation, if passed, may also help restore the confidence of dairy farmers in our milk pricing system.

Mr. President, there are varied and complicated reasons that the trend in American agriculture is toward fewer and larger farms and toward greater concentration in processing and manufacturing. However, I believe that Federal policies that provide competitive advantages to larger farms and subtly discriminate against smaller farmers

are among them. Sanctioning pricing mechanisms, like the National Cheese Exchange, that provide unequal market power and information, and relying on them to set prices, is one such policy. Small dairy farmers are less able to withstand the lost income resulting from volatile prices caused by the National Cheese Exchange. Small cheese processors and manufacturers that dot Wisconsin's countryside also suffer from price volatility and manipulation on the exchange yet lack the ability to counteract the power of other traders. We can restore a degree of market equality by improving price discovery and by preventing those with the power to manipulate prices from doing so. That is the goal of the Milk Price Discovery Act of 1997. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that a summary of my legislation as well as the full text of the bill be included in the RECORD.

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

S. 258

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 "Milk Price Discovery Improvement Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) the National Cheese Exchange, located in Green Bay, Wisconsin, is the only cash market for bulk cheese in the United States, trades less than 1 percent of all bulk cheese sold nationally, and currently functions as the only price discovery mechanism for bulk cheese throughout the industry;

(2) the National Cheese Exchange opinion price directly influences milk prices paid to farmers because of its use in the Department of Agriculture's basic formula price under Federal milk marketing orders;

(3) opinion prices at the National Cheese Exchange influence the price for much of the bulk cheese bought and sold in the United States and directly or indirectly influences the price of milk paid to producers throughout the United States;

(4) the National Cheese Exchange is a thinly traded, illiquid, and highly concentrated market that is increasingly volatile;

(5) a report issued by the University of Wisconsin and funded by the United States Department of Agriculture concluded that the National Cheese Exchange is vulnerable to price manipulation;

(6) the thin nature of the National Cheese Exchange and the characteristics of that market that may facilitate price manipulation have led to widespread producer concern about the validity of prices at the National Cheese Exchange; and

(7) it is in the national interest to ensure that prices on cash markets that directly and indirectly affect milk prices are determined in the most competitive manner practicable and to improve price discovery for milk and other dairy products.

SEC. 3. BASIC FORMULA PRICE.

Section 143(a) of the Agricultural Market Transition Act (7 U.S.C. 7253(a)) is amended by adding at the end the following:

"(5) NATIONAL CHEESE EXCHANGE.—

"(A) IN GENERAL.—In carrying out this subsection and section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, the Secretary shall not, directly or indirectly, use a price established on the National Cheese Exchange to determine the basic formula price for milk or any other milk price regulated by the Secretary.

"(B) REGULATIONS.—Not later than 60 days after the date of enactment of this paragraph, the Secretary shall review and amend the applicable regulations promulgated by the Secretary to ensure that the regulations comply with subparagraph (A).

"(C) EFFECT ON FURTHER REVISION.—Subparagraph (B) shall not preclude a further revision to, or replacement of, the basic formula price under this subsection or section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, except that the revision or replacement shall be consistent with subparagraph (A).".

SEC. 4. DAIRY PRICE DISCOVERY AND REPORTING SYSTEM.

Section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622) is amended by adding at the end the following:

"(o) DAIRY PRICE DISCOVERY AND REPORTING SYSTEM.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall develop a price discovery system for raw milk, bulk cheese, and other dairy products in order to facilitate orderly marketing conditions.

"(2) ADMINISTRATION.—In carrying out paragraph (1), the Secretary shall—

"(A) collect and disseminate, on a weekly basis, statistically reliable information, obtained from all cheese manufacturing areas in the United States on prices and terms of trade for spot and forward contracts, reported separately, transactions involving bulk cheese, including information on the national average price and regional average prices for bulk cheese sold through spot and contract transactions;

"(B) provide technical assistance to any person, group of persons, or organization seeking to organize a cash market alternative to the National Cheese Exchange that the Secretary believes will improve price discovery; and

"(C) not later than 180 days after the date of enactment of this subsection—

"(i) in cooperation with the Commodity Futures Trading Commission, conduct a study and report to Congress on means of encouraging improved volume in futures trading for milk, bulk cheese, and other dairy products; and

"(ii) conduct a study and report to Congress on the feasibility and desirability of the creation of an electronic exchange for cheese and other dairy products.

"(3) CONFIDENTIALITY.—All information provided to, or acquired by, the Secretary under paragraph (2)(A) shall be kept confidential by each officer and employee of the Department of Agriculture, except that general weekly statements may be issued that are based on the information and that do not identify the information provided by any person.".

SEC. 5. OVERSIGHT OF CASH MARKETS AFFECTING FEDERAL MILK MARKETING ORDERS.

Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"(20) OVERSIGHT OF CASH MARKETS AFFECTING FEDERAL MILK MARKETING ORDERS.—

"(A) DEFINITION OF NONCOMPETITIVE PRACTICE.—In this paragraph, the term 'noncompetitive practice' means an action or measure that involves engaging in a course of business or act for the purpose or with the effect of—

"(i) manipulating or controlling a price on a cash market that affects the price of milk regulated under an order issued under this section;

"(ii) creating a monopoly in the acquiring, buying, selling, or dealing in a product; or

"(iii) restraining commerce.

"(B) GENERAL RULE.—In order to ensure fair trade practices and orderly marketing conditions for milk and milk products under this section, the Secretary shall prohibit noncompetitive practices on a cash exchange for milk, cheese, and other milk products that the Secretary finds affects or influences the price of milk regulated under an order issued under this section.

"(C) OTHER AGENCIES AND STATES.—This paragraph shall not affect the authority of the Federal Trade Commission, Commodity Futures Trading Commission, Department of Justice, any other Federal agency, or any State agency to regulate a noncompetitive practice described in subparagraph (B).

"(D) ENFORCEMENT.—The enforcement provisions of sections 203, 204, and 205 of the Packers and Stockyards Act, 1921 (7 U.S.C. 193, 194, 195) shall apply, to the extent practicable (as determined by the Secretary), to this paragraph.".

THE MILK PRICE DISCOVERY IMPROVEMENT ACT OF 1997

Section 1. Short Title.

Section 2. Findings.

Section 3. Basic Formula Price.

Requires U.S. Secretary of Agriculture to delink the National Cheese Exchange (NCE) opinion price from the USDA Basic Formula Price used under Federal Milk Marketing Orders at a date no later than 60 days after enactment of this Act. This will eliminate the formulaic link between the NCE and milk prices that has been in place since Spring 1995.

Prohibits USDA's use of NCE prices in any future revision or replacement of the Basic Formula Price.

Section 4. Dairy Price Discovery and Reporting System.

Requires Secretary to take steps to improve price discovery in order to reduce the influence of the National Cheese Exchange on farmer milk prices. Alternative price discovery mechanisms will provide more information to buyers and sellers of cheese and may reduce trader reliance on the Exchange as the sole source of price information.

Requires Secretary to expand USDA's monthly cheese price reporting system to provide weekly information on actual prices paid for cheese throughout the country.

Requires Secretary to provide technical assistance to farmers and others seeking the creation of alternative cash markets.

Requires Secretary to work with the Commodity Futures Trading Commission to determine means of increasing trading volume on dairy futures markets.

Requires Secretary to conduct a study on the feasibility of creating an electronic market for cheese and other dairy products.

Section 5. Oversight of Cash Markets Affecting Federal Milk Marketing Orders.

Requires Secretary to prohibit noncompetitive practices on any cash market that may affect or influence the price of milk regulated under Federal Milk Marketing Orders. Noncompetitive practices include any activity conducted for the purpose or with the effect of manipulating prices on such a market.•

By Mr. CRAIG:

S. 259. A bill to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees, and for other purposes; to the Committee on Labor and Human Resources.

THE FAIR LABOR STANDARDS ACT WATER DELIVERY ORGANIZATIONS FLEXIBILITY AMENDMENT ACT OF 1997

• Mr. CRAIG. Mr. President, I am introducing a bill today, which this body previously approved as an amendment to the first bill amending the Fair Labor Standards Act [FLSA] that the Senate passed in 1989. This bill would solve a problem with the interpretation of a provision of the FLSA, clarifying that the maximum hour exemption for agricultural employees applies to water delivery organizations that supply 75 percent or more of their water for agricultural purposes.

Representative MIKE CRAPO, of the Second District of Idaho, is today introducing an identical bill in the other body. Our bill would restore an exemption that was always intended by Congress.

Companies that delivery water for agricultural purposes are exempt from the maximum-hour requirements of the FLSA. The Department of Labor has interpreted this to mean that no amount of this water, however minimal, can be used for other purposes. Therefore, if even a small portion of the water delivered winds up being used for road watering, lawn and garden irrigation, livestock consumption, or construction, for example, delivery organizations are assessed severe penalties.

The exemption for overtime pay requirements was placed in the FLSA to protect the economies of rural areas. Irrigation has never been, and cannot be, a 40-hour-per-week undertaking. During the summer, water must be managed and delivered continually. Later in the year, following the harvest, the work load is light, consisting mainly of maintenance duties.

Our bill is better for employers, workers, and farmers. Winter compensation and time off traditionally have been the method of compensating for longer summer hours. Without this exemption, irrigators are forced to lay off their employees in the winter. Therefore, our bill would benefit employees, who would continue to earn a year-round income. It also would keep costs level, which would benefit suppliers and consumers.

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

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

S. 259

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

SECTION 1. AMENDMENT TO THE FAIR LABOR STANDARDS ACT OF 1938.

Section 13(b)(12) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(12)) is amended by inserting after "water" the following: ", at least 75 percent of which is ultimately delivered".•

By Mr. ABRAHAM (for himself, Mr. HATCH, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. KYL, Mr. HUTCHINSON, Mr. ROBERTS, and Mr. ROBB):

S. 260. A bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes; to the Committee on the Judiciary.

POWDER COCAINE PENALTIES LEGISLATION

• Mr. ABRAHAM. Mr. President, I introduce legislation that would increase penalties for distribution of powder cocaine. It would do this by applying existing mandatory minimum sentences of 5 and 10 years for this crime to a larger class of powder cocaine dealers.

Specifically, under current law, a dealer has to distribute 500 grams of powder to qualify for the 5-year minimum, and 5,000 grams to qualify for the 10-year minimum. My bill would lower the trigger quantities to 100 grams and 1,000 grams, respectively.

As many of you will recall, last Congress, the Sentencing Commission proposed a dramatic lowering of penalties for distribution of crack. That proposal would have taken effect automatically had Congress not stepped in to prevent it from doing so it by adopting legislation I introduced to block it.

The principal argument the Commission advanced for its proposal was that current law's sharp differentiation between sentences for crack cocaine and powder cocaine distribution is wrong. Therefore, the Commission argued, we should equalize these penalties by lowering penalties for crack cocaine.

As is clear from the fact that I sponsored legislation to prevent its recommendation from taking effect, I did not agree with the Commission's view that crack and powder penalties should be equalized. I also did not think that dramatically lowering crack penalties was a good idea for anyone—least of all for inner-city residents where crack is most freely available and where parents need the most help in protecting their kids from those peddling this poisonous drug.

At the same time, it also seemed to me that the Commission's report made some valid criticisms of the current disparity in the sentences. It just seemed to me that it drew the wrong conclusion from its criticisms, and that the answer to the problems it identified was not to lower crack sentences but to raise powder sentences.

That is why, at the same time I introduced my legislation to prevent the Commission's proposal from taking effect last Congress, I also introduced the same bill I am introducing today: to raise the sentences for those who deal powder cocaine, and thereby bring the quantity ratio down from 100–1 to 20–1.

I believe this proposal recognizes two realities: that crack is more dangerous and more addictive than powder, but that powder is very dangerous and a critical contributor to our very serious crack problem.

First, as both the Commission's own study of the matter and a recent medical study indicate, crack is a more dangerous and addictive form of cocaine than powder. Moreover because of its relative cheapness and ease of use, it is more attractive to first-time users, and especially children.

It is also common sense that with crack use finally stabilizing, we should not jeopardize what success we have had in combating it by dramatically lowering the penalties for selling it. That would surely invite new entrants into the crack market, and thereby lead to an increase in drug use and trigger a resurgence of violence among competing crack dealers.

On the other hand, as the Commission's report also pointed out, present law has resulted, at least occasionally, in insufficiently severe punishment of individuals at the top of crack distribution chains. These dealers distribute their product in powder rather than in crack form. And at least a few of them have received considerably less than the mandatory 5-year penalty. At the same time lower level dealers who worked for them and sold the final product, crack, were receiving at least 5-year sentences. This overly lenient treatment of the powder kingpins does not seem right.

Second and more generally, when the mandatory sentences for powder were originally set, they were set without knowledge of the extent of our crack problem and the contribution that powder cocaine makes to it. An increase therefore is warranted for that reason as well.

Finally, while I believe some differential in the quantities that trigger the same sentence for crack and powder is warranted, 100 to 1 seems too great. It is also unique in our drug laws' treatment of derivative versus source drugs, and that uniqueness is part of what has made it racially divisive.

My proposed legislation addresses all three of these points. Its lower threshold for powder mandatories would make it much less likely that a powder kingpin at the top of a crack-dealing

chain would escape with a lower punishment than those further down in the chain.

By raising the sentences for powder significantly, the bill also takes into account the contribution that powder cocaine dealing generally makes to the crack market.

Finally, the change in the powder triggers makes the ratio of powder to crack necessary to trigger the same sentences 20 to 1 rather than 100 to 1. This would bring it in line with other similar differentials between source and derivative drugs, such as opium and heroin, which likewise have a 20 to 1 quantity ratio.

Mr. President, last Congress we withheld action on this question beyond blocking the Sentencing Commission's proposal because we were told that the Commission ought to be given another chance to devise a solution. I believe, however, that this Congress must act on this matter—whether with the help of the Commission or on its own. By introducing this legislation at this time, I want to make clear that I intend to see to it that we do so.•

By Mr. DOMENICI (for himself, Mr. FORD, Ms. SNOWE, Mr. THOMPSON, Mr. THOMAS, Mr. ROTH, Mr. MOYNIHAN, Mr. NICKLES, Mr. MCCAIN, Mr. CONRAD, Mr. ABRAHAM, Mr. FRIST, Mr. GRAMS, Mr. LUGAR, Ms. COLLINS, Mr. BREAUX Mr. DEWINE, Mr. BURNS, Mr. WARNER, Mr. ROBERTS, Mr. COATS, Mr. MACK, Mr. KEMPTHORNE, Mr. D'AMATO and Mr. ENZI):

S. 261. A bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

THE BIENNIAL BUDGETING AND APPROPRIATIONS ACT

Mr. DOMENICI. Mr. President, on behalf of Senator FORD and 23 other Senators, I rise to introduce the Biennial Budgeting and Appropriations Act, a bill to convert the budget and appropriations process to a 2-year cycle and to enhance oversight of Federal programs.

One of the greatest challenges facing the 105th Congress and President Clinton is to balance the Federal budget by 2002 and maintain balance through the next century when we will need to confront the very serious fiscal problems associated with an aging America. Balancing the Federal budget will require long-term planning, tough choices, and steadfast effort. These decisions should not be made, indeed I contend cannot be made, using the current fractionated annual budget process.

Congress should now act to streamline the system by moving to a 2-year, or biennial, budget process. This is the most important reform we can enact to streamline the budget process, to make the Congress a more deliberative and effective institution, and to make us more accountable to the American people.

Mr. President, moving to a biennial budget and appropriations process enjoys very broad support. President Clinton has proposed this reform. Presidents Reagan and Bush also proposed a biennial appropriations and budget cycle. Leon Panetta, who has served as White House Chief of Staff, OMB Director, and House Budget Committee chairman, has advocated a biennial budget since the late 1970's. Former OMB and CBO Director Alice Rivlin has been arguing for a biennial budget for almost two decades. Other supporters include Senators LOTT, FORD, ROTH, THOMPSON, and GLENN. Last year, 42 Senators wrote our two Senate leaders calling for quick action to pass legislation to convert the budget and appropriations process to a 2-year cycle.

The most recent comprehensive studies of the Federal Government and the Congress have recommended this reform. The Vice President's National Performance Review and the Joint Committee on the Reorganization of Congress both recommended a biennial appropriations and budget cycle.

A biennial budget will dramatically improve the current budget process. The current annual budget process is redundant, inefficient, and destined for failure each year. The current process to develop, legislate, and implement the annual budget consumes 3 years: 1 year for the administration to prepare the President's budget, another year for the Congress to put the budget into law, and the final year to actually execute the budget.

Today, I want to focus just on the congressional budget process, the process of annually passing a budget resolution, authorization legislation, and 13 appropriation bills. The record clearly demonstrates the serious shortcomings of this process:

We have met the statutory deadline to complete a budget resolution only 3 times since 1974. In 1995, we broke the Senate record for the most rollcall votes cast in a day on a budget reconciliation bill.

The Congressional Budget Office just released its report on unauthorized appropriations. For fiscal year 1997, 121 laws authorizing appropriations have expired. These laws cover over one-third, or $89.6 billion, of appropriations for nondefense programs. Another 52 laws authorizing non-defense appropriations will expire at the end of fiscal year 1997, representing $31 billion more in unauthorized nondefense programs.

Since 1950 Congress has only twice met the fiscal year deadline for completion of all 13 individual appropriations bills to fully fund the Government.

While we have made a number of improvements in the budget process, the current annual process is redundant and inefficient. The Senate has the same debate, amendments, and votes on the same issue three or four times a year—once on the budget resolution, again on the authorization bill, and finally on the appropriations bill.

I recently asked the Congressional Research Service [CRS] to update and expand upon an analysis of the amount of time we spend on the budget. CRS looked at all votes on appropriations, revenue, reconciliation, and debt limit measures as well as budget resolutions. CRS then examined any other vote dealing with budgetary levels, Budget Act waivers, or votes pertaining to the budget process. For 1996, CRS found that the Senate devoted 73 percent of its time to the budget.

If we cannot adequately focus on our duties because we are constantly debating the budget in the authorization, budget, and appropriations process, just imagine how confused the American public is about what we are doing. The result is that the public does not understand what we are doing and it breeds cynicism about our Government.

Under the legislation I am introducing today, the President would submit a 2-year budget and Congress would consider a 2-year budget resolution and 13 2-year appropriation bills during the first session of a Congress. The second session of the Congress would be devoted to consideration of authorization bills and for oversight of Government agencies.

Most of the arguments against a biennial budget process will come from those who claim we cannot predict or plan on a 2 year basis. For two-thirds of the budget, we do not actually budget on an annual basis. Our entitlement and revenue laws are under permanent law and Congress does not change these laws on an annual basis. The only component of the budget that is set in law annually are the appropriated, or discretionary accounts.

Mr. President, the most predictable category of the budget are these appropriated, or discretionary, accounts of the Federal Government. I recently asked CBO to update an analysis of discretionary spending to determine those programs that had unpredictable or volatile funding needs. CBO found that only 4 percent of total discretionary funding fell into this category. Most of this spending is associated with international activities or emergencies. Because most of this funding cannot be predicted on an annual basis, a biennial budget is no more deficient than the current annual process. My bill will continue to allow supplemental appropriations necessary to meet these

emergency and unanticipated requirements.

This legislation also will enhance oversight of Federal programs and activities. Frankly, the limited oversight we are now doing is not as good as it should be. We have a total of 34 House and Senate standing authorizing committees and these committees are increasingly crowded out of the legislative process. Under a biennial budget, the second year of the biennium will be devoted to examining Federal programs and developing authorization legislation. The calendar will be free of the budget and appropriations process, giving these committees the time and opportunity to fully review and legislate changes to Federal programs.

We also build on the oversight process by incorporating the new requirements of the Government Performance and Results Act of 1993 [GPRA] into the biennial budget process. The primary objective of this law is to force the Federal Government to produce budgets focused on outcomes, not just dollars spent. When the goal is to balance the budget, decisions must be made based on performance.

More specifically, GPRA requires agencies to develop strategic plans, performance plans, and performance goals. GPRA requires agencies to report on their actual performance in relation to these goals. Finally, GPRA requires the President to incorporate these performance plans into the President's budget submission to Congress.

At the beginning of each even-numbered year, this new biennial bill requires Federal agencies to submit their preliminary performance plans and any proposed legislation that will enhance the performance of Federal programs to authorizing committees. During these even-numbered years, the authorizing committees will review these performance plans and actual performance and develop authorization legislation geared to enhancing the performance of the Federal Government.

Mr. President, a biennial budget is not a panacea for all our budget woes. A biennial budget cannot make the difficult decisions that must be made in budgeting, but it can provide the tools necessary to make much better decisions. By moving to a biennial budget cycle, we can budget more effectively, strengthen oversight and watchdog functions, improve the efficiency of Government agencies, and work to balance the budget in an intelligent, fair, and deliberative manner.

Mr. President, I ask unanimous consent that a Washington Post article, a description of the bill, and a section-by-section analysis of the bill be made a part of the RECORD.

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

DESCRIPTION OF THE BIENNIAL BUDGETING AND APPROPRIATIONS ACT

Cosponsors (24): Senators Ford, Snowe, Thompson, Thomas, Roth, Moynihan, Nickles, McCain, Conrad, Abraham, Frist, Grams, Lugar, Collins, Breaux, DeWine, Burns, Warner, Roberts, Coats, Mack, Kempthorne, D'Amato, and Enzi.

The Domenici bill would convert the annual budget, appropriations, and authorization process to a biennial, or two-year, cycle.

FIRST YEAR: BUDGET AND APPROPRIATIONS

Requires the President to submit a two-year budget at the beginning of the first session of a Congress. The President's budget would cover each year in the biennium and planning levels for the four out-years. Converts the "Mid-session Review" into a "Mid-biennium review". The President would submit his "mid-biennium review" at the beginning of the second year.

Requires Congress to adopt a two-year budget resolution and a reconciliation bill (if necessary). Instead of enforcing the first fiscal year and the sum of the five years set out in the budget resolution, the bill provides that the budget resolution establish binding levels for each year in the biennium and the sum of the six-year period. The bill modifies the time frames in the Senate ten-year pay-as-you-go point of order to provide that legislation could not increase the deficit for the biennium, the sum of the first six years, and the sum of the last 4 years.

Requires Congress to enact a two-year appropriations bill during the first session of Congress. The Domenici bill provides two fail-safe measures if there were an attempt to continue to appropriate funding on an annual basis. First, the Domenici bill provides a new majority point of order against appropriations bills that fail to cover two years. Second, if an appropriations bill were enacted that failed to appropriate money for the second year of the biennium, funding would be automatically appropriated at the first year's level. These fail-safe measures would not apply to supplemental appropriations bills to fund unanticipated needs such as emergencies.

Makes budgeting and appropriating the priority for the first session of a Congress. The bill provides a majority point of order against consideration of authorization and revenue legislation until the completion of the biennial budget resolution, reconciliation legislation (if necessary) and the thirteen biennial appropriations bills. An exception is made for certain "must-do" measures.

SECOND YEAR: AUTHORIZATION LEGISLATION AND ENHANCED OVERSIGHT

Devotes the second session of a Congress to consideration of biennial authorization bills and oversight of federal programs. The bill provides a majority point of order against authorization and revenue legislation that cover less than two years except those measures limited to temporary programs or activities lasting less than two years.

Requires the General Accounting Office (GAO) to give priority to requests for audits and evaluations of programs and activities during the second year of the biennium.

Modifies the Government Performance and Results Act of 1993 (GPRA) to incorporate the government performance planning and reporting process into the two-year budget cycle to enhance oversight of federal programs.

The Government Performance and Results Act of 1993 (GPRA) requires federal agencies to develop strategic plans, performance plans, and performance reports. The law requires agencies to establish performance goals and to report on their actual performance in meeting these goals. GPRA requires federal agencies to consult with congressional committees as they develop their plans. Beginning this year, GPRA will require all federal agencies to submit their strategic plans to the Office of Management and Budget, along with their budget submissions, by September 30 of each year. Finally, GPRA requires the President to include a performance plan for the entire government, beginning with the FY 1999 budget.

The Domenici bill modifies GPRA to place it on a two-year cycle along with the budget process. The bill also requires the authorizing committees to review the strategic plans, performance plans, and performance reports of federal agencies and to submit their views, if any, on these GPRA plans and reports as part of their views and estimates submissions to the budget committees.

The Domenici bill requires agencies to submit a preliminary performance plan and proposed authorization legislation to the relevant authorizing committees by March 31 of even-numbered years. In developing proposed authorization legislation, the bill directs agencies to include in their proposed legislation, changes that will enhance agencies' ability to meet their strategic and performance goals.

BIENNIAL BUDGETING AND APPROPRIATIONS ACT—SECTION-BY-SECTION ANALYSIS

Section 1 states the title of the legislation—the "Biennial Budgeting and Appropriations Act".

Section 2 amends section 300 of the Congressional Budget and Impoundment Control Act to revise the timetable to reflect a biennial budget process. In general, the revised timetable is similar to the current timetable except that most of the milestones only apply to the first session of a Congress. The timetable is modified to extend the deadline for completion of the budget resolution to May 15th and to extend the deadline for completion of reconciliation legislation to August 1st. The revised timetable contains two milestones in the second session: a February 15th reporting requirement for the CBO annual report on the budget and an end of session deadline for completion of action on authorization legislation. This section also amends the timetable to provide a special schedule in years a new President is elected. Generally, deadlines are extended by 6 weeks to give a new President more time to prepare and submit his budget.

Section 3 includes most of the other amendments made to the Congressional Budget and Impoundment Control Act.

Section 3(a) amends section 2 of the Act to make a conforming change to the statement of the purposes of the Act. Section 3(b) adds a definition for "biennium" and makes a conforming change to the definition of a budget resolution.

Section 3(c) amends section 301 to require the Congress to complete action on a biennial budget resolution by May 15th of each odd-numbered year; to require the budget resolution to cover the biennium, and each of the ensuing four years; to make conforming changes regarding requirements for hearings and reports on budgets; to make other conforming changes to the section; and, to make conforming changes to the section heading and the table of contents of the Act.

Section 3(d) amends section 302 of the Budget Act, regarding committee allocations, to require the conference report on a

budget resolution to include an allocation of budget authority and outlays to each committee for each year in the biennium and the total of the biennium and the four succeeding fiscal years. This subsection also makes conforming changes to section 302(f).

Section 3(e) amends section 303 of the Budget Act, regarding the point of order against spending and revenue legislation affecting future fiscal years, to make a conforming change to provide that such legislation cannot be considered until the budget resolution for a biennium is adopted. This subsection also drops an exception in the Senate that exempts appropriations measures providing an advance appropriation for the two fiscal years following the budget year from this point of order.

Section 3(f) makes conforming changes to section 304 of the Budget Act, regarding revisions of budget resolutions. Maintains current law that allows Congress to revise the budget resolution at any time.

Section 3(g) amends section 305 to make a conforming change regarding a reference to the budget resolution.

Section 3(h) and (i) amend sections 307 and 309 to make conforming changes regarding the deadlines for completion of appropriations bills.

Section 3(j) amends section 310 to make conforming changes regarding reconciliation.

Section 3(k) amends section 311 to provide that a point of order will lie against any legislation that would cause the total budget authority, outlay, Social Security outlay, or Social Security revenue levels to be breached in either fiscal year of the biennium or that would cause revenue, Social Security revenue, or Social Security outlays levels to breached for the sum of the biennium and the four outyears covered by the resolution. Currently, the budget resolution all budget authority and outlays are enforced for the first year covered by the budget resolution and Social Security outlay, Social Security revenue, and total revenues are enforced for the five years covered by the budget resolution.

Section 3(l) amends section 401(b)(2) to make a conforming change regarding the referral of certain entitlement legislation to the Appropriations Committee.

Section 3(m) amends section 603 to make a conforming change regarding automatic allocations to the House Appropriations Committee if the budget resolution is not adopted by May 15th.

Section 4 amends the Senate pay-as-you-go point of order that prohibits consideration of legislation that would increase the deficit over a ten year period. The current Senate pay-as-you-go point of order prohibits consideration of legislation that would increase the deficit in the first year, the sum of the first five years, or the sum of the last five years. Section 4 modifies this point of order to prohibit consideration of legislation that would increase the deficit for the sum of the first two years (the biennium), the sum of the first six years, or the sum of the last four years.

Section 5 amends the relevant sections of Title 31 of the U.S. Code regarding materials the President's budget submission and related documents.

Section 5(a) amends section 1101 to add a definition of "biennium".

Section 5(b) amends section 1105 to require the President to submit the budget the first Monday of February for every odd-numbered year (except the schedule in section 300(b) of the Budget Act applies for years in which a new President is elected). Section 5(b) also amends a number of requirements in section 1105 to conform the President's budget to a biennial budget. Among these changes, the President's budget would have to propose levels for each fiscal year in the biennium and projections for the four succeeding years.

Section 5(c) amends section 1105(b), regarding estimated expenditures and proposed appropriations for the legislative and judicial branches, to require the submittal of these proposals to the President by October 16th of even-numbered years.

Subsections (d) and (e) of section 5 make conforming changes to section 1105 regarding the President's recommendations if there is a proposed deficit or surplus and capital investment analyses.

Section 5(f) amends section 1106 to change the requirements regarding the President's "Mid-session Review". Current law requires the President to submit the Mid-session Review before July 16 of each year. Section 5(f) requires the President to submit a "Mid-biennium Review" before February 15 of each even-numbered year. With this modification, the President will submit his biennial budget at the beginning of each odd-numbered year and provide updated information on the budget at the beginning of each even-numbered year.

Section 5(g) amends section 1109 to make conforming changes to require the President to submit current services estimates for the upcoming biennium and to require the Joint Economic Committee to submit an economic evaluation to the Budget Committee as part of its views and estimates report. This subsection also makes two technical corrections to require the President to submit the current services information with his budget submission and to require the Joint Economic Committee to submit its economic evaluation within 6 weeks of the President's budget submission.

Section 5(h) makes amendments to provisions regarding year ahead requests on authorization legislation to require the President to submit requests for authorization legislation by March 31st of even-numbered years.

Section 5(i) amends section 1119 to conform a requirement regarding agency budget justifications and consulting services information to the biennial budget submission.

Section 6 amends section 105 of Title I of the U.S. Code regarding the form and style of appropriations Acts to require that they cover two years.

Section 7 adds a new section 314 to the Budget Act that establishes two new points of order in the Congress against authorization legislation. The first point of order prohibits consideration of authorization legislation that covers less than 2 years except for temporary activities. The second point order prohibits consideration of authorization or revenue legislation until the Congress has completed action on the biennial budget resolution, biennial appropriations bills, and all reconciliation bills. These two points of order do not apply to appropriations measures, reconciliation bills, privileged matters, treaties, or nominations. This point of order can be waived by a simple majority.

Section 8 amends section 717 of title 31 of the U.S. Code to require the General Accounting Office to give priority during the second session of a Congress to requests for Federal program audits and evaluations.

Section 9 establishes a stopgap funding mechanism to provide funding authority for the second year if Congress enacts an appropriations bill that only funds one year. This automatic funding authority does not apply to supplementals or continuing resolutions.

Section 9(a) amends chapter 13 of title 31 to add a new section 1311. Section 9(b) amends the table of contents of chapter 13 of title 31 to add the new section 1311.

Section 1311(a)(1) provides that if Congress enacts a regular appropriation bill in an odd-numbered year that fails to provide funding for the second year of the biennium, the second year is automatically funded at the first year's level. Section 1311(a)(2) provides that in determining the level of funding for the first year, the President must take into account sequester reductions made pursuant to the Balanced Budget and Emergency Deficit Control Act and cancellations made pursuant to the Line Item Veto Act. Section 1311(a)(3) provides that the automatic funding authority remains in effect only for the duration of the second fiscal year.

Section 1311(b) makes the automatic appropriation in the second year subject to the same terms and conditions Congress established for the first year's appropriation.

Section 1311(c) provides that the funding authority shall not apply to a project or activity if another law prohibits funding for that activity.

Section 1311(d) defines "regular appropriation bill" as any one of the thirteen regular appropriations bills.

Section 10 amends the Government and Performance and Results Act of 1993 (GPRA) to incorporate GPRA into the biennial budget cycle.

The Government Performance and Results Act of 1993 (GPRA) requires federal agencies to develop strategic plans, performance plans, and performance reports. Strategic plans set out the agencies' missions and general goals. Performance plans lay out the specific quantifiable goals and measures. Performance reports compare actual performance with the goals of past performance plans.

GPRA currently requires federal agencies to consult with congressional committees as they develop their strategic plans. Beginning this year, GPRA will require all federal agencies to submit their strategic and performance plans to the Office of Management and Budget, along with their budget submissions, by September 30 of each year. Finally, GPRA requires the President to include a performance plan for the entire government, beginning with the FY 1999 budget.

Section 10(a) and (b) amend section 306 of title 5 and section 115 of title 31 to require agencies to prepare performance plans every two years, in conjunction with the President's development of a biennial budget, and strategic plans every four years (covering a six-year period). This subsection also requires federal agencies to submit a preliminary draft of the performance plans to the relevant authorizing committees by March 31 of even-numbered years. Subsection (b) also requires agencies to include an executive summary of their 10 most important performance goals and to consult with Congress in developing these priority goals. The purpose of this change is to require agencies to highlight the crucial goals for Congress.

Section 10(c) amends section 1105(a)(30) of title 31 to require the President's budget to include aggregate performance report for the executive branch starting with the FY 2002–03 budget. Currently, OMB must submit an aggregate performance plan (known as the Federal Government performance plan) with the President's budget, but GPRA does not require them to prepare a performance report, indicating how they measured up to their goals.

Section 10(d) amends section 1116 of title 31 to make two changes. First, this subsection requires agencies to report to Congress on statutory barriers that limit their ability to meet their mission statement and to propose legislative recommendations to modify or eliminate such barriers. Second, this subsection adds subsections (g) and (h) to section 1116. Subsection (g) would require agencies to include an executive summary in their performance report describing actual results in relation to their 10 most important performance goals. Subsection (h) requires OMB's overall performance report to compare actual results with the goals established in previous federal government performance plans.

Section 10(e) amends section 301(d) of the Budget Act to require Congressional committees to review the strategic plans, performance plans, and performance reports of agencies in their jurisdiction. Committees may then provide their views on the plans or reports to the Budget Committee, if they so choose, as part of their views and estimates report.

Section 10(f) provides that the amendments shall take effect on March 31, 1998.

Section 11 amends the Budget Act to add a new section 315 that provides a majority point of order against consideration in any odd-numbered year of a regular appropriations bill that fails to fund both years of the biennium. This point of order does not apply to supplementals or continuing resolutions.

Section 12 requires OMB to conduct a study within 6 months of enactment of the feasibility of converting the fiscal year to a two year period.

Section 13 provides an effective date for the Act and a transition period. Subsection (a) generally provides that the Act takes effect on January 1, 1998. Section 13(b) provides a transition year to the biennial cycle by requiring the authorizing committees to start consideration of two-year authorization legislation in 1997. The result is that the authorizing committees will act on legislation for the fiscal year 2000–2001 biennium in calendar year 1997. The budget and appropriations committees will then follow by developing a budget resolution and 13 appropriations bills for the fiscal year 2000–2001 biennium in calendar year 1998.

[From the Washington Post, Dec. 8, 1996]

MAKE IT A TWO-YEAR BUDGET

(By Pete V. Domenici)

Democrats and Republicans are pledging bipartisanship cooperation in fashioning this year's federal budget. We should begin by abandoning the outmoded and disorderly annual budget and appropriation process and move to biennial budgeting and appropriating to stabilize our budget decisions. This is the most important reform we can adopt to improve the process, provide for oversight and careful deliberation, and make us accountable to the American people.

This is not a partisan issue. President Clinton, Senate Republican Leader Trent Lott and Democratic Whip Wendell Ford support biennial budgeting and appropriating. It also was recommended in 1993 by the bipartisan Joint Committee on Reorganization of Congress.

Under a biennial budget, the president would submit a two-year budget and Congress would consider a two-year budget resolution and 13 two-year appropriation bills during the first session of a Congress. The second session would be devoted to consideration of authorization bills and for oversight of government agencies.

A biennial budget would dramatically improve the current budget process. It would allow legislators to legislate intelligently. It would provide for oversight of what has been legislated, and it would cut down on the tremendous annual effort that now is devoted to developing and implementing the annual budget.

Consider that each year program managers interrupt their work to develop detailed documents to propose and support their budget. That budget must be reviewed by agency budget officers and senior agency officials before it is presented to the Office of Management and Budget (OMB). After OMB's review and the president's approval, the entire budget is presented to Congress. The executive branch's preparation and review of the budget takes a year.

After the budget is submitted to Congress; the agencies have to track and respond to inquiries from Congress as it considers the budget through the budget resolution, authorizing legislation and, ultimately, through appropriations legislation. The congressional budget consumes another year.

To understand how much effort goes into preparation of the annual budget, one need only look at one agency's budget justification in the annual process. Let's take the civil works program of the Army Corps of Engineers. The corps' civil works budget amounts to roughly $3.7 billion, or 0.2 percent of the total federal budget. Each year the corps prepares and submits to the Appropriations Committee an eight-volume budget justification amounting to 2,005 pages!

Moreover, our current budget process—in which Congress tries to hold hearings, markups and floor action annually on authorization, budget and appropriations legislation—makes it extremely difficult for a member of Congress to fully meet all his or her obligations, much less take the necessary time to fully participate in each of these activities.

While an improvement over what went before, the current budget process is redundant and inefficient. Yogi Berra once observed that "it's never over until it's over," but it seems too often that the budget process is never over. The Senate has the same debate and votes on the same issue three or four times a year—once on the budget resolution, again on the authorization bill and few amendments on the floor, and again on the appropriations bill. In 1993 I found that the Senate devotes roughly 40 percent of its time debating budget resolutions, reconciliation and appropriations bills.

In addition to the time-consuming nature of the budget process, Congress regularly misses its own deadlines and guidelines, which generates cynicism about our work. In the 22-year history of the Budget Act, we have met the statutory deadline to complete a budget resolution only three times. Last year, we broke the Senate record for the most roll-call votes cast in a day on a budget reconciliation bill.

Since 1950, Congress only twice has met the fiscal year deadline for completion of all 13 individual appropriations bills to fully fund the government. Congress usually governs in the breach, rushing to complete action on omnibus continuing resolutions in the best years or government shutdowns in the worst.

A biennial budget, while not a panacea, could improve the budget process dramatically. In 1987 I asked 50 agencies about their views on the biennial budget. Thirty-seven agencies supported a biennial budget. None opposed it. The agencies generally responded that they could operate under a biennial budget, and that it would save money for their operations.

Based on a 1993 congressional study, only 4 percent of discretionary funding—or $18.5 billion of the $541 billion appropriated in FY 1993—required annual funding because of unpredictable funding patterns.

If we have a two-year process, we can deal with another concern—that Congress does not spend enough time reviewing the operations of the federal government. Frankly, the limited oversight we are doing now is not as good as it should be.

Authorizing committees must increase their focus on their oversight role. Implementing the Government Performance and Results Act will begin to force the federal government to produce budgets next year focused on outcomes, not just dollars spent. When the goal is to balance the budget, decisions must be made based on performance. With a biennial budget, we would create an atmosphere that encourages and rewards better oversight, because the entire second year of any Congress would be devoted to authorizations and reviewing program performance.

By moving to a two-year budget and appropriations cycle, Congress can inject stability into a sometimes chaotic system, strengthen congressional oversight and watchdog functions, improve the efficiency of government agencies and—finally, it is hoped—increase the public's confidence that the achievement of balanced budget has been done intelligently, deliberatively and fairly.

Mr. MCCAIN. Mr. President, I rise in strong support of the Biennial Appropriations and Budget Act—A bill introduced today by Senator DOMENICI, the chairman of the Budget Committee. I am pleased to be an original cosponsor of this important legislation. Under a biennial budget, the President would submit a 2-year budget in the first session of a Congress. The priority in the first session of the Congress would be completion of the biennial budget resolution and biennial appropriations bills. The second session would be reserved for authorization legislation and enhanced oversight. The planning and performance requirements of the Government Performance and Results Act of 1993 would be incorporated into the budgeting process as well.

I have long advocated changing our budget process in this manner. As a matter of fact in 1993, I introduced similar legislation. Changing our budget process would give Congress more time to develop and implement long-term budget plans. In addition, the 2-year cycle would allow more time for oversight and thorough evaluation of programs and spending.

Our current process is simply not working. Only three times in the past 20 years has Congress passed the budget resolution on time, and this is only the first step in congressional action on the budget. Only twice since 1950, has Congress met the fiscal year deadline for completion of all 13 individual appropriations bills. Most of the time Congress is rushing to pass appropriations bills, continuing resolutions, or omnibus spending bills at the last minute, trying to avoid a Government

shutdown. This is not how we should be managing the power of the purse.

This idea is not new. President Clinton's former Chief of Staff and OMB Director, Leon Panetta, introduced the first biennial budget bill in 1977 when he was a Congressman. Vice President GORE strongly endorsed this idea in his National Performance Review. In his book, "Creating a Government that Works Better and Costs Less," GORE states, "Biennial budgeting will not make our budget decisions easier, for they are shaped by competing interests and priorities. But it will eliminate an enormous amount of busy work that keeps us from evaluating programs and meeting customer needs."

Congress' failure to meet our prescribed deadlines, in current budget process, contributes to the American people's cynicism about politics. The time has come to recognize that our current budget process is broken and we must find a way to fix it. Biennial budgeting is an important first step toward fixing our current system by making our budget process more efficient and streamlined. I hope that Congress will act on this important legislation expeditiously.

Mr. THOMAS. Mr. President, it is an honor to join the chairman of the Budget Committee, Senator DOMENICI, in introducing legislation to create a 2-year budget and appropriations process. Senator DOMENICI has worked long and hard on this issue and I am hopeful that we can finally enact this commonsense reform this year.

The current budget process is breaking down. Congress and the executive branch spend entirely too much time on budget issues. Since the most recent budget process reform in 1974, Congress has consistently failed to complete action on the Federal budget before the start of the fiscal year and, as a result, has increasingly relied on omnibus spending measures to fund the Federal Government. In fact, since 1977, Congress has passed over 60 continuing resolutions just to keep the Federal Government open.

The budget resolution, reconciliation bill, and appropriations bills continue to become more time consuming. In the process, authorizing committees are being squeezed out of the schedule. There are too many votes on the same issues and too much duplication. In the end, this time could be better spent conducting vigorous oversight of Federal programs which currently go unchecked, exacerbating the Federal budget deficit.

In response to these problems, last Congress I introduced legislation that would create a biennial budget process. I am pleased to continue this effort by joining Senator DOMENICI in offering this bill. It will rectify many of the problems regarding the current process by promoting timely action on budget legislation. In addition, it will eliminate much of the redundancy in the current budget process. This legislation does not eliminate any of the current budget processes—each step serves an important role in congressional deliberations. However, by making decisions once every 2 years instead of annually, the burden should be significantly reduced.

Perhaps most importantly, biennial budgeting will provide more time for effective congressional oversight, which will help reduce the size and scope of the Federal Government. Congress simply needs more time to review existing Federal programs in order to determine priorities in our drive to balance the budget.

Another benefit of a 2-year budget cycle is its effect on long-term planning. A biennial budget will allow the executive branch and State and local governments, all of which depend on congressional appropriations, to do a better job making plans for long-term projects.

Two-year budgets are not a novel idea. Nor will biennial budgeting cure all of the Federal Government's ills. However, separating the budget session from the oversight session works well across the country in our State legislatures. It is a solid first step toward restoring some fiscal accountability in our Nation's Capital. I am hopeful this bill will be a catalyst for action on this commonsense, good Government reform.

Mr. FORD. Mr. President, I am pleased to be an original cosponsor of the Biennial Budgeting and Appropriations Act. I am a full-fledged supporter of a 2-year budget cycle—an issue I have been championing since 1981. I believe in its potential as strongly now as I did then. It's an idea whose time has come.

There are several advantages to a 2-year budget cycle. Foremost, there will be a savings of time and money. Congress currently debates spending priorities and funding decisions not only every year, but several times within 1 year. By limiting budget action to only one session of each Congress, we eliminate repetitive votes on budget priorities and spending allocations. We also allow the executive branch and recipients of Federal aid, such as State and local governments, to better manage Federal dollars to get more cents out of the dollar.

Biennial budgeting allows for greater planning and more deliberate spending decisions. Too often, Congress has padded the budget resolution with spending for anticipated reforms and new initiatives only to find that action is not completed on the authorization before the new fiscal year begins. Unfortunately, those funds provided in the budget cannot be deleted or reserved for the next fiscal year, but must be spent on other programs.

A 2-year budget, with one session reserved specifically for oversight and authorizations, will give Congress the time to enact responsible spending proposals before the adoption of a budget resolution and appropriations bill. A 2-year budget cycle will give the executive branch and State and local governments, 2 years to plan for the most efficient use of Federal dollars.

This legislation will give Congress the opportunity to review spending decisions, and allow the executive branch to conduct compliance review. Too often we hear that once a Federal program is created, it will be funded into eternity. Congress simply needs more time to review existing spending programs to determine whether they should be modified, expanded, or replaced.

The Biennial Budgeting and Appropriations Act provides greater funding certainty for State and local governments. Our elected counterparts in the States must plan their budgets in large part around Federal spending decisions. As we know from last year's debate on the budget, Congress all too often misses deadlines and does not complete action before the beginning of the fiscal year. State and local governments simply cannot put their budget deliberations on automatic pilot while Congress completes its work and they cannot be expected to efficiently carry out Federal spending programs if they lack the certainty that funds will be provided on time.

While a 2-year budget won't replace the tough decisionmaking necessary for deficit reduction, it will make our work on the deficit and the Federal budget more efficient and more effective. When I was Governor of Kentucky, 2-year budgeting helped us to lay out a master plan for the entire State. And that master plan enabled agencies, local governments, and constituency groups to do long-term planning—planning that led to greater efficiency, overall cost savings, and equally important, peace of mind about future funding. We need this sort of planning on the Federal level. Ask any constituent what some of their top concerns are, and most, if not all, will talk about wasteful Government spending. If we truly want to address their concerns, I say the 2-year budget is the way to go and I am pleased to join Senator DOMENICI and others in pushing it forward with renewed vigor this year.

Mr. THOMPSON. Mr. President, I am pleased to join Senator DOMENICI as a cosponsor of this important legislation. I supported a similar measure in the 104th Congress and held a hearing last year in the Committee on Governmental Affairs. The issue has been debated over a number of years without success. However, the 105th Congress presents a new opportunity. As chairman of the Governmental Affairs Committee, I pledge my support in moving this measure to the full Senate.

The bill being introduced today has the fundamental goal of moving both

the budget and appropriations process to a 2-year cycle—just once at the beginning of each Congress. In addition, it will link program results obtained under the Government Performance and Results Act [GPRA] to the budget process. Congressional committees will be required to review the GPRA reports and provide views and comments in conjunction with their comments on the budget.

Biennial budgeting would provide more time for Congress to conduct greater oversight and indepth evaluations of existing programs. We need to take more time to find out what is working and what is not. Congress should not just rely on good intentions when it passes new measures. We must ensure that the laws we write do provide the benefits and services as envisioned. The current budget process leaves us with far too little time to devote to thoughtful and systematic oversight of Federal programs, and far too little time to develop and consider long-term policy initiatives.

Another important reason I support 2-year budgeting, in addition to enhanced oversight, I believe the bill would provide Members of Congress with more time to spend with the people they represent, receiving their views and insights on Government programs, services, and pending legislation. Freedom from dealing with the budget on an annual basis has the ability to move us closer to a citizen legislature as envisioned by the Founding Fathers. We have no greater responsibility than representing the people of our State. To do so, we need to spend time at home.

On the issue biennial budgeting, once again the States are leading the way, with more than 20 States currently using some form of it. I firmly believe it is time for Washington to recognize the value in this and enact this bill promptly. I support the Biennial Appropriations and Budget Act of 1997, and encourage all my colleagues to do the same. It is an idea whose time has come.

By Mr. WELLSTONE:

S. 262. A bill to amend title 18, United States Code, to provide for the prospective application of certain prohibitions relating to firearms; to the Committee on the Judiciary.

FIREARMS LEGISLATION

• Mr. WELLSTONE. Mr. President, today I am introducing legislation that will make clear that from now on, if you are convicted of beating your wife, your husband, or your children, your actions will result in you forfeiting your firearm privileges, no matter who you are.

The bill amends the Federal law that prohibits someone with a misdemeanor conviction for domestic violence from possessing firearms or ammunition so that the law is applied prospectively only, from the date of enactment. I urge my colleagues to support this bill. We know that all too often the only difference between a battered woman and a dead woman is a batterer with a gun. Many of you are familiar with facts I have stood here and recited in the past: Four women a day are killed at the hands of their batterer;

The California Department of Justice Law Enforcement reported in 1994 that 68 percent of the murder victims known to have been killed by an intimate were killed by firearms, 68 percent;

The likelihood of a woman dying during a domestic assault is directly related to the type of weapon available. When a firearms is available, the assault is three times more likely to end in death than an assault with a knife. If no weapon is available the dispute is 23 times less likely to end in death;

Fifty-seven percent of children under 12 who are murdered are killed by a parent.

These are statistics based only on what is reported. We know that there are people watching who are victims of abuse in their own homes. It is happening to women that you know in your work place, in your church or synagogue and your neighborhood.

Domestic violence is the most underreported crime in the country.

We will not tolerate the violence.

We will not ignore the violence.

We will not say that it is someone else's responsibility.

I urge my colleagues to support this bill.

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

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

S. 262

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

SECTION 1. PROSPECTIVE APPLICATION OF THE DOMESTIC VIOLENCE MISDEMEANOR CONVICTION FIREARMS PROHIBITION.

(a) FINDINGS.—Congress makes the following findings:

(1) Spouses, ex-spouses, and current and former boyfriends commit over 1,000,000 violent crimes against women each year, including assault, rape, and murder.

(2) Approximately 28 percent of all women murdered in the United States each year are killed by current or former husbands or boyfriends.

(3) Weapons are used in 30 percent of domestic violence incidents.

(4) Domestic violence calls are one of the largest categories of calls to police each year, and, in some locations, up to one-third of all police time is spent responding to domestic calls.

(5) Studies show that police are more likely to respond to a reported incident within 5 minutes if the offender is a stranger to the victim and that, police are more likely to take a formal report with respect to an incident in which the offender is a stranger to the victim.

(6) Studies show that only approximately 10 percent of spouses who are abused ever call the police, in spite of the fact that conjugal assaults account for 12 percent of all assaults that result in serious injury, 16 percent of all assaults requiring medical care, and 18 percent of assaults that result in the loss of at least a full day of work.

(7) Data compilation suggests that injuries in all domestic assaults are at least as severe as those suffered in 90 percent of violent felonies, although the overwhelming number of domestic violence injuries are considered to be only misdemeanors in most States.

(8) In the 104th Congress, Congress amended the Federal law that regulates the lawful transfer and possession of firearms and ammunition to provide that an individual's conviction of a misdemeanor crime of domestic violence will prohibit the individual from possessing any firearm or ammunition and will prohibit others from licensing or transferring a firearm or ammunition to that person.

(9) The term "misdemeanor crime of domestic violence" is defined in Federal law as a Federal or State misdemeanor crime that "has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim".

(10) For purposes of Federal law, to be considered convicted to be of a misdemeanor crime of domestic violence, a person must—

(A) have been represented by counsel or knowingly waived representation; and

(B) have been tried by a jury or knowingly waived trial by a guilty plea or otherwise if entitled to a jury trial for the offense at issue.

(11) There are exceptions to the new Federal law that may apply to an individual determined to have been convicted of a misdemeanor crime of domestic violence, if "the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable provision provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms".

(12) Congress clearly intended for this Federal law to apply to peace officers. The general exception to the law for firearms and ammunition that are issued for the use of "the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof," does not apply to individuals convicted of a misdemeanor crime of domestic violence.

(b) UNLAWFUL ACTS.—Subsections (d)(9), (g)(9), and (s)(3)(B)(i) of section 922 of title 18, United States Code, are each amended by inserting", on or after September 30, 1996," before "of a misdemeanor".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by the first section designated as section 658 of Public Law 104-208.•

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the name of the Senator from Montana

[Mr. BURNS] was added as a cosponsor of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 5

At the request of Mr. ASHCROFT, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 5, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

S. 10

At the request of Mr. HATCH, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 10, a bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 15

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 15, a bill to control youth violence, crime, and drug abuse, and for other purposes.

S. 25

At the request of Mr. FEINGOLD, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 25, a bill to reform the financing of Federal elections.

S. 29

At the request of Mr. LUGAR, the names of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Indiana [Mr. COATS], and the Senator from Kansas [Mr. ROBERTS] were added as cosponsors of S. 29, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 30

At the request of Mr. LUGAR, the names of the Senator from Arkansas [Mr. HUTCHINSON] and the Senator from Kansas [Mr. ROBERTS] were added as cosponsors of S. 30, a bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from inheritance taxes.

S. 31

At the request of Mr. LUGAR, the names of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Indiana [Mr. COATS], and the Senator from Kansas [Mr. ROBERTS] were added as cosponsors of S. 31, a bill to phase-out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 61

At the request of Mr. LOTT, the names of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from New York [Mr. D'AMATO], the Senator from Alabama [Mr. SHELBY], the Senator from Louisiana [Mr. BREAUX], the Senator from Maryland [Mr. SARBANES], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 72

At the request of Mr. KYL, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 72, a bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gain rates for all taxpayers, and for other purposes.

S. 74

At the request of Mr. KYL, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 74, a bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes.

S. 76

At the request of Mr. KYL, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 76, a bill to amend the Internal Revenue Code of 1986 to increase the expensing limitation to $250,000.

S. 140

At the request of Mr. FAIRCLOTH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 140, a bill to improve the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

S. 143

At the request of Mr. DASCHLE, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Vermont [Mr. LEAHY], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 143, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer.

S. 194

At the request of Mr. CHAFEE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 194, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations and for other purposes.

S. 202

At the request of Mr. LOTT, the names of the Senator from Florida [Mr. MACK], the Senator from North Carolina [Mr. HELMS], the Senator from Michigan [Mr. ABRAHAM], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 202, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 210

At the request of Mr. MURKOWSKI, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 210, a bill to amend the Organic Act of Guam, the Revised Organic Act of the Virgin Islands, and the Compact of Free Association Act, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE RESOLUTION 16

At the request of Mr. LUGAR, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of Senate Resolution 16, a resolution expressing the sense of the Senate that the income tax should be eliminated and replaced with a national sales tax.

SENATE RESOLUTION 42—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER, from the Committee on Rules and Administration, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 42

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February

28, 1998, under this resolution shall not exceed $1,339,106, of which amount (1) not to exceed $100,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $1,375,472, of which amount (1) not to exceed $100,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 43—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. HATCH, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 43

Resolved, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 29, 1998, under this resolution shall not exceed $4,362,646.00 of which amount (1) not to exceed $40,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $4,480,028.00 of which amount (1) not to exceed $40,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, U.S. Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 44—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE BUDGET

Mr. DOMENICI, from the Committee on the Budget, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 44

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under the rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $3,105,190, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $3,188,897, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, (4) for payments to the Postmaster, United States Senate, (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 45—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

Mr. SPECTER, from the Committee on Veterans' Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 45

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $2,776,450, of which not to exceed $3,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $1,153,263, of which not to exceed $3,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendation for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for (1) the disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 46—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL, from the Committee on Indian Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 46

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Indian Affairs is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed $1,143,036, of which amount (1) no funds may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) no funds may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed $1,171,994, of which amount (1) no funds may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) no funds may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1998, and February 28, 1999, respectively.

SEC. 4. Expenses of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees fees paid at an annual rate, (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, (4) for payments to the Postmaster, United States Senate, (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 47—RELATIVE TO ACCURATE GUIDELINES FOR BREAST CANCER SCREENING

Ms. SNOWE (for herself, Ms. MIKULSKI, Mrs. HUTCHISON, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Ms. LANDRIEU, Ms. COLLINS, Mr. LEVIN, Mr. AKAKA, Mr. BRYAN, Mr. CLELAND, Mr. TORRICELLI, Mr. HOLLINGS, Mr. FORD, Mr. BINGAMAN, Mr. BREAUX, Mr. KERREY, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. WELLSTONE, Mr. GRAHAM, Mr. DODD, Mr. KERRY, Mr. KENNEDY, Mr. GLENN, Mr. LIEBERMAN, Mr. SARBANES, Mr. LAUTENBERG, Mr. WYDEN, Mr. BAUCUS, Mr. MOYNIHAN, Mr. BIDEN, Mr. DORGAN, Mr. DURBIN, Mr. CONRAD, Mr. BUMPERS, Mr. LEAHY, Mr. FAIRCLOTH, Mr. ROBB, Mr. SPECTER, Mr. D'AMATO, Mr. ABRAHAM, Mr. GRASSLEY, Mr. COATS, Mr. COVERDELL, Mr. KEMPTHORNE, Mr. WARNER, Mr. MURKOWSKI, Mr. THOMAS, and Mr. BOND) submitted the following resolution; which was considered and agreed to:

S. RES. 47

Whereas the National Cancer Institute is the lead Federal agency for research on the causes, prevention, diagnosis, and treatment of cancer;

Whereas health professionals and consumers throughout the United States regard the guidelines of the National Cancer Institute as reliable scientific and medical advice;

Whereas it has been proven that intervention through routine screening for breast cancer through mammography can save the lives of women at a time when medical science is unable to prevent this disease;

Whereas the National Cancer Institute issued a guideline in 1989 recommending that women in their forties seek mammograms, but rescinded this guideline in 1993;

Whereas in 1993, it was difficult to have the same degree of scientific confidence about the benefit of mammography for women between the ages of 40 and 49 as existed for women between the ages of 50 and 69 due to inherent limitations in the studies that were conducted as of that date;

Whereas at that time, the American Cancer Society and 21 other national medical organizations and health and consumer groups were at variance with the decision of the National Cancer Institute to rescind the guidelines of the Institute for mammography for women between the ages of 40 and 49;

Whereas the statement of scientific fact on breast cancer screening issued by the National Cancer Institute on December 3, 1993, caused widespread confusion and concern among women and physicians, eroded confidence in mammography, and reinforced barriers and negative attitudes that keep women of all ages from being screened;

Whereas in 1995, investigators found a 24 percent lower death rate among women who

received mammograms in their forties when the world's population-based trials were combined;

Whereas in 1996, Swedish researchers in 2 studies found a 44 and 36 percent lower death rate among women who received mammograms in their forties;

Whereas a number of studies have shown that breast tumors in women under the age of 50 may grow far more rapidly than in older women, suggesting, that annual mammograms are of value to women in this age group;

Whereas on January 23, 1997, a panel convened by the National Institutes of Health reviewed these and other compelling studies but decided not to recommend that the National Cancer Institute reissue its earlier guidelines;

Whereas the Director of the National Cancer Institute and other major national organizations, including the American Cancer Society, expressed surprise and disappointment with this decision;

Whereas the majority (approximately 80 percent) of women who are diagnosed with breast cancer have no identifiable risk for this disease;

Whereas breast cancer is the single leading cause of death for women in their forties and fifties, and a leading cause of death for women between the ages of 30 and 60; and

Whereas more women will be diagnosed with breast cancer this year in their forties (over 33,000 women) than in their fifties: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) adequately designed and conducted studies are needed to further determine the benefits of screening women between the ages of 40 and 49 through mammography and other emerging technologies; and

(2)(A) the Senate strongly urges the Advisory Panel for the National Cancer Institute to consider reissuing the guideline rescinded in 1993 for mammography for women between the ages of 40 and 49 when it convenes in February; or

(B) until there is more definitive data, direct the public to consider guidelines issued by other organizations.

SENATE RESOLUTION 48—RELATIVE TO THE DIRECTOR OF THE OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 48

Resolved,

SECTION 1. TEMPORARY AND INTERMITTENT SERVICE.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Senate Fair Employment Practices.

(2) HEARING OFFICER.—The term "hearing officer" means a hearing officer appointed in accordance with section 307(b) of the Government Employee Rights Act of 1991 (2 U.S.C. 1207(b)) (as in effect on January 22, 1995).

(3) OFFICE.—The term "Office" means the Office of Senate Fair Employment Practices.

(b) DIRECTOR.—

(1) SERVICE.—The acting Director may continue to serve as the Director only on a temporary and intermittent basis, in accordance with a contract entered into with the President pro tempore of the Senate, on the recommendation of the Majority Leader and the Minority Leader of the Senate.

(2) CONTRACT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (b) of section 303 of the Government Employee Rights Act of 1991 (2 U.S.C. 1203) (as in effect on January 22, 1995) shall not apply to the serivce of the Director.

(B) EXCEPTION.—The contract shall include provisions concerning such service that are consistent with the last sentence of subsection (b)(1) of such section 303 of the Government Employee Rights Act of 1991.

(c) HEARING OFFICERS.—The President pro tempore of the Senate may extend pursuant to an agreement between the President pro tempore and a hearing officer, a contract that was entered into by the Director and the hearing officer prior to the date of adoption of this resolution. The President pro tempore shall extend any such contract on behalf of the Office in the same manner and under the same conditions as a standing committee of the Senate may procure services on behalf of the committee under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)). The Director shall have no authority under subsection (c) of such section 303 of the Government Employee Rights Act of 1991.

(d) EXPENSES OF THE OFFICE.—

(1) APPROVAL.—The Office shall have no authority to approve a voucher under subsection (d) of such section 303 of the Government Employee Rights Act of 1991, except for the compensation of a hearing officer. The Office shall also obtain the approval of the Committee on Rules and Administration of the Senate for voucher for the compensation of the hearing officer. The Officer shall obtain the approval of the President pro tempore of the Senate and the Committee for any voucher required under such subsection for the compensation of the Director or for reimbursement of expenses for a private document carrier. The Director shall retain authority to make payments described in paragraphs (2) through (5) of the third sentence of such subsection.

(2) LIMITATIONS.—Payments described in paragraph (1) shall be made from amounts made available under subsection (e). The Office shall use the amounts to carry out the responsibilities of the Office in accordance with section 506 of the Congressional Accountability Act of 1995 (2 U.S.C. 1435).

(e) FUNDING.—The Secretary of the Senate may make available amounts, not to exceed a total of $5,000, from the resolution and reorganization reserve of the miscellaneous items appropriations account, within the contingent fund of the Senate, for use by the Office through September 30, 1997.

(f) EFFECTIVE DATE.—This resolution takes effect on January 31, 1997.

(g) TERMINATION.—This authority under this resolution terminates at the end of September 30, 1997.

SENATE RESOLUTION 49—EXPRESSING THE CONDOLENCES OF THE SENATE

Mrs. HUTCHISON (for herself and Mr. GRAMM) submitted the following resolution; which was considered and agreed to:

S. RES. 49

Whereas the Senate has learned with profound sorrow and deep regret of the passing of our colleague, the Honorable Frank Tejeda;

Whereas Representative Tejeda has spent 4 years in the House of Representatives;

Whereas Representative Tejeda served his country honorably in the United States Marine Corps from 1963 to 1967; and

Whereas Representative Tejeda was awarded the Purple Heart, the Silver Star, the Commandant's Trophy, the Marine Corps Association Award, and the colonel Phil Yeckel Award for "the best combined record in leadership, academics, and physical fitness": Now, therefore, be it

Resolved, That—

(1) when the Senate adjourns today, it adjourn as a further mark of admiration and respect to the memory of our departed friend and colleague, who left his mark on Texas and our Nation; and

(2) the Senate extends to his family our thoughts and prayers during this difficult time.

SEC. 2. The Secretary of the Senate shall communicate this resolution to the House of Representatives, and shall transmit an enrolled copy to the family of Representative Frank Tejeda.

Mrs. HUTCHISON. Mr. President, I have a resolution that I am submitting on behalf of myself and Senator GRAMM. I have sent it to the desk and I ask that it be held and that it be cleared by the close of business today.

Mr. President, the resolution is commending and is in honor of a fallen comrade. He was a Member of the House, a member of the Texas delegation, FRANK TEJEDA.

FRANK TEJEDA was a hero, a patriot. He served his country in every possible way. FRANK TEJEDA dropped out of high school at the age of 17 to join the Marine Corps. He liked to tell the story that he thought he would have a couple of months to sit around and dream about being in the Marine Corps. And they said to this young 17-year-old, "We would love to have you. Here are your tickets to California, you leave this afternoon." So he was off on his life adventure in the Marine Corps.

FRANK TEJEDA went to Vietnam. He was a hero in Vietnam. FRANK TEJEDA won not only the Purple Heart but the Silver Star for his heroic performance in going onto a battlefield that was riddled with bullets flying all around him to save a comrade.

He was always there when his country called. After he came back, the high school dropout went to college and graduated. He graduated not only from St. Mary's University, but also went to law school at the University of California at Berkley and received his law degree. Then, he got graduate degrees from both Harvard and Yale. He served in the Texas Senate—I knew him there—and then he came to Congress, and we were able to serve together here.

FRANK was, in every sense, the truest Texan. I was privileged to be at his funeral yesterday in south San Antonio, at St. Leo's Catholic Church. You could see the essence of what FRANK was. You could see it in the people that

he had gone to church with all his life. You could see it in the people who eulogized him, that had grown up with him, and who now are also leading citizens of San Antonio. You could see it in the people who were holding signs along the road between the church and Fort Sam Houston, where he was to be buried with full military honors.

No one will be able to fill the shoes of a great Texan like FRANK TEJEDA. He will have a successor. We will have someone that will represent San Antonio and Texas in the U.S. Congress. But you don't fill the shoes of a person who never forgot from where he came, who was always there for the people that he grew up with and that he represented in the U.S. Congress, to make sure that they were part of the great American dream.

He was there for our military, he was there for our veterans. I remember when I was working to make sure that the veterans' pay came when Government was shut down. FRANK TEJEDA was right there trying to help me make sure that that happened. When the people at Kelly Air Force Base learned that their base was going to be shut down, with privatization as an option that was given by BRAC, FRANK TEJEDA and I rolled up our sleeves to go to work for privatization, because we wanted the good people at Kelly Air Force Base to be able to keep those jobs, and because we knew it was in the best interest of our country that they keep those jobs because they are the trained work force.

I think the most important thing I could say about anyone with whom I served in Congress is, if we are in a fight, he was someone I would want in the trenches with me.

That describes FRANK TEJEDA. He proved himself on the real battlefield in Vietnam. He proved that he was someone you would want in the trenches with you when you are fighting for your life, for your country, and he proved it in so many ways in his service in the U.S. Congress.

I will miss FRANK TEJEDA as a friend. America will miss him as a patriot and a hero. I would like for this resolution to be passed today when we close the Senate, and I would like to close the Senate in honor of former Congressman FRANK TEJEDA, who was buried yesterday at Fort Sam Houston with full military honors.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled "The President's Fiscal Year 1998 Budget Request for the United States Small Business Administration." The hearing will be held on Wednesday, February 12, 1997, beginning at 9:30 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Louis Taylor at 224-5175.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled "Nomination of Aida Alvarez to be Administrator of the United States Small Business Administration." The hearing will be held on Thursday, February 13, 1997, beginning at 9:30 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Louis Taylor at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, February 4, 1997, at 10 a.m. in open session, to receive testimony concerning the Army sexual harassment incidents at Aberdeen Proving Ground and sexual harassment policies within the Department of Defense.

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

COMMITTEE ON FINANCE

Ms. SNOWE. Mr. President, I ask unanimous consent that the full Committee on Finance be permitted to meet to conduct a hearing on Tuesday, February 4, 1997, beginning at 10 a.m. in room 215-Dirksen.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for an Employment and Training Subcommittee hearing on Fair Labor Standards Act reform, during the session of the Senate on Tuesday, February 4, 1997, at 9:30 a.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate to receive testimony from committee chairmen and ranking members on their committee funding resolutions for 1997 and 1998 on Tuesday, February 4, Wednesday, February 5, and Thursday, February 6, all at 9:30 a.m.

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

ADDITIONAL STATEMENTS

COSPONSORSHIP OF THE SAFE AND AFFORDABLE SCHOOLS ACT

• Mr. ABRAHAM. Mr. President, I rise today to cosponsor Senate bill S. 1, the Safe and Affordable Schools Act. I do so because I am convinced that we owe our children the opportunity to learn in a safe environment and that our children should not find the door to higher education closed to them by high costs. This legislation will help children from low income families escape unsafe schools and at the same time help parents and their children better afford higher education.

We have a crisis in our schools, Mr. President. According to one recent study, 2,000 acts of violence are committed every hour in our classrooms. The study also found that high percentages of students have changed their daily routine because of personal safety concerns, and that most students say they could obtain marijuana within a day if they wished. Drugs and violence have no place in our schools alongside math and history.

To address this problem, the Safe and Affordable Schools Act authorizes $50 million for fiscal year 1998 school choice pilot programs. These moneys may be used to develop, establish, and operate programs to protect children who have been victims of, or witnesses to, violence in our elementary and secondary schools. To encourage local safety measures, the act gives priority to programs providing for suspension, delay, or restriction of driving privileges for minors found to be using drugs.

Mr. President, poor kids in this country should have the same right to attend a safe school as their more well-off counterparts. That is why school choice programs are essential. This bill provides funding for pilot programs and also for broader school choice vouchers to give parents in our less affluent areas a chance to send their children to good schools.

Unfortunately, Mr. President, too many kids who graduate from high school find the doors to higher education closed to them by sky-high costs. Public college and university tuition alone has risen 234 percent over the last 15 years. This has put too tight a squeeze on students and their parents as they seek the opportunities only higher education can provide in our country.

To make higher education more affordable for students in college and for parents saving for their children's education, this legislation provides a number of rational, cost-effective tax incentives. To begin with, Mr. President, this bill establishes the Bob Dole education investment account. Parents would be able to contribute $1,000 per year to this account, and would be eligible to establish an account for each child. The savings will be significant. If a parent puts aside $1,000 at the time a child is born, and contributes $1,000 every year until the child is 18, the investment account would contain $34,000 to pay college costs.

And this legislation offers further help to parents and students. It excludes from taxation educational assistance provided by employers. It also excludes any prepaid higher education disbursement from the State. In addition, the bill would make student loan interest deductible, up to a maximum of $2,500 per year. Finally, the bill would exclude from gross income any moneys received through Federal work study programs.

These provisions will make higher education more affordable. They will keep the doors of opportunity open for all Americans. Combined with school choice measures, they will go a long way toward establishing the equality of opportunity for which our country always has been known.

I urge my colleagues to support this worthwhile legislation.•

RETIREMENT OF PROCTOR JONES

• Mr. LEAHY. Mr. President, the Senate, with its long hours and demanding schedule is not generally known for the long tenure of its Members' staff. Proctor Jones is an exception to that rule. Proctor has served the Senate for more than 35 years. He has spent 27 of those years working for the Committee on Appropriations, outlasting seven committee chairmen. Nobody knows the ins and outs of the appropriations process, better than Proctor Jones.

The energy and water appropriations bill just won't be the same without Senator JOHNSTON leading the Democratic members of the subcommittee and Proctor behind the scenes crafting the bill. It is not a coincidence that the energy and water appropriations bill is usually one of the first to be passed by Congress. Proctor's experience on appropriations, combined with Senator JOHNSTON's bargaining skill made them a formidable pair. They will be sorely missed on the Appropriations Committee. I commend Proctor on his long and dedicated service to the Senate and wish him the best of luck.•

TRIBUTE TO STEVE AND LORRAINE GOREN ON BEING NAMED 1997 DOVER CITIZENS OF THE YEAR

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Steve and Lorraine Goren, co-owners of Farnham's clothing store in Dover, on being named the 1997 Citizens of the Year by the Greater Dover Chamber of Commerce. As a former small businessman myself, I commend their accomplishments.

Farnham's clothing store has been a Dover establishment since 1855. For years, Steve and Lorraine have been involved in Dover's growth in a number of ways.

Steve Goren is a member of the Dover Parking Commission and a trustee at the Dover Children's Home. He is a former member of the Dover Industrial Development Authority, a former director of Great Bay Bank Shares, and was on the board of Southeast Bank. In addition, both Gorens are active in the downtown merchants group.

Lorraine Goren has represented Temple Israel on the board of Dover Cooperative Ministries for years, served as treasurer of the Wentworth-Douglass Hospital Auxiliary and rallied Dover merchants for support during the American Cancer Society's annual daffodil sales. She has also served the Dover Chamber of Commerce as a member of the Cochecho Arts Festival committee and the Apple Harvest Day committee.

Both Steve and Lorraine have dedicated their time, talent and energy to serving the residents of Dover in an exemplary way. The Goren's outstanding community commitment is important to the future and prosperity of New Hampshire's communities. Congratulations to Steve and Lorraine for this distinguished recognition. I am honored to represent them in the U.S. Senate.•

TRIBUTE TO BEATRICE RUTH FAIRFAX

• Ms. MOSELEY-BRAUN. Mr. President, I want to take a moment to talk about Beatrice Ruth Fairfax, a constituent of mine who died on January 14, 1997, at the age of 84, after a lifetime of making a difference in the lives of those she touched. She will be sorely missed by her family, friends, and community.

Upon her graduation from Hyde Park High School, Beatrice Fairfax worked as a writer and became involved in many civil rights and labor union causes. She met her husband, Bob Fairfax, through their involvement in cultural arts activities with the Works Progress Administration [WPA]. They married in 1935 and eventually settled in the Altgeld-Murray public housing development as one of Altgeld's first interracial families. The Fairfaxes worked tirelessly to improve the quality of life for public housing residents. They founded and managed the community's first newspaper, the Altgeld Beacon, while working as beat reporters for the Chicago Defender Newspaper. They also established numerous Boy Scout troops throughout the Chicago Housing Authority [CHA], and founded the Jackson Raiders, an award winning drum and bugle corps. In keeping with Mrs. Fairfax's philosophy, "Before a community can make social sense, it has to make economic sense," the Fairfaxes also participated in the establishment of one of the country's first and largest black owned food co-op stores, which was owned by 300 black families and patronized by thousands of public housing residents. In addition, the Fairfaxes were two of the original plaintiffs in Gautreaux versus Chicago Housing Authority, a landmark case which resulted in the end of racially discriminatory practices of the CHA.

After her retirement from the Illinois Department of Labor, Mrs. Fairfax continued to be active in community affairs and maintained affiliations with the American Association of Retired Persons, American Federation of State, County and Municipal Employees, Boy Scouts of America, Girl Scouts of Chicago, Chicago Parent Teacher Association, Citizen Utility Board, Chicago Urban League, Chicago Sinai Congregation, Jewish Council for the Elderly, Illinois Public Action Council, and the Friends of the Chicago Children's Choir, to name a few. In addition to her many substantial accomplishments, on a personal note, I must say that Bea Fairfax was one of the kindest and most generous people I have known. She didn't just talk the talk, but walked the walk. Her life was truly dedicated to improving the lives of others. No one knows that more than her family, including her daughters, Joyce Theresa Fairfax-Wells, and Ruth Mary Fairfax-Frazier, her son-in-law, Anthany Frazier, her former son-in-law, Cornell Wells, her grandchildren, Annika Frazier-Muhammad, Darius Frazier, Monnica Wells, and Jacqueline Wells, her great grandson, Hamza Ibn Omar Frazier-Muhammad, and many other relatives, friends, and members of the community she helped to create. Her death is a great loss, but the legacy of her good works will endure.•

TRIBUTE TO WILLIAM MARVIN ON BEING NAMED THE 1996 MANCHESTER CITIZEN OF THE YEAR

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Bill Marvin, president of Manpower Temporary Services, on being named the 1996 Manchester's Citizen of the Year. I commend his outstanding community commitment and congratulate him on this well-deserved honor.

As chairman of the 1996 Optima Board, Bill oversaw the capital campaigns for the Currier Gallery and the Palace Theatre, the downtown ice skating rink, and the merger of Catholic Medical Center and Elliot Hospital.

Bill is a member of the Manchester Rotary Club, the Manchester Chamber of Commerce and the Catholic Medical Center. He has also brought two area hospitals together and has helped to organize bingo games for the Boys and Girls Club.

He is known to many as always willing to take responsibility, whether to chair a committee, raise money, or oversee a board of directors. Whatever Bill dedicates his time to, he always gets the job done.

While giving his time to all these community projects, Bill and his wife, Ann, operate Manpower Temporary Services which was named the 1995 Service Business by Business New Hampshire magazine.

As a former small businessman myself, I am proud to honor Bill Marvin's outstanding community commitment that is important to the future and prosperity of Manchester. We are indeed indebted to him for his efforts. Congratulations to Bill on this award and his service to New Hampshire and the people of Manchester.•

TRIBUTE TO THE JOHN BAPST MEMORIAL HIGH SCHOOL BAND

• Ms. SNOWE. Mr. President, I rise today to honor the John Bapst Memorial High School Band which honored Maine and America with its outstanding performance during 1997's Presidential Inauguration.

Personally selected by President Clinton to attend the festivities, the John Bapst band had audiences on their feet with rousing renditions of "The Maine Stein Song," "Camino Real," and "Acclamations," to name a few. The band performed on the National Mall, along with bands such as the Count Basie Orchestra, and also at the prestigious Kennedy Center for the Performing Arts.

This is not the first time that Maine has been made proud by the John Bapst band. In 1991, the band was on hand to welcome troops returning home after the Gulf war. For many, their stop in Bangor was the first time on American soil since their deployment. I am certain they will never forget the warm greetings they received in Bangor—which garnered national attention—and John Bapst band played a special part in honoring our servicemen and women. The tradition continued when John Bapst played for President Clinton last November. The President was so impressed with the group that he pledged to invite them to inaugural festivities should he be reelected.

Mr. President, this band represents the very best characteristics of America's young people. Band members set a goal of excellence and worked hard to achieve it, and I believe their efforts should be highlighted. In an era of conflicting and often dubious influences for young men and women, and in a time when negative stories abound in the media, our children should have positive examples to follow. That is why we should shine a spotlight on groups like the John Bapst band, which represent the finest qualities and aspirations of America's youth. I applaud the band members and their director, Julie Ewing, for showing our youth what can be accomplished through commitment and hard work.

In closing, I would once again like to thank the John Bapst Memorial High School Band for their tremendous contribution to the 1997 inaugural festivities, and for making the State of Maine very proud.•

COSPONSORSHIP OF THE OLDER AMERICANS FREEDOM TO WORK ACT

• Mr. ABRAHAM. Mr. President, I rise today in cosponsorship of Senate bill S. 202, the Older Americans Freedom to Work Act. This important legislation would remove existing penalties on outside income earned by Social Security beneficiaries who have reached retirement age.

Currently, Mr. President, persons between the ages of 65 and 69 face a penalty of $1 in reduced benefits for every $3 in earnings above $13,500 per year. This penalty is unfair because it singles out older Americans for double taxation. That is, this income already is subject to normal taxation, and currently is reduced again through the earnings penalty.

The penalty also is unwise, Mr. President, because it discourages trained and experienced people from participating in the labor force. When the current earned income limit was devised back in the 1930's, it was thought that encouraging older Americans to leave the labor force was a good idea. But times have changed. Where during the Great Depression there were too many workers and too few jobs, we face, in the next several decades, a worsening labor shortage. As the baby boom generation reaches retirement age between 2000 and 2010, there will be fewer younger workers to take the place of those who retire. We should be encouraging older Americans to stay in the labor force as long as they can safely continue to make a contribution there. In this way older people can better see to their financial needs, senior citizens will remain more active and thus happier and healthier, and our Nation will continue to benefit from these people's skills and wisdom.

For the sake of our older Americans, and for the sake of continuing economic prosperity for all Americans, I urge my colleagues to support this legislation.•

TRIBUTE TO THE CONCORD HIGH SCHOOL CRIMSON TIDE MARCHING BAND ON REPRESENTING NEW HAMPSHIRE IN THE 1997 INAUGURAL PARADE

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate the students of the Concord High School Crimson Tide marching band for the distinguished honor of representing New Hampshire in the 1997 inaugural parade. All 116 band members and Bill Metevier, the band's director, deserve special commendation for their hard work and achievement. Being selected as 1 of only 20 bands to perform for the President and the First Lady is quite an honor for all the students.

At an inaugural reception on behalf of the Concord High School Crimson Tide marching band last week, I had the pleasure of meeting some of the band members, young men and women, who have demonstrated the hard work and dedication that is characteristic of Granite State students. These band members have proven that determination and teamwork are the hallmark of success both as musicians and students. The Crimson Tide marching band's decision to play the "National Emblem March," composed by E.E. Bagley while he was a resident of New Hampshire, was a very fitting tribute to the Granite State and our role in American history. We were indeed honored to have the Crimson Tide marching band representing New Hampshire with their outstanding musical performances.

The Concord School's Friends of Music also deserve special recognition for their help in raising $20,000 from residents and local companies during such a very short period of time. Without their hard work, the Crimson Tide's trip to Washington, DC, would not have been possible.

Marching in the parade was also a special highlight for these students since the Concord High School is celebrating its 150th anniversary this year.

The Crimson Tide band with their classic military cadet style uniforms have also performed for audiences in Ottawa, Canada, New York City, Williamsburg, VA; and are planning to return to Williamsburg in April.

I want to express my thanks to both the students and faculty at Concord High School for their commitment to excellence. Congratulations to all the students and Bill Metevier on such a magnificent accomplishment.

Mr. President, I ask that a list of the names of these outstanding students be printed in the RECORD.

The list follows:

CONCORD HIGH SCHOOL CRIMSON TIDE MARCHING BAND

Megan Albert, Dylan Allen, Holly Anderson, Matt Andrews, Alicia Andrus, Angela Averill, George Bacher, Jon Balinski, Sarah Ball, Paul Barnwell.

Matt Baron, Ed Barton, Jon Beckwith, Andy Bennert, Erin Benoit, Burt Betchart, Cheryl Blanchard, Melanie Blanchette, Stephen Bloomfield, Desirae Brooks.

Katie Cantwell, Jeff Carlquist, Jessica Carr, Carolyn Chaloux, Dan Connelly, Joan Conroy, Patty Cullen, Nathan Davis, Sara Dickson, Laura Dimick.

Susan Dimick, Kyle Donovan, Parker Donovan, Robin Duckworth, Eric Dyment, Steve Fisher, John Fitzgerald, Kerry Flannery, Nissa Gainty, Leona Geer, Mike Gogelen, Andy Hamilton, Katie Haubrich, Danielle Hebert.

Alex Heinecke, Mike Henninger, Jason Hines, Elizabeth Immen, Brad Jobel, Hillarie Johnson, Danielle Jones, Heidi Jones, Aureta Keane, Ryan Kelly, Phil Kugel.

Jeff Laliberte, Jesse Lamarre-Vincent, David Loo, Shana Lorber, Kevin Lucey, Theresa MacNeil, Ethan Mallove, Tegan Marquis, Courtney Masland, Greg May, Sarah May, Luke Maziarz.

Sarah Maziarz, Sarah Metting, Lolly Mielcarz, Carl Mintken, Karen Morin, Mary Moss, Miho Nakashima, Chris Newell, Christina Newton, Devin O'Connor.

Tim Osmer, Bill Osmer, Brent Paige, Eddie Parker, James Perencevich, Eric Pierce, Erika Poisson, Jill Ramsier, Kristen Randall, Kristen Reed, Tricia Reed.

Lynn Reingold, Andrew Ritchie, Becca Roy, Jen Russell, Dan Sarapin, Elaine Sarnosky, Tony Sartorelli, Gianna Scarano, Kevin Scribner, Sara Sheehy, Lucas Smith, Rosco Smith.

Calee Spinney, Geoffrey Stebbins, John Sullivan, Dan Turk, Rachel Turk, Stacey Ulmanis, Daniel Vyce, Jessy Wallner, Sara Walsh, Carlyn Wanta, Tiffany Watkins, John Webb, Jon Weiss, Amanda Welch, Cullin Wible, Carll Wilkinson.•

RULES OF THE COMMITTEE ON THE BUDGET, 105TH CONGRESS

• Mr. DOMENICI. Mr. President, in accordance with rule XXVI paragraph 2 of the Standing Rules of the Senate I hereby submit for printing in the CONGRESSIONAL RECORD, the rules governing the procedures for the Committee on the Budget for the 105th Congress which were adopted by the committee earlier this week. The only change from the rules of the committee for the 104th Congress is the addition of a new rule which adopts the Senate's rule regarding the use of charts in the Senate Chamber.

The rules follow:

RULES OF THE COMMITTEE ON THE BUDGET, 105TH CONGRESS

I. MEETINGS

(1) The committee shall hold its regular meeting on the first Thursday of each month. Additional meetings may be called by the chair as the chair deems necessary to expedite committee business.

(2) Each meeting of the Committee on the Budget of the Senate, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote in open session of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interest of effective law enforcement; or

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(i) an act of Congress requires the information to be kept confidential by Government officers and employees; or

(ii) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

II. QUORUMS AND VOTING

(1) Except as provided in paragraphs (2) and (3) of this section, a quorum for the transaction of committee business shall consist of not less than one-third of the membership of the entire committee: Provided, that proxies shall not be counted in making a quorum.

(2) A majority of the committee shall constitute a quorum for reporting budget resolutions, legislative measures or recommendations: Provided, that proxies shall not be counted in making a quorum.

(3) For the purpose of taking sworn or unsworn testimony, a quorum of the committee shall consist of our Senator.

(4)(a) The Committee may poll—

(i) internal Committee matters including those concerning the Committee's staff, records, and budget;

(ii) steps in an investigation, including issuance of subpoenas, applications for immunity orders, and requests for documents from agencies; and

(iii) other Committee business that the Committee has designated for polling at a meeting, except that the Committee may not vote by poll or reporting to the Senate any measure, matter, or recommendation, and may not vote by poll on closing a meeting or hearing to the public.

(b) To conduct a poll, the Chair shall circulate polling sheets to each Member specifying the matter being polled and the time limit for completion of the poll. If any Member requests, the matter shall be held for a meeting rather than being polled. The chief clerk shall keep a record of polls; if the committee determines by record vote in open session of a majority of the members of the committee present that the polled matter is one of those enumerated in rule I(2)(a)–(e), then the record of the poll shall be confidential. Any Member may move at the Committee meeting following a poll for a vote on the polled decision.

III. PROXIES

When a record vote is taken in the committee on any bill, resolution, amendment, or any other question, a quorum being present, a Member who is unable to attend the meeting may vote by proxy if the absent Member has been informed of the matter on which the vote is being recorded and has affirmatively requested to be so recorded; except that no Member may vote by proxy during the deliberations on Budget Resolutions.

IV. HEARINGS AND HEARING PROCEDURES

(1) The committee shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the chair and ranking minority member determine that there is good cause to begin such hearing at an earlier date.

(2) A witness appearing before the committee shall file a written statement of proposed testimony at least 1 day prior to appearance, unless the requirement is waived by the chair and the ranking minority member, following their determination that there is good cause for the failure of compliance.

V. COMMITTEE REPORTS

(1) When the committee has ordered a measure or recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time.

(2) A member of the committee who gives notice of an intention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusions shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.

VI. USE OF DISPLAY MATERIALS IN COMMITTEE

(1) Graphic displays used during any meeting or hearing of the committee are limited to the following:

Charts, photographs, or renderings:

Size: no larger than 36 inches by 48 inches.

Where: on an easel stand next to the Senator's seat or at the rear of the committee room.

When: only at the time the Senator is speaking.

Number: no more than two may be displayed at a time.•

JUVENILE JUSTICE PROVISIONS IN CRIME BILL

• Mr. ABRAHAM. Mr. President, I rise in support of S. 10, the Violent And Repeat Offender Act of 1997, introduced recently by my good friend, the Senator from Utah, who I know developed this legislation in close cooperation with the majority leader and my new colleagues on the Committee, the Senators from Missouri and Alabama. While I do not necessarily agree with every provision of this legislation, I believe overall it makes great improvements over our general framework for handling juvenile crime, and I am therefore pleased to be an original cosponsor of this bill.

This legislation is urgently needed. Over the past decade, the rate of homicide committed by teenagers, ages 14–17, has more than doubled. Crimes of violence committed by juveniles have increased by almost 100 percent. In 1994 alone, the number of violent crimes committed by juveniles increased by almost 10 percent. Drug use among teens—a significant factor in violent crime—is on the rise again, after nearly a decade of steady decreases.

We have reached the point that 35 percent of all violent crime is committed by offenders less than 20 years of age. Today's teenaged criminal is far more likely to be a murderer than was his counterpart 20 years ago.

These trends are expected to continue well into the 21th century. Meanwhile, our current approach to juvenile

crime is anachronistic and based on faulty premises. It assumes that we should be following a treatment and rehabilitation model for all juvenile crimes—whether what is involved is petty larceny or murder—and it then tries to leverage Federal dollars that we make available to the States to impose this model on their juvenile justice systems. For instance, the existing Juvenile Justice Act requires that States that receive money under the act look to alternatives to incarceration for all juvenile offenses without regard to the offense committed by the juvenile.

This bill corrects that by substantially revising both the Federal Government's approach to juvenile crimes that fall under its jurisdiction and the terms on which we make Federal dollars available to the States. At the Federal level, S. 10 will permit juveniles 14 years olds or older who are charged with murder, crimes of violence, or serious drug offenses to be prosecuted and sentenced as adults. Federal courts will be required to consider prior offenses in sentencing juveniles, just as they would with adult offenders. Juveniles sentenced to Federal prisons will no longer be automatically released on their 21st birthdays, but will serve their full sentences.

The bill also attacks violent juvenile crime by enhancing penalties relating to the paraphernalia of violence. Federal penalties are increased for these offenses: illegally transferring a hand gun to a minor; possession of a firearm during the commission of a felony; and use of body armor during the commission of a felony.

Finally, this bill authorizes new Federal funding for various valuable State juvenile justice programs while relieving them from burdensome, outdated, unnecessary and in some instances harmful requirements for obtaining funds previously authorized for this purpose. The bill will fund fingerprinting and DNA testing for juvenile offenders, expanded record-keeping, and workable prevention programs. It will also release the States from harmful Federal mandates, permitting greater innovation and flexibility in State juvenile justice systems. While the bill continues to ensure that juvenile and adult offenders are not in actual contact in jail or prison together, it eliminates many other requirements that presently accompany acceptance of Federal juvenile grants such as the obligation to avoid if at all possible incarcerating any young offender including a murderer.

The new conditions on grants established in S. 10 are designed to assure that recipient States' juvenile systems are not based on the notion—unfortunately previously foisted on the States by the Federal courts and the Congress—that all young offenders are eager to be rehabilitated. Rather, they take the realistic view that recipients' juvenile systems should respect the rights of juvenile offenders and the special considerations that may be appropriate for dealing with them in some instances, but that they must principally be designed to protect the public safety and be adequate to do so. Thus, for example, the bill requires that recipient States permit prosecution of juveniles 14 and older as adults in cases of murder, rape, or other crimes of violence.

The juvenile justice reforms in this legislation are long overdue. I urge the Senate to act quickly in passing the Violent And Repeat Offender Act of 1997.•

LEGAL SERVICES CORPORATION

• Mr. SARBANES. Mr. President, for over two decades, the Legal Services Corporation, or LSC, has been the embodiment of the words emblazoned in stone above the Supreme Court: "Equal Justice Under Law." In its effort to fulfill this commitment, the Legal Services Corporation has provided critically needed services to millions of poor, elderly, and disabled citizens who otherwise would not have access to the American legal system and the protection it affords the many basic rights we have in this country—protection which so many of us take for granted. The Legal Services Corporation has also proven to be one of the most efficient Federal programs in existence, using only 3 percent of its total funding for administration and management.

Yet in recent years, the Corporation's ability to satisfy its mandate has been imperiled by congressional efforts to limit its activities, both by cutting the Corporation's funding and by restricting the kinds of activities in which its lawyers could engage. Some of these efforts have already succeeded, and I suspect that further initiatives in this vein will emerge in the 105th Congress.

But Mr. President, before we hasten down this path, let us look at what we have already wrought with respect to the ability of our Nation to provide legal services to the needy.

I use as an example the effect of cutbacks in the Legal Services Corporation in my own State of Maryland. Maryland's Legal Aid Bureau receives by far the largest portion of its funding from the Legal Services Corporation, and over the years has done an outstanding job of representing Maryland citizens living in poverty. With the funding received from LSC, the 13 legal aid offices located throughout Maryland provide general legal services to approximately 19,000 families and individuals annually.

In contrast to this tradition of effective service, a January 23 article in the Baltimore Sun entitled "Poor Have Trouble Getting Legal Help" demonstrates the current state of legal services in Maryland—a state in no small part due to Congress's recent scaling back of the LSC.

The article notes that over 1 million Marylanders qualify for legal services, but that volunteer lawyers—the source of the majority of legal assistance with the implementation of Government cutbacks—are barely making a dent in the caseload. In fact, Mr. President, Robert Rhudy, executive director of the Maryland Legal Services Corporation, a State-created organization that administers legal assistance programs in the State, estimates that the Maryland Legal Aid Bureau has the ability to address only 20 percent of the matters that come to its attention.

The article also notes that recent studies confirm these estimates, finding that about 80 percent of the State's poor lack access to volunteer lawyers. Mr. President, these developments are shameful, and cannot be tolerated by a society that prides itself on its commitment to constitutional principles of equal protection of the laws and equal access to justice.

Part of the solution certainly lies in encouraging and facilitating volunteerism in our legal communities. Pro bono service is part of a lawyer's ethical obligations. At the same time, we in Congress bear real responsibility for the shortage of legal assistance to the poor. Our efforts to cut back LSC funding in recent years have had a devastating impact on the poor, and have tilted the scales of justice in a way that the creators and founders of LSC would have found to be intolerable.

Mr. President, I ask that the January 23 Baltimore Sun article be printed in today's RECORD. I daresay that many other States have stories similar to those in my State, and I urge my colleagues to investigate their States' situation before once again lining up to do away with a program that should be one of the great prices of our Nation.

The article follows:

[From the Baltimore Sun, Jan. 23, 1997]

POOR HAVE TROUBLE GETTING LEGAL HELP—FEW LAWYERS AGREE TO GIVE FREE SERVICE

(By Elaine Tassy)

Poor Marylanders who need legal help are likely to have trouble finding it, and with federal funding cuts at agencies that handle such cases, the problem is worsening.

More than a million Marylanders have income low enough to be eligible for free civil legal services, said Robert J. Rhudy, executive director of Maryland Legal Services Corp. Low-income households often have several legal problems in a year.

But volunteer lawyers are barely making a dent in that need.

"Of those problems that could clearly benefit from legal attention, we believe that we currently have the ability to serve the need of less than 20 percent . . ." said Rhudy, whose organization was created by state legislators to help manage and fund free or reduced-fee services.

Only about 5,000 new cases were handled last year by volunteer lawyers serving in

programs that keep statistics, according to Sharon E. Goldsmith, executive director of the People's Pro Bono Action Center Inc.

And, although the number of volunteers is actually greater because some lawyers provide services without being party of any program—by offering advice to community groups, for example—studies have shown that about 80 percent of the state's poor lack access to volunteer lawyers.

"We have clients on waiting lists all the time . . . We've probably got a couple hundred cases sitting here," said Winifred C. Borden, executive director of Maryland Volunteer Lawyers Service, the largest of several Baltimore-based agencies that match volunteer lawyers with cases presented by poor people. Those in need often wait months before a volunteer is found, she added.

The shortage of lawyers willing to do free, or pro bono, work in civil cases—unraveling family, employment, disability, education and housing disputes—has prompted agencies that recruit volunteers to step up their efforts.

"We all recognize there is this tremendous need," said Baltimore County Circuit Judge Dana M. Levitz, who also is seeking new ways to recruit lawyers for such cases.

No statistics.

No one knows how many lawyers do pro bono work. "We've never been able to come up with a tracking system," said Janet Stidman Eveleth of the Maryland State Bar Association.

Studies have found that in addition to those doing pro bono work independently, about a fourth of Maryland's 20,000 practicing lawyers volunteer through programs such as the Homeless Persons Representation Project, the House of Ruth Domestic Violence Legal Clinic and the Senior Citizen Law Project.

But many experts think the number of volunteer lawyers is still too small.

"I think lawyers like [doing pro-bono work] in principle, and a substantial number of lawyers do it. But at the moment, I think that it's getting harder and harder to find lawyers who are willing to take pro bono cases," said David Luban, professor of legal ethics at the University of Maryland School of Law.

Lawyers have vigorously resisted proposals to require each of them to do 50 hours of pro bono work a year, he said.

No enforceable requirement exists for volunteer legal work. But the rules that govern Maryland lawyers state: "A lawyer should render public interest legal service . . . by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations."

Demand for such services is rising. Congress has scaled back the services the Legal Aid Bureau—a nonprofit organization providing civil legal services to the poor—is permitted to provide and has trimmed its budget in recent years, creating more demand for volunteers to fill the gap.

NO FREE TIME

Some lawyers say they are held back by a lack of free time, conflicts of interest and difficulty in finding cases that match their expertise. Others say they will help but don't follow through.

For example, Borden said, from July 1995 to June 1996, 2,017 lawyers signed up to volunteer and 788 took cases.

The number of volunteers expressing interest also has decreased in recent years. A statewide survey found that in 1989, almost 1,700 cases new cases were handled by volunteers working with structured programs. The number jumped to almost 6,000 by 1993 but dropped to 5,253 in 1995, the most recent statistics available, said Goldsmith.

People with thorny, time-consuming domestic matters such as child-custody disputes are the most likely to request volunteers. But many lawyers shy away from such cases.

Criminal-defense lawyer Leonard H. Shapiro, who often handles drunken-driving cases, said volunteering appeals to him, but only in cases in which he has expertise.

"I don't want to engage in an area of the law where I don't think I'm qualified," he said. "I wouldn't want to put the client in jeopardy while I experimented."

SPECIALTIES LINKED

Volunteer agencies are working to link lawyers with programs or cases that reflect their specialties.

Goldsmith tries to match tax lawyers, for example, with economic development projects such as Habitat for Humanity's in Sandtown-Winchester, where residents need help in acquiring loans and property.

Levitz, after seeing dozens of poor defendants appear before him without lawyers, asked the Judicial Ethics Committee whether judges could recruit volunteers by writing letters of inquiry, placing ads in legal newspapers or talking to lawyers at bar association meetings.

Two years ago, the committee, most of whose nine members are judges, prohibited such actions. But it reversed its stance in October, saying judges could seek volunteer lawyers in those ways.

IDEA STUDIED

At a recent meeting of Baltimore County judges, Levitz presented the idea of seeking volunteers; a three-judge panel is studying the idea.

Some lawyers balk at volunteering, but others embrace it.

Daniel V. Schmitt is one of the latter. He handles general business and commercial litigation cases at a four-person firm in Towson, and provides 60 hours of free legal help annually to special education students in Baltimore and Harford counties.

Using referrals from the Maryland Disability Law Center, he helps students get into appropriate schools and classes, and helps find computers equipped for people who cannot type with their hands.

"I believe that pro bono is a professional and moral obligation," said Schmitt, 38. "As a professional, I feel you need to hold yourself to a higher standard, and a higher standard would include giving back to the community."•

VERMONT CHIEF JUSTICE JEFFREY L. AMESTOY

• Mr. LEAHY. Mr. President, Vermonters are rightfully proud of their new chief justice of the Vermont supreme court, Jeffrey L. Amestoy.

Chief Justice Amestoy—a Republican who left behind a distinguished tenure as Vermont's attorney general when he accepted the nomination to Vermont's highest judicial post by Gov. Howard Dean, a Democrat—was administered the oath of office by Governor Dean on January 31 in Montpelier.

I was one of many who were present as Chief Justice Amestoy delivered the traditional inaugural address in the chamber of the Vermont House of Representatives. It was more than a speech to be heard. It was also a speech to be felt. He offered an illuminating, uplifting, heartfelt, and deeply personal tapestry that deservedly will long be remembered.

Governor Dean has said, "The most important things in a judge are integrity, compassion, and hard work." All who know Jeffrey Amestoy and all who heard him speak on that wintry Vermont afternoon know how abundantly those qualities are present in our new chief justice.

I join all Vermonters in offering congratulations to Chief Justice Amestoy, to Jeff's wife, Susan Lonergan Amestoy, to their three daughters, Katie, Christina, and Nancy, and to Jeff's mother, Diana Wood Amestoy. All were on hand for the stirring ceremony in Montpelier.•

Mr. JEFFORDS. Mr. President, I join Senator LEAHY today in paying tribute to Vermont's new chief justice, Jeffrey L. Amestoy. Jeff is a good friend and a great Vermonter, and I know he will serve in his new post with distinction and honor.

Jeff Amestoy and I have shared many life experiences. We were both raised in Rutland, VT. He served as an assistant attorney general under my stewardship as Vermont's attorney general in the early 1970's. And now, over 20 years later, he is serving in the position that my father, Olin Jeffords, once held: chief justice of the Vermont supreme court.

As someone who has known Jeff for over 25 years, I can attest to his judicial knowledge, his keen sense of Vermont values, his modest demeanor and his dedication to the people of Vermont.

I was fortunate to be able to attend the swearing-in ceremony for Jeff last Friday in Montpelier. It was a wonderful event, one that I will never forget. Jeff's comments were from the heart and I am pleased to join Senator LEAHY in offering them today as part of the RECORD.

• Mr. LEAHY. Mr. President, on behalf of Senator JEFFORDS and myself, I commend to the attention of our colleagues Chief Justice Jeffrey Amestoy's inauguration address before the Vermont House of Representatives on January 31, 1997, and submit the text to the speech for the RECORD, as printed in the Times Argus of Barre, VT, on February 1, 1997.

The text of the speech follows:

INAUGURAL ADDRESS OF CHIEF JUSTICE JEFFREY L. AMESTOY

Three weeks ago, at the occasion of my nomination for the position of chief justice, I said I had so many people to thank I didn't know where to end.

Today the task is even more difficult.

But I still know where to start: Thank you, Governor Dean.

To my "particular friend," Susan Lonergan Amestoy: I could not have made

this journey without you—and it wouldn't have been as much fun.

To Katherine, Christina, and Nancy Amestoy—for whom this is the third visit to the State House this month—thank you for your patience.

I thought the events of the past 30 days might have been bewildering to our daughters, but Katie Amestoy had it exactly right when she told a friend on the day of my second interview with the governor:

"I can't come over today. My Dad's trying out for Chief Justice."

I thank my mother, Dianna Wood Amestoy, for being here today and for always being there in times of need.

For those of you for whom a desire to impress your parents is a part of your motivation, I offer the following cautionary tale.

When I called my mother to tell her of my nomination, she replied:

"That's wonderful, I've just been hang gliding in Montana."

If I can bring one half of my mother's energy, and one quarter of her sense of humor to my new responsibilities, Vermont will be well served.

Thank you (Wisconsin) Attorney General (James) Doyle, and thank you Attorney General Malley for your generous words.

Present today are colleagues—current and former—from the National Association of Attorneys General. They, together with the staff of the Vermont Attorney General's Office, have not only supported me professionally during the last dozen years; they have been among my closest friends.

And if it is true, as I believe it to be, that one can be judged by the friends one treasures, then you will understand why their being here today means so much to me.

There are also here individuals to whom I cannot ever make an adequate expression of thanks.

When I became a candidate for public office, the best advice I ever received was: "Never pass an old friend to say hello to a new one."

Today is special for many reasons, but most of all because our old friends are here.

Twenty years ago, as a young assistant attorney general, I spent a Sunday in the law library preparing for an oral argument the next day before the Vermont Supreme Court.

Then, as now, the law library was next to the court. But in those days, the doors to the Supreme Court were unlocked during the weekend.

And so when I finished a long day's preparation, I went into the empty courtroom and sat in the seat of a Vermont Supreme Court Justice.

The next morning I appeared before the Court. As chance would have it, as I began my argument, I was interrupted by Justice Larrow.

Some here may remember Justice Larrow's reputation as an incisive interrogator. If you argued before him you will recall his habit of clearing his throat just before he reached the most penetrating portion of his inquiry.

"Mr. Amestoy," he began, "would you please tell this court what gives you the right * * *" and at this point, as Justice Larrow began clearing his throat, I was struck with the awful realization that it was Justice Larrow's seat I had sat in the previous afternoon.

For one terrible moment I thought I was going to be asked: "What gives you the right to sit in the seat of a justice of the Vermont Supreme Court?"

There may be some here who have a similar question. If so, I am grateful to you—as I was to Justice Larrow that day—for not asking.

I believe, if I meet the standards I have set for myself, the question will occur to you less often in the future.

I am privileged to join a court comprised of individuals with whom I have worked and for whom I have great respect.

Justice Johnson and I worked closely together at the Office of Attorney General, where she was an unexcelled chief of the Public Protection Division.

I have known Justice Morse since his service as defender general and his work as one of Vermont's finest trial judges.

Justice Dooley and I worked together when he served as Governor Kunin's legal counsel and secretary of administration. More recently, I participated with Justice Dooley in the court/prosecution program in Karelia. Joining us in Russia was, among others, Maryland Attorney General Joseph Curran.

Hence, Attorney General Curran is the only attorney general in the country that knows both John Dooley and me. It was that knowledge that led the Maryland attorney general to offer the observation, when he learned that John and I were being considered for chief justice, that I was a strong second choice.

That is an opinion, I know, that is not exclusive to the state of Maryland.

Justice Gibson, as all who know him would anticipate, has been extraordinarily generous and helpful to me.

All here know, I am sure, that Justice Gibson's career is consistent with the unparalleled contributions to public service by the Gibson family.

What may be less well known is that Justice Gibson plays first base for the combined court/attorney general softball team.

As a rookie second baseman, I was saved from several errors by the sure grasp and long range of first baseman Gibson.

I will rely on that same grasp and range to minimize the errors of a rookie chief justice.

I also take the liberty today of expressing my gratitude to former Chief Justice Allen—not just for his courtesies to me, but for his service to Vermont.

In the 1980s, history linked the chief justice of Vermont and the attorney general of Vermont more closely than either one of us would have chosen. Although I do not know all that occurred during the unhappy years enveloped by the "judicial misconduct" controversy, I know more than all but a few in this chamber.

It may be that another individual in the position of chief justice during those troubled years could have struck the critical balance necessary to keep the court functioning without sacrificing the integrity of the institution.

But I, for one, am glad that we do not have to test the hypothetical.

And surely it is difficult, even as a hypothesis, to imagine another chief justice who could have brought the court through those difficult days and led the court to a point where, by every objective measure, it is now more efficient than at any time in its history.

So today I deliver my first opinion as chief justice. It is one which I know to be unanimous. It is an opinion which will be corroborated by the judgment of history:

Frederic Allen was a great chief justice.

Fred Allen's shoes are being ones to fill.

But—I brought my own shoes.

If a span of years in which to serve as chief justice is granted to me by God and the Legislature (that's an alphabetical listing, Mr. Speaker!), I shall judge my success, or lack thereof, against three objectives.

First, and by far the most important: Did I contribute to the faith of Vermont's citizens in our judicial system, and to their trust in the character of those entrusted with its authority?

Second: Did I, as chief appellate judge of Vermont, contribute to a body of law that clearly and concisely communicates to litigants, lawyers, and trial judges the standards to be used to achieve the just and timely resolution of disputes?

Third: Did I, as chief justice, ensure that the judiciary, as a separate and co-equal branch of government, has the resources necessary to fulfill its responsibilities and the accountability for the use of those resources?

For that work, I will need the help of all, most especially the judges and staff of the trial courts who honor me with their presence today.

When it became apparent that I was to assume the duties of a new position, I received several calls from those most directly affected by my status.

The callers were cordial but all had the same message, which may be summarized as follows:

1. I should remember who had trial court experience and who didn't.

2. I should realize that there were many in their group that were equally or more qualified than I.

3. I should never forget that, while I might now have the impressive title, the real work was done in the trenches of the day-to-day business of the trial courts.

I am referring, of course, to the calls I received from state's attorneys when I was first elected attorney general!

I trust that my past work will offer some guide to what the future may hold. In any event, I shall do my best to avoid the example of the Vermonter who—when asked by his neighbor if he had an opinion about a controversial issue to be heard at Town Meeting—replied: "Not yet. But when I do take a position, I'm prepared to be bitter!"

I believe in "civility in public discourse and constancy in private affection."

And I believe, with Learned Hand, that "the spirit of liberty is the spirit that is not too sure it is right."

We will need that spirit more than ever to meet the changes that the new century will surely bring.

Two years ago, I spoke to new citizens at a naturalization ceremony in Newport, Vermont. The event coincided with the completion of the debate in the Vermont Legislature over the proposed resolution relating to the flag burning amendment.

That probably accounted for the fact that the hosts for the ceremony—the American Legion—were somewhat less enthusiastic about my presence than when the invitation to speak was extended.

But whatever one's view of that proposed amendment, it is remarkable, as I observed then, that upon taking the oath of citizenship, had one of the new citizens refused to recite the pledge of allegiance, neither the attorney general of Vermont, nor the attorney general of the United States, nor the entire United States government, could have compelled recitation of the pledge.

Indeed, the judicial system would have protected the new citizen and provided redress for any attempted compulsion.

But, of course, each of the new citizens recited the pledge of allegiance of their own free will and with more meaning than I am accustomed to hearing.

It is an inherent American trait to look at the courts to vindicate one's rights. With God's grace, it shall always be so. But it is neither law nor courts that shall secure our future.

"Liberty," said Learned Hand, "lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it."

So although I have much to learn about judging, it seems to me that Curtis Bok was right when he said of his own judicial experience ". . . there still remains a mystery . . . that defies analysis."

"Perhaps," wrote Judge Bok, "it would be better to say that a judge's cases take hold of him and pull things out of him, and that it is his business to be sure to keep the proper supplies on hand, so far as he can be the master of that."

If "the proper supplies," or at least a portion of them, are integrity and hard work, compassion and common sense, an abiding respect for the dignity of the individual and the value of community—then, to the extent I start today with those "supplies," it is because of the people in this room and the Vermont we love.

And it is because of one who is not here, nor ever could be the seven other times his son took the oath of office in this historic chamber.

More than four decades ago, a young father took his son to Hand's Cove on Lake Champlain for a day of duck hunting.

But the father soon understood that of his son a hunter he could not make.

So he turned the day into a history lesson, for Hand's Cove is where Ethan Allen and the Green Mountain Boys gathered before their raid on Fort Ticonderoga in the early morning of May 1775.

From the father's description of the events sprung a boy's interest in history and the individuals and ideas that shape it.

Many years later—when the boy was much older than the father had been on that day—his interest in law led him to Learned Hand.

And to the realization, which somehow seemed fitting, that Hand's Cove was the home of—indeed had been named for—the Vermont ancestors of the great judge.

Logic tells me that there is no connection in the coincidence of a place from which sprung the beginning of this state, and the family of a remarkable jurist, and a father's gift to his son.

But my heart tells me otherwise.

And I believe in the "restless wisdom of the heart."

And I believe, too, in the wisdom of the poet who says to each of us—a chief justice no less than the child who even now gazes out a window, perhaps on Leonard Street: "We see but what we have the gift of seeing"; to this life, "What we bring, we find."•

TRIBUTE TO THOMAS, SHEILA, AND STACEY THOMSON ON BEING NAMED NEW HAMPSHIRE'S OUTSTANDING TREE FARMERS OF 1997

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Tom Thomson, his wife Sheila, and their son Stacey, on being named New Hampshire's 1997 Outstanding Tree Farmers of the year. Tom first purchased his own wood lot at the age of 11 with his two older brothers. Today, Tom and his family manage about 2,500 acres of forest in New Hampshire and Vermont.

Stacey, Tom, and Tom's father, former Gov. Mel Thomson Jr., constitute three generations of New Hampshire tree farmers. Tom's tree farm is an example of a multipurpose forest with a diverse landscape. In addition to enhancing wildlife habitat, Tom has also increased recreational opportunities in the forest, opened vistas and taken care of the protection of water quality. He received a prestigious annual award by the New Hampshire Fish and Game Department and the University of New Hampshire Cooperative Extension in 1994, when his 1,060 acre tract in Orford, NH, became designated as a wildlife stewardship area.

Tom is known by many for his adoption of more sustainable forestry practices, and encouragement of his neighbors to do the same. He gives tree farm tours each year to school children, New Hampshire's Timberland Owners Association Board Members, conservation groups, Audubon groups and New England wildflower groups. Most recently, he had also had visitors from Eastern and Central Europe and South America. Tom also works with the New Hampshire Board of Licensure for Foresters, the New Hampshire Current Use Advisory Board, the New Hampshire Ecological Reserve System Steering Committee and the New Hampshire Forest Stewardship Committee. His enthusiasm and outstanding commitment to his work has a very important impact on the future of New Hampshire's beautiful woods.

I have known Tom and his family for many years. They are hard-working, dedicated farmers who embody the true spirit of New Hampshire. Tom's commitments to preservation and forest education are exemplary. I warmly congratulate Tom, Sheila, and Stacey for their outstanding accomplishment and well-deserved honor.•

TRIBUTE TO THE OLD TOWN MARCHING BAND

• Ms. SNOWE. Mr. President, I rise today to honor the Old Town Marching Band of Old Town, ME.

The band made the entire State of Maine proud with its extraordinary performance in the 1997 Inaugural Parade. Countless hours of practice and preparation go into such an effort, and the students' dedication to excellence was obvious and stood as a wonderful tribute to the late Old Town Superintendent of Schools, Dr. John Grady.

I was approached early last year by Dr. Grady, who shared with me his dream of having the Old Town Marching Band represent Maine at this year's inaugural parade. Sadly, Dr. Grady passed away, but his dream lived on in the hearts of bandmembers and the Old Town community. Old Town was one of more than 400 groups seeking to perform in the parade—only 23 were selected, and of those only 9 were high school bands.

Old Town's participation in the 1997 Inaugural Parade is the latest of a long list of accomplishments. The band is nationally recognized, having won numerous awards including first place at the 1994 Saint Anselm College New England Jazz Festival, the Jazz Ensemble Grand Champions at the 1996 Orlando Musicfest, and an award-winning appearance at the 1995 Cherry Blossom parade in Washington, DC.

Mr. President, this band represents the very best characteristics of America's young people. Band members set a goal of excellence and worked hard to achieve it, and I believe their efforts should be highlighted. In an era of conflicting and often dubious influences for young men and women, and in a time when negative stories abound in the media, our children should have positive examples to follow. That is why we should shine a spotlight on groups like the Old Town Marching Band, which represent the finest qualities and aspirations of America's youth. I salute the band as well as its director, Jeffrey Priest, for showing young people what can be accomplished through hard work and commitment.

In closing, I would once again like to thank the Old Town Marching Band for their tremendous contribution to the 1997 inaugural parade, and for making Old Town and the State of Maine very proud.•

TRIBUTE TO REYNALDO MARTINEZ

• Mr. REID. Mr. President, I rise today to pay tribute to my friend and chief of staff, Reynaldo Martinez. Rey has recently been chosen for the Community Hero Award by the National Conference of Christians and Jews, and I am proud of him for receiving this well-deserved honor.

I have known Rey since I was a boy. He and I have worked side by side since he ran my first campaign and got me as elected student body president of Basic High School in 1956. Since then, he has been my adviser, campaign manager, and chief of staff. In addition to helping take me from assemblyman, to lieutenant governor, to the U.S. Senate, he has had many other titles during his life, including teacher, lobbyist, coach, education advocate, and husband. To me, Rey is both a valued friend and a trusted adviser. To his country and the State of Nevada, he is a dedicated public servant and a tireless fighter.

In his boyhood days, Rey was a great baseball player who led his high school team to numerous victories. This left-handed pitcher played a leading role in Basic High's multiple State championships, as well as its championship of

the California Interscholastic Federation. In short, our tiny school in Nevada was so good, we beat all of the usually dominant California schools.

Rey's baseball talents led him to Arizona State University, where, in addition to his efforts on the field, he earned a degree in teaching. After graduation, Rey returned to Nevada to teach government and coach the Western High School baseball team to victory in two State championships. While he was teaching, Rey worked on a local Nevada campaign with Monroe Sweetland, an executive with the National Education Association [NEA]. Mr. Sweetland recognized talent when he saw it, and lured Rey away from the Clark County School District to work for the NEA in Washington, DC, and across the Nation. After 13 years with the NEA, Rey directed his innumerable talents to my government career.

For more than 30 years, Rey has been a key player in the public arena, both in Nevada and across the Nation. He is an invaluable asset to all of the organizations and campaigns to which he has lent his energy and skill. He has a quick mind and a political acumen which he uses to great effect for the causes he believes in. He has been recognized for his efforts by groups across the Nation, including twice being named Outstanding Hispanic of the Year—in 1990 by the Latin Chamber of Commerce, and in 1988 by the New Mexico Club in Las Vegas. In 1980, the National Education Association recognized Rey as one of its outstanding political and legislative consultants. He has also been honored as an outstanding teacher in Clark County and an outstanding baseball coach in Nevada. The Community Hero award is just the most recent in his distinguished list of accolades.

The goal of the National Conference of Christians and Jews is to end bias, bigotry, and racism. Through advocacy and education, the National Conference seeks to promote understanding in all races and religions. For someone who has done so much toward these worthy goals, and who has served his community so well, Rey is truly deserving of the title "Community Hero."

It is my pleasure to speak today in tribute to my friend Reynaldo Martinez, and congratulate him on being selected for this honor.●

NOTE

On page 1221 of the January 30, 1997, RECORD, during consideration of the nomination of William M. Daley, the question by the Presiding Officer is in error. The permanent RECORD has been corrected to reflect the following:

"The PRESIDING OFFICER (Mr. SMITH). The question is, Will the Senate advise and consent to the nomination of William M. Daley, of Illinois, to be Secretary of Commerce? On this question, the yeas and nays have been ordered, and the clerk will call the roll."

PROVIDING FOR SERVICE BY THE DIRECTOR OF THE OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 48 submitted earlier today by myself and Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 48) providing for service on a temporary and intermittent basis by the director of the Office of Senate Fair Employment Practices.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 48) was agreed to.

The resolution is as follows:

S. RES. 48

Resolved,

SECTION 1. TEMPORARY AND INTERMITTENT SERVICE.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Senate Fair Employment Practices.

(2) HEARING OFFICER.—The term "hearing officer" means a hearing officer appointed in accordance with section 307(b) of the Government Employee Rights Act of 1991 (2 U.S.C. 1207(b)) (as in effect on January 22, 1995).

(3) OFFICE.—The term "Office" means the Office of Senate Fair Employment Practices.

(b) DIRECTOR.—

(1) SERVICE.—The acting Director may continue to serve as the Director only on a temporary and intermittent basis, in accordance with a contract entered into with the President pro tempore of the Senate, on the recommendation of the Majority Leader and the Minority Leader of the Senate.

(2) CONTRACT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (b) of section 303 of the Government Employee Rights Act of 1991 (2 U.S.C. 1203) (as in effect on January 22, 1995) shall not apply to the service of the Director.

(B) EXCEPTION.—The contract shall include provisions concerning such service that are consistent with the last sentence of subsection (b)(1) of such section 303 of the Government Employee Rights Act of 1991.

(c) HEARING OFFICERS.—The President pro tempore of the Senate may extend, pursuant to an agreement between the President pro tempore and a hearing officer, a contract that was entered into by the Director and the hearing officer prior to the date of adoption of this resolution. The President pro tempore shall extend any such contract on behalf of the Office in the same manner and under the same conditions as a standing committee of the Senate may procure services on behalf of the committee under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)). The Director shall have no authority under subsection (c) of such section 303 of the Government Employee Rights Act of 1991.

(d) EXPENSES OF THE OFFICE.—

(1) APPROVAL.—The Office shall have no authority to approve a voucher under subsection (d) of such section 303 of the Government Employee Rights Act of 1991, except for the compensation of a hearing officer. The Office shall also obtain the approval of the Committee on Rules and Administration of the Senate for the voucher for the compensation of the hearing officer. The Office shall obtain the approval of the President pro tempore of the Senate and the Committee for any voucher required under such subsection for the compensation of the Director or for reimbursement of expenses for a private document carrier. The Director shall retain authority to make payments described in paragraphs (2) through (5) of the third sentence of such subsection.

(2) LIMITATIONS.—Payments described in paragraph (1) shall be made from amounts made available under subsection (e). The Office shall use the amounts to carry out the responsibilities of the Office in accordance with section 506 of the Congressional Accountability Act of 1995 (2 U.S.C. 1435).

(e) FUNDING.—The Secretary of the Senate may make available amounts, not to exceed a total of $5,000, from the resolution and reorganization reserve of the miscellaneous items appropriations account, within the contingent fund of the Senate, for use by the Office through September 30, 1997.

(f) EFFECTIVE DATE.—This resolution takes effect on January 31, 1997.

(g) TERMINATION.—This authority under this resolution terminates at the end of September 30, 1997.

EXPRESSING CONDOLENCES OF THE SENATE ON THE DEATH OF REPRESENTATIVE FRANK TEJEDA

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 49 submitted earlier today by Senators HUTCHISON and GRAMM.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 49) expressing condolences of the Senate on the death of Representative Frank Tejeda.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 49) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follow:

S. RES. 49

Whereas the Senate has learned with profound sorrow and deep regret of the passing of our colleague, the Honorable Frank Tejeda;

Whereas Representative Tejeda has spent 4 years in the House of Representatives;

Whereas Representative Tejeda served his country honorably in the United States Marine Corps from 1963 to 1967; and

Whereas Representative Tejeda was awarded the Purple Heart, the Silver Star, the Commandant's trophy, the Marine Corps Association Award, and the Colonel Phil Yeckel Award for "the best combined record in leadership, academics, and physical fitness": Now, therefore, be it

Resolved, That—

(1) when the Senate adjourns today, it adjourn as a further mark of admiration and respect to the memory of our departed friend and colleague, who left his mark on Texas and our Nation; and

(2) the Senate extends to his family our thoughts and prayers during this difficult time.

SEC. 2. The Secretary of the Senate shall communicate this resolution to the House of Representatives, and shall transmit an enrolled copy to the family of Representative Frank Tejeda.

ORDERS FOR WEDNESDAY, FEBRUARY 5, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the joint session is completed this evening, the Senate stand in adjournment until the hour of 11 a.m. on Wednesday, February 5.

I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted.

I further ask unanimous consent that there then be a period of morning business until 3 p.m. with Senators permitted to speak for up to 5 minutes each, except for the following: Senator COLLINS for 30 minutes; Senator THOMAS, or his designee, 60 minutes; Senator DASCHLE, or his designee, 60 minutes; and Senator ROTH, or his designee, 45 minutes.

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

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will automatically adjourn following the conclusion of the joint session this evening. Tomorrow, following the morning business, at 3 p.m., the Senate will begin consideration of Senate Joint Resolution 1, the constitutional amendment for a balanced budget. By a previous agreement, only opening remarks will be in order to Senate Joint Resolution 1 on Wednesday, and I would not anticipate a late night session.

Also, I remind my colleagues that the Senate may consider any additional nominations that become available this week. I understand there is still a possibility that we would have one or two that could be available on Thursday. We are hoping that is true.

Finally, I ask that all Members be present in the Senate Chamber tonight promptly at 8:30 p.m. so that we can proceed over as a group at 8:40 to the House of Representatives for the President's State of the Union Address.

ORDER FOR ADJOURNMENT

Mr. LOTT. Mr. President, I ask unanimous consent, pursuant to Senate Resolution 49, as a further mark of respect to the memory of the deceased Honorable FRANK TEJEDA, late a Representative from the State of Texas, that the Senate stand in adjournment until 11 a.m. tomorrow.

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

RECESS

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in recess until the hour of 8:30 p.m.

There being no objection, the Senate, at 6:19 p.m. recessed until 8:29 p.m.; whereupon the Senate reconvened when called to order by the Presiding Officer (Mr. SANTORUM).

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–1)

The PRESIDING OFFICER. The Senate will proceed to the Hall of the House of Representatives to hear the address by the President of the United States.

Thereupon, the Senate, preceded by the Assistant Sergeant at Arms, Loretta Symms; the Secretary of the Senate, Gary Sisco; and the Vice President of the United States, ALBERT GORE, Jr., proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, William J. Clinton.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress appears in the proceedings of the House of Representatives in today's RECORD.)

ADJOURNMENT UNTIL 11 A.M. TOMORROW

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 10:28 p.m., the Senate adjourned until Wednesday, February 5, 1997, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate February 4, 1997:

EXECUTIVE OFFICE OF THE PRESIDENT

JEFFREY A. FRANKEL, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS, VICE MARTIN NEIL BAILY, RESIGNED.