HOUSE OF REPRESENTATIVES—*Wednesday, February 26, 1997*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we read the words of the Psalms, O God, we are reminded that we can bring to You all our thoughts and our feelings, our hopes and our fears, our joys and sorrows. We are told that we should sing a new song, for You have done marvelous things and also that You will hear the prayers of our hearts and minister to us in our deepest need. Bless, O God, all those who turn to You with thanksgiving and praise for each new day and bless, too, all who seek from You the full measure of forgiveness and peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SHAYS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SHAYS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Idaho [Mrs. CHENOWETH] come forward and lead the House in the Pledge of Allegiance.

Mrs. CHENOWETH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WITHHOLD MEXICAN GOVERNMENT CERTIFICATION

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, I will make this very simple. Mexico is not a reliable ally in the war on drugs. Continued and pervasive corruption of Mexican law enforcement, including its top antidrug official, make the choice clear. A nation with between $10 and $30 billion in annual drug trade, whose law enforcement and government officials are estimated to receive almost half a billion dollars a year in bribes and whose antidrug czar was in the employ of one of Mexico's most wanted drug lords, does not deserve our certification.

Our Nation's young people are at risk. If we want to take a strong stand against drug use, then we must not certify a country with the kind of problems we are seeing in Mexico. We cannot close our eyes to the antics of Mexico's drug lords and the complicity of Mexican government officials just for the trade benefits.

While Mexican President Zedillo's efforts are encouraging, we need to see some real results. The results will not be forthcoming until the President of Mexico can get the support of the rest of the government with him.

Plain and simple: Certification can wait until then.

HEALTH INSURANCE FOR CHILDREN

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, today the House Democratic leader, DICK GEPHARDT, and the Senate Democrat leader, TOM DASCHLE, are sending a letter to Republican leaders GINGRICH and LOTT calling on Republicans to move forward on expanding health care coverage for children. Many Democrats, including the President, have developed proposals to ensure all children have health insurance, but to date Republicans have offered no plan while outright refusing offers from the President and congressional Democrats to incorporate a children-only health insurance program into a bipartisan congressional agenda.

Just yesterday, Mr. Speaker, the New York City public advocate, Mark Green, released a report on the growing number of uninsured citizens in New York. Among the report's many disturbing findings was that between 1990 and 1995 the proportion of New York's children who have no medical insurance increased by 6 percent. As of 1995, nearly 20 percent of New York's children, 1 of every 5, did not have health insurance. And an equally troubling finding was that some 22 percent of uninsured citizens, many of which are parents, actually work for companies of more than a thousand people.

Mr. Speaker, I believe the writing is on the wall: Those parents who work for large companies are finding it difficult, as are many, to adequately provide health insurance for their children.

HOSPICE

(Mrs. CHENOWETH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CHENOWETH. Mr. Speaker, I just experienced something we all know we will have to experience and do not want to. I just experienced my mother passing away. And you know, it is very interesting that, while this was a tragedy in our personal life, there was a silver lining to this cloud; and that was the discovery of hospice.

While this Nation has concentrated on new life and the beginning of life and the excitement of new life and youth, which is an understandable thing, America as a whole has not concentrated in helping one another with the death process and the grieving process and the process of losing loved ones. Hospice was there to help our family. Hospice proved to be far more support than I had ever dreamed of.

Hospice, in 72 percent of the cases, is a voluntary organization and supported by Americans across this Nation.

TRIBUTE TO TOM ROGERS

(Mr. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAPPS. Mr. Speaker, I want to take 1 minute to pay tribute to a man who is very much admired and respected and loved in our community. I refer to the 22d District of California.

Tom Rogers is an inspiring leader in the environmental movement. He is an able, compelling legislator; supervisor for Santa Barbara County. He is a human being of incomparable warmth, charm, positive, constructive spirit. He is currently involved in an all-out knock-down struggle with Lou Gehrig's disease.

I know I speak for all the citizens in our district in cheering him on and

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telling Tom Rogers and his family that he means the whole world to all of us. We thank him profoundly for all that he, his wife Katy, and the family have done for our community, but we also thank him for his high ideals and for the shoes that he gave me, without which I would not have won this seat in Congress.

We want to cheer him on and we ask that God will be his comfort and his strength.

MULTINATIONAL ORGANIZATION TO RULE ON U.S. IMMIGRATION POLICIES

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, it is inconceivable but true. A multinational organization, headquartered in another country, is about to rule on whether we here in the United States can establish our own immigration policies.

The World Trade Organization has set up a three-person panel which is hearing the challenge presented by the European Union against our overwhelmingly supported anti-Castro law known as Helms-Burton. That law says that anyone who knowingly trafficks in illegally confiscated property which belongs to a U.S. citizen will not be allowed into our borders. Protection of private properties is not only an American cornerstone, it is also international law. Cuba should be no exception.

The administration must make it quite clear that the United States will not allow any international organization to dictate our foreign policy, and we must assert our willingness to use the national security clause to defend the Helms-Burton law. Anything short of this will compromise our rights as an independent and sovereign Nation. The U.S. Congress writes our laws and not a multinational organization.

EIGHTY PERCENT OF ILLEGAL DRUGS COME FROM MEXICO

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in America today 80 percent of all heroin comes from Mexico; 80 percent of all cocaine and all marijuana comes from Mexico; 80 percent of all narcotics in your town, in my town comes from Mexico. It is so bad that Mexico's top government drug fighter was busted for helping drug traffickers.

And after all of this, reports now say that the White House is leaning towards certifying Mexico again as a cooperating partner in America's war on drugs.

Beam me up, Mr. Speaker. I do not know who is sleeping in Lincoln's bedroom, but I think a bigger question to be answered around here and in Mexico is who all is in bed with these Mexican drug dealers? Last I heard it was still Uncle Sam, not Uncle Sucker. Take a look at it and think about it.

TIME FOR THE BALANCED BUDGET AMENDMENT IS NOW

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, it is time for the balanced budget amendment. The time is right. It is our responsibility to present it to the American public. For too long many of my colleagues have sought to protect the pork that has become too heavy a burden for the American people to bear.

The time for scare tactics is over, Mr. Speaker. If opponents of the balanced budget amendment really want to protect the American family and its future, they need to end this constant pattern of false and destructive rhetoric and help us do what is right for the country.

Mr. Speaker, the arguments our opponents are using are simply wrong and they know they are wrong. The balanced budget amendment will not force cuts in Social Security. In fact, the balanced budget amendment is the only hope to save the program in the long run. Let me say it again: No one intends to cut or to touch Social Security. Mr. Speaker, funding for the collection and analysis of the striped bass, however, may have to get reeled in.

Mr. Speaker, we must all act responsibly for the good of the American people we were sent here to represent.

COMMUNITY PROSECUTION

(Mr. BLAGOJEVICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLAGOJEVICH. Mr. Speaker, this morning President Clinton allocated $16 million for juvenile drug courts. That is an innovative investment in our fight against crime. I am here today, Mr. Speaker, to talk about another powerful new strategy in crime fighting: Community prosecution.

With my bill to create a $10 million nationwide pilot program, we can put prosecutors in neighborhoods across the country to devise creative solutions that can attack conditions that breed crime.

For example, in Portland, OR, neighborhood prosecutors organized teams of residents to patrol business districts and areas plagued by car thefts. Car thefts have declined. When Portland's residents feared a burned-out building would become a gang hangout, Portland neighborhood prosecutors made sure the landlords rebuilt. Gangs dispersed.

These successes in Portland indicate that community prosecution is more than just a good idea. It works. We should expand on this Portland model and apply it nationwide.

RECOGNIZING EFFORTS OF THE AID ASSOCIATION FOR LUTHERANS

(Mr. MANZULLO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MANZULLO. Mr. Speaker, I rise today to recognize and commend the charitable activities of the Aid Association for Lutherans, branch 2543, located in McHenry, IL, in the district I represent.

This organization is well-known for its volunteer efforts to help improve the quality of life in the community. In 1995, AAL received an award from the local county board for recycling 315 tons of paper and 1,000 pounds of aluminum. It also donated $1,000 to Habitat for Humanity and participated in the construction of one of the homes.

In recognition of its outstanding volunteer service throughout 1995, AAL, branch 2543, received a gold star from its home office, one of several it has earned over time.

I take this opportunity to personally congratulate each member of the local for its selfless efforts to help others. It is a fine example of how ordinary citizens get together and meet the needs of their community. I wish it continued success.

JUVENILE JUSTICE PACKAGE SHOULD INCLUDE EDUCATION REFORM

(Ms. KILPATRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KILPATRICK. Mr. Speaker, soon President Clinton will announce his juvenile justice package for the United States of America. I stand here today asking that that package include education reform.

Education is the centerpiece of the President's commitment for this Congress. I am happy that he is allowing and going to increase the Pell grant; wanting to increase the Pell grant to 218,000 more young people. People who are educated function better in American society, more opportunities are available to them.

Any education package, any juvenile justice reform must include educational opportunities, must include opportunities in co-op work experiences, must include a business education partnership where we might give tax credits to those businesses

who hire young people. If we are going to have effective juvenile justice reform, we have to have education as the centerpiece of that. I pledge to work closely with the President to see that that happens.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. McDevitt, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 36. Joint resolution approving the Presidential finding that the limitation on obligations imposed by section 518A(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, is having a negative impact on the proper functioning of the population planning program.

The message also announced that pursuant to section 4355(a) of title 10, United States Code, the Chair, on behalf of the Vice President, appoints the Senator from Indiana [Mr. COATS], from the Committee on Armed Services, to the Board of Visitors of the United States Military Academy.

The message also announced that pursuant to section 6968(a) of title 10, United States Code, the Chair, on behalf of the Vice President, appoints the Senator from Arizona [Mr. MCCAIN], from the Committee on Armed Services, to the Board of Visitors of the United States Naval Academy.

The message also announced that pursuant to section 9355(a) of title 10, United States Code, the Chair, on behalf of the Vice President, appoints the Senator from Idaho [Mr. KEMPTHORNE], from the Committee on Armed Services, to the Board of Visitors of the United States Air Force Academy.

The message also announced that pursuant to Public Law 96–388, as amended by Public Law 97–84, the Chair, on behalf of the President pro tempore, re-appoints the following Senators to the United States Holocaust Memorial Council:

The Senator from Utah [Mr. HATCH],

The Senator from Iowa [Mr. GRASSLEY], and

The Senator from Alaska [Mr. MURKOWSKI].

The message also announced that pursuant to sections 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Connecticut [Mr. DODD] as Vice Chairman of the Senate Delegation to the Mexico-United States Interparliamentary Group during the One Hundred Fifth Congress.

The message also announced that pursuant to Public Law 96–388, as amended by Public Law 97–84, the Chair, on behalf of the President pro tempore, appoints the following Senators to the United States Holocaust Memorial Council:

The Senator from California [Mrs. BOXER], vice the former Senator from Rhode Island, Mr. Pell, and

The Senator from New Jersey [Mr. LAUTENBERG].

The message also announced that pursuant to Public Law 99–661, the Chair, on behalf of the Vice President, appoints the Senator from Michigan [Mr. LEVIN] as a member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation, vice the former Senator from Georgia, Mr. Nunn.

□ 1115

CAMPAIGN FINANCE REFORM

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, I would like to speak very briefly about campaign finance reform. The Congress should, and I believe we will, be working to fix the way we fund our campaigns. None of us wants to spend as much time as we do raising money. None of us wants to have to spend so much money every two years. I think that is a point that may be missed by many Americans.

What we want to do is have more time to work on those things which we think are good for America. However, reforming the campaign system will not be simple, and it will take time and effort. We must work together in a bipartisan way to achieve control in campaign spending, one that protects constitutional rights to contribute and participate in the political process.

Mr. Speaker, I hope that we can address these goals by increasing disclosure of where money comes from, reducing the role of soft money, enhancing the role of small supporters. Let us all work together to bring about needed campaign finance reform.

THE AIRING OF "SCHINDLER'S LIST"

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, on Sunday evening, NBC aired "Schindler's List", the epic film about the Holocaust directed by Steven Spielberg. Yesterday I was shocked to learn that a colleague here in this House criticized NBC for airing this movie, saying that it should outrage parents and decent-minded individuals everywhere.

This film was aired to educate and to enlighten decent-minded individuals everywhere. There is a difference between gratuitous violence and history. Is this film violent? Yes. Was the Holocaust violent? Yes. Is this film difficult to watch? Yes. And that is why NBC warned its viewers to use their discretion in allowing children to watch the film.

Steven Spielberg said that he would not allow his grade school children to watch, taking personal responsibility for monitoring his children's viewing habits, as all parents can and should do.

Mr. Speaker, NBC should not be condemned for showing this film. NBC should be commended for showing this film, a film that documents one of the darkest chapters of our world history, a chapter that we must never forget.

"SCHINDLER'S LIST": SO WE NEVER FORGET

(Mr. MCGOVERN asked and was given permission to address the House for 1 minute.)

Mr. MCGOVERN. Mr. Speaker, last Sunday night 65 million Americans watched the movie "Schindler's List" when it was shown without commercial interruption on NBC network television. At a time when there is heated debate over the lack of quality television programming, this movie is a shining example of what network television can do right.

This award-winning film depicts the horrors of the Holocaust in graphic and moving terms. More important, this is a true story. These were real events, real lives and deaths, real acts of human depravity and real demonstrations of human courage and dignity. These are the history lessons that all our children should learn, that human beings and their political ideology have often committed heinous crimes against humanity and that it must never ever happen again.

Mr. Speaker, I am outraged by the words of one of my colleagues, who has said that showing this film uncut on television should offend "decent-minded individuals everywhere." This is not a film where nudity and violence are gratuitous. This film is honest and direct, and that truth is often brutal and horrifying.

Mr. Speaker, may we show our respect for those who survived the Holocaust and perished in its wake by teaching our children about the dark moments in our shared history and by vowing that this will never ever happen again.

IN SUPPORT OF H.R. 668, AVIATION TRUST FUND TAX REINSTATEMENT

(Mr. FORD asked and was given permission to address the House for 1 minute.)

Mr. FORD. Mr. Speaker, I rise today urging my colleagues to support H.R. 668. This measure is critical to ensure that funds will continue to flow to the Aviation Trust Fund. The Memphis and Shelby County Airport Authority, located in my congressional district, is due to receive approximately $11 million in airport improvement grants

this fiscal year to complete construction of the third parallel runway at the Memphis International Airport. The airport authority is also expecting an additional $4 million for the Noise Compatibility Program.

I believe it is irresponsible, Mr. Speaker, to further delay capital improvements and threaten aviation safety at our Nation's airports. Furthermore, any Member of the Congress with a large airport in her district understands the serious needs of airport area residents adversely affected by aircraft noise.

Mr. Speaker, my congressional district is one of the Nation's top distribution centers, in part because the largest cargo airline in the world operates from our international airport.

Mr. Speaker, H.R. 668 is essential to commerce not only in the Ninth Congressional District but throughout the Nation and the world. I urge my colleagues to vote for H.R. 668.

SUPPORT FOR PRESIDENT'S PROPOSALS ON EDUCATION

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute.)

Mr. DAVIS of Illinois. Mr. Speaker, I take this opportunity to commend President Clinton for making education a priority. I agree that education is indeed the key and we as a Nation must unlock the door of opportunity so that all of our citizens can participate. Therefore, the money that President Clinton is asking for his budget proposal for education must be made available.

Mr. Speaker, we cannot have good schools, good teachers and quality education unless we are willing to pay the price. I do not believe that there is any price too high to pay for our young people to have an opportunity to direct the future of this Nation. Therefore, I urge that we support the education proposals that have been put forth by the President.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHAYS). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate is concluded on all motions to suspend the rules, but not before noon today.

ARMORED CAR RECIPROCITY AMENDMENTS OF 1997

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 624) to amend the Armored Car Industry Reciprocity Act of 1993 to clarify certain requirements and to improve the flow of interstate commerce.

The Clerk read as follows:

H.R. 624

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 "Armored Car Reciprocity Amendments of 1997".

SEC. 2. CLARIFICATION OF STATE RECIPROCITY OF WEAPONS LICENSES ISSUED TO ARMORED CAR COMPANY CREW MEMBERS.

(a) IN GENERAL.—Section 3(a) of the Armored Car Industry Reciprocity Act of 1993 (15 U.S.C. 5902(a)) is amended to read as follows:

"(a) IN GENERAL.—If an armored car crew member employed by an armored car company—

"(1) has in effect a license issued by the appropriate State agency (in the State in which such member is primarily employed by such company) to carry a weapon while acting in the services of such company in that State, and such State agency meets the minimum requirements under subsection (b); and

"(2) has met all other applicable requirements to act as an armored car crew member in the State in which such member is primarily employed by such company;

then such crew member shall be entitled to lawfully carry any weapon to which such license relates and function as an armored car crew member in any State while such member is acting in the service of such company.".

(b) MINIMUM STATE REQUIREMENTS.—Section 3(b) of such Act (15 U.S.C. 5902(b)) is amended to read as follows:

"(b) MINIMUM STATE REQUIREMENTS.—A State agency meets the minimum State requirements of this subsection if—

"(1) in issuing an initial weapons license to an armored car crew member described in subsection (a), the agency determines to its satisfaction that—

"(A) the crew member has received classroom and range training in weapons safety and marksmanship during the current year from a qualified instructor for each weapon that the crew member will be licensed to carry; and

"(B) the receipt or possession of a weapon by the crew member would not violate Federal law, determined on the basis of a criminal record background check conducted during the current year;

"(2) in issuing a renewal of a weapons license to an armored car crew member described in subsection (a), the agency determines to its satisfaction that—

"(A) the crew member has received continuing training in weapons safety and marksmanship from a qualified instructor for each weapon that the crew member is licensed to carry; and

"(B) the receipt or possession of a weapon by the crew member would not violate Federal law, as determined by the agency; and

"(3) in issuing a weapons license under paragraph (1) or paragraph (2), as the case may be—

"(A) the agency issues such license for a period not to exceed two years; or

"(B) the agency issues such license for a period not to exceed five years in the case of a State that enacted a State law before October 1, 1996, that provides for the issuance of an initial weapons license or a renewal of a weapons license, as the case may be, for a period not to exceed five years.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall take effect 30 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from New York [Mr. MANTON] each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 624, the Armored Car Reciprocity Amendments. All we need to do is watch the evening news to be aware of the problems faced by the Nation's law enforcement and security personnel. We live in increasingly dangerous times, where a badge is now a target and the lives of people wearing those badges are placed in grave danger on a daily basis.

Those who guard armored cars are no exception. Both the FBI and the armored car industry agree that there are more than 6 robbery attempts against armored cars every month. Sometimes these attempts result in the injury or death of the guard.

There is no question there is a strong need for these individuals to be armed. When this committee reported the Armored Car Industry Reciprocity Act in the 103d Congress, it recognized that fact. However, it also recognized that we need to keep weapons out of the hands of criminals and the untrained. While most States require substantial training in the safe and legal use of their weapons before they issue crew members weapons permits, we reiterated that sentiment when we required regular training and criminal background checks before a State's weapons permit could be entitled to reciprocity under our act.

The legislation of the gentleman from Kentucky [Mr. WHITFIELD], H.R. 624, the Armored Car Reciprocity Amendments of 1997, simply makes some technical changes in the original statute to better conform its requirements to the procedures in place in the majority of the States today. It still requires regular training and criminal background checks for armored car crew members, but allows States the necessary flexibility to issue permits according to their own procedures and their own timetables.

In fact, it differs from the House-passed bill in only one substantive respect, and that was in response to criticisms leveled by some Members of the other body who failed to pass this legislation during the last Congress.

It is a little known fact that the single largest interstate customer of the armored car industry is the Federal

Government. Private companies annually transport billions of dollars in currency, coin, food stamps, and other negotiable documents. Because we entrust these companies with the Nation's valuables, we have an obligation to ensure that their job in protecting these valuables is as easy as possible.

Mr. Speaker, that is why we need to enact H.R. 624. The gentleman from Kentucky [Mr. WHITFIELD] should be commended for his hard work in seeing this bill through. I would also like to thank the gentleman from New York [Mr. MANTON], the ranking minority member of the subcommittee, and the gentleman from Ohio [Mr. OXLEY] for their support in bringing this legislation to the floor.

Mr. Speaker, I urge all of my colleagues to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of this noncontroversial bipartisan legislation that will go a long way toward solving some of the problems currently confronting the armored car industry. These vehicles, privately or federally owned and operated, provide a valuable service for our Nation's financial institutions and businesses.

Unfortunately, this is an industry which not surprisingly is often the target of violent criminals. Attacks on armored cars not only result in the loss of untold amounts of property but all too often ends with crew members being seriously injured or killed. Every day millions of dollars of currency, food stamps, and other valuables are carried by armored cars on our Nation's highways, roadways, and local streets. The nature of this work requires these vehicles and their crews to cross State lines in order to make deliveries, pickups, and provide other essential services.

This legislation will facilitate the interstate transmittal of valuable cargoes by providing armored crew members the authority to carry firearms across State lines. The bill grants reciprocity for necessary licenses as long as all requirements of the crew's primary State have been met and that they have passed the requisite criminal background checks.

Mr. Speaker, over the last several years there has been a marked increase in the number of ATM machines and other financial service sites in this country. This in turn has led to more currency being transmitted on our roads, increasing the likelihood of attempted robberies and exposing crew members performing their duties to ever greater dangers. This legislation will ensure that armored car crews are able to adequately protect themselves, but will not in any way change Federal requirements for possession of a weapon or make it easier for anyone to receive a weapons license.

During hearings on this issue, we learned of a rather ludicrous situation where armored car crew members were actually taken into police custody because their weapons permits were found to be invalid in that particular State. As a result, not only were these employees inconvenienced but their armored car was actually left defenseless by the side of the highway for an inordinate length of time. Such examples highlight the importance of solving the current problems of inconsistent application of license requirements and renewal processes among the various States.

Mr. Speaker, I would like to thank both the gentleman from Kentucky [Mr. WHITFIELD] for crafting this legislation and Chairman TAUZIN for moving this bill so expeditiously through the Committee on Commerce. As an original cosponsor of H.R. 624, I urge all of my colleagues to support this commendable legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. WHITFIELD], the author of the legislation.

Mr. WHITFIELD. Mr. Speaker, I am pleased today that the House is taking up our legislation, the Armored Car Reciprocity Amendments of 1997, which is essentially the same legislation passed by the House without opposition during the 104th Congress. Unfortunately, time ran out in the Senate and they did not complete their work.

In the United States, armored cars are used to transport millions of dollars in currency, coins, food stamps, and other valuable property for both private entities and the Federal Government, and because of the value of the cargo, armored cars are often, as we would expect, the targets of crime.

□ 1130

This legislation addresses the problems encountered by the States in three ways. First, it grants reciprocity for both weapons licenses and any other permits or licenses required in a particular State so long as the crew member has met all of the requirements in the State in which he or she is primarily employed; second, it makes clear that it is the State which should conduct criminal background checks and permits the States to do so in whatever manner they deem appropriate; and third, it eliminates the requirement in the original act that renewal permits be reissued annually and permits States to follow their own timetables. These changes represent a major step forward in achieving the objectives of the original act.

Under the act as originally signed into law, only Illinois, Louisiana, Maryland, North Carolina, and Virginia met the requirements for reciprocity. With the changes under H.R. 624, 28 other States will qualify, and this will truly ease the flow of these valuable goods and interstate commerce.

It is important to note that there is nothing in this bill which makes it easier for someone to get a gun that should not have one in the first place. If the person is prohibited from possessing a weapon under Federal law, there is nothing in this bill to change that. Further, it continues to require regular criminal background checks and weapons training for armored car crew members. In short, it simply eases the regulatory burden on armored car crews and companies, makes their job easier while effectively maintaining public safety.

I want to thank particularly the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Ohio [Mr. OXLEY] and the gentleman from New York [Mr. MANTON] for their work on this legislation. I urge my colleagues on both sides of the aisle to support the legislation and thank them.

Mr. TAUZIN. Mr. Speaker, I commend the author of the legislation and now yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY], who, by the way, is the only serving former member of the FBI.

Mr. OXLEY. Mr. Speaker, I feel compelled to quote the great Yogi Berra and point out that consideration of this bill feels like déjà vu all over again. It was just last year that I stood on the floor, managed legislation virtually identical to the bill before us today. That is why I am pleased to join our friend, the gentleman from Kentucky [Mr. WHITFIELD], and the gentleman from New York [Mr. MANTON] again as cosponsor of H.R. 624, the Armored Car Reciprocity Amendments of 1997, and thank the gentleman from Louisiana [Mr. TAUZIN] for his leadership in this issue.

Armored car crew members have a very dangerous job. They transport billions of dollars' worth of valuables every year, which makes them an increasingly ripe target for attack by everyone from militias to drug gangs to common criminals. In fiscal year 1995, the FBI investigated nearly 70 armored car robberies. In the first 6 months of 1996, they investigated more than 30 new cases of robbery attempts against armored cars and their crews, and I know that it comes as no surprise that there were injuries and fatalities in a number of these cases, as pointed out by previous speakers.

Armored car crews are trained professionals who need to be able to protect themselves and their cargo against attack. This bill simply makes it easier for these companies and employees to operate safely and legally and safely in interstate commerce, and that is why I have supported this legislation in the past, why I continue to support it today.

Mr. Speaker, I urge all of my colleagues to support this important legislation.

Mr. TAUZIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I wish to congratulate my colleague from Kentucky [Mr. WHITFIELD] for what he has done on this bill and the gentleman from Louisiana [Mr. TAUZIN] for bringing this bill to the House floor.

In the United States armored cars are used to transport millions and millions of dollars in currency, coins, food stamps, and other valuable property. The Federal Government remains the largest customer to the armored car industry. As a result of their cargo, armored cars are often a target of crime. In order to protect the safety of both the cargo and the individuals responsible for its transport, we are once again considering amendments to the Armored Car Industry Reciprocity Act.

Mr. Speaker, I was pleased to have been an original cosponsor of similar legislation which passed the House unanimously during the 104th Congress.

The need for these amendments can be illustrated by an incident, a case in New Jersey, in which the operation of an armored car across the State lines almost ended in the loss of $40 million in very valuable Federal property. The armored car was stopped by a policeman for a traffic violation, and when the licenses were checked of the armored car guards, it is found that they did not have the proper permit, and they were arrested for carrying a weapon without a permit in that State. The armored car remained on the side of the highway overnight, containing $40 million worth of very valuable property. Had the amendments we are considering today been in place, the potential for a financial detrimental situation could have been avoided altogether.

I think it important, Mr. Speaker, to emphasize that these amendments do not place weapons in the hands of additional people. The reciprocity of the licenses extends only to those professionals who have obtained a weapons license in that primary State of employment, and of course when they get this permit, they must commit to a safety test, and their record is checked and a background check is made.

Since the genesis of this legislation involves the reciprocity of weapons licenses, I want to briefly mention legislation that I have introduced to allow reciprocity for concealed weapons, licenses that would be given to individuals. H.R. 339 establishes the right-to-carry parameters across State lines. It is my hope that my colleagues will join me in support of further reciprocity for gun owners.

Mr. Speaker, today we are faced with an easy task. By passing H.R. 624 we will remove the barriers that currently inhibit interstate travel of armored cars. It is senseless that armored car guards who have met the professional licensing requirements to carry a weapon in one State should be required to obtain a license in every State that they travel through when they are transporting their cargos.

So I urge passage of this bill and I again compliment the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Kentucky [Mr. WHITFIELD].

Mr. MANTON. Mr. Speaker, we have no more requests for time, so I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume merely to again thank the gentleman from New York [Mr. MANTON] for his extraordinary help and cooperation in moving this bill forward, and all the members of our subcommittee of the Committee on Commerce who participated in this effort, and I urge final passage of the bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to speak in support of H.R. 624, the Armored Car Reciprocity Improvement Act.

In the United States, armored cars are used everyday to transport millions of dollars in currency, coins, food stamps, and other valuable property for both private entities and the Federal Government. The value of this cargo is not in dispute, but the ability of those charged with the responsibility of transporting it is.

The legitimacy of those who currently transport cargo by armored car across State lines, must be universally recognized by all States. H.R. 624 will go a long way in accomplishing this goal.

This bill will accomplish several important functions for the armor car industry and its customers, who depend on the ability of armored cars and their attendants to function across the State lines.

The bill requires that a criminal background check be conducted on an individual applying for a firearms license only when that person applies for his or her initial license, and it clarifies that it is the State that must conduct the initial criminal background check, and not some third party.

Finally, this bill would establish that reciprocity be granted for both weapons licenses and any other permits or licenses required in a State, if the crew member has met all relevant requirements for working as an armored car crew member in the State in which he or she is primarily employed.

Currently, only five States meet the eligibility requirements for reciprocity under the Armored Car Industry Reciprocity Act of 1993. It is estimated that the change in the law proposed by this bill would enable 28 other States to become immediately eligible for reciprocity.

Mr. TAUZIN. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. SHAYS). The question is on the motion offered by the gentleman from Louisiana [Mr. TAUZIN] that the House suspend the rules and pass the bill, H.R. 624.

The question was taken.

Mr. TAUZIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 624 and to insert extraneous material into the RECORD on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

REPEALING FEDERAL CHARTER OF GROUP HOSPITALIZATION AND MEDICAL SERVICES, INC.

Mr. DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 497) to repeal the Federal charter of Group Hospitalization and Medical Services, Inc., and for other purposes.

The Clerk read as follows:

H.R. 497

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

SECTION 1. REPEAL OF FEDERAL CHARTER OF GROUP HOSPITALIZATION AND MEDICAL SERVICES, INC.

(a) REPEAL OF FEDERAL CHARTER.—

(1) IN GENERAL.—The Act entitled "An Act providing for the incorporation of certain persons as Group Hospitalization, Inc.", approved August 11, 1939 (53 Stat. 1412), is repealed.

(2) AUTHORIZATION TO FILE ARTICLES OF INCORPORATION.—Group Hospitalization and Medical Services, Inc. is hereby authorized to file articles of incorporation under the District of Columbia Nonprofit Corporation Act.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect upon the filing and effectiveness of articles of incorporation of Group Hospitalization and Medical Services, Inc. under the District of Columbia Nonprofit Corporation Act.

(b) EFFECTS OF BECOMING A DISTRICT OF COLUMBIA NONPROFIT CORPORATION.—Effective upon the filing and effectiveness of articles of incorporation of Group Hospitalization and Medical Services, Inc. as authorized in paragraph (2) of subsection (a), Group Hospitalization and Medical Services, Inc.—

(1) Shall be District of Columbia nonprofit corporation subject to the articles of incorporation;

(2) shall be deemed organized and existing under the District of Columbia Nonprofit Corporation Act, notwithstanding any of the provisions of section 4 of the District of Columbia Nonprofit Corporation Act regarding organizations subject to any of the provisions of the insurance laws of the District of Columbia;

(3) shall be legally domiciled in the District of Columbia;

(4) shall be regulated by the Superintendent of Insurance of the District of Columbia in accordance with the laws and regulations of the District of Columbia;

(5) shall continue to exist; and

(6) shall continue to be authorized to transact business—

(A) under existing certificates of authority and licenses issued to Group Hospitalization and Medical Services, Inc. before such filing and effectiveness,

(B) under the name "Group Hospitalization and Medical Services, Inc.", and

(C) under applicable laws and regulations.

SEC. 2. WAIVER OF CONGRESSIONAL REVIEW PERIOD.

Notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 1-233(c)(1), D.C. Code), the Hospital and Medical Services Corporation Regulatory Act of 1996 (D.C. Act 11-505) shall take effect on the date of the enactment of such Act or the date of the enactment of this Act, whichever is later.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. DAVIS] and the gentlewoman from the District of Columbia [Ms. NORTON] each will control 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 497 repeals the Federal charter of the Group Hospitalization and Medical Services, Inc., the Blue Cross/Blue Shield Plan of the National Capital Area.

GHMSI, as it is known, is the only insurance company to have a Federal charter. It was granted in 1939. Under the charter, provision is made for its repeal by Congress.

The GHMSI Federal charter has become an anachronism and an impediment to competition. This bill seeks to level the playing field. When granted in 1939, the District of Columbia Code did not have provisions to regulate such an entity. It has had such regulatory provisions now for a number of years. As recently as 1992 and 1993, Congress amended the charter to specify that GHMSI be domiciled in the District and governed by local laws and regulations. At the present time, GHMSI is subject to the District's Nonprofit Corporation Act and is under the jurisdiction of the Superintendent of Insurance.

By waiving the congressional review period for D.C. Act 11-505, as provided for in this bill, the new entity, upon acceptance of its articles of incorporation, will continue to be governed by local laws without a gap or a delay in enforcement. The bill authorizes GHMSI to file articles of incorporation under the District's Nonprofit Corporation Act. The new entity would continue to be governed under its existing certificate of authority and licenses and will continue to be bound by applicable laws and regulations. Local regulation would continue to be the responsibility of the Superintendent of Insurance of the District of Columbia.

H.R. 497 is necessary because of the significant changes which have occurred in health care delivery systems nationwide and in the Washington metropolitan area. These changes are the result of market-based reforms stimulated by the growth of managed care. Health care plans must now compete to survive. Successful plans must be keyed to consumers, markets, and products. All other Blue Cross plans in the country are State-chartered corporations operated under State regulatory oversight. GHMSI alone needs congressional approval to change its corporate structure.

These arguments are not theoretical. On January 14, 1997, Blue Cross/Blue Shield of the National Capital Area and Blue Cross/Blue Shield of Maryland signed a letter of intent to combine by forming a nonprofit holding company, with both plans as subsidiaries. This is subject to review by the insurance commissioners for Maryland, Virginia, and the District of Columbia, but without this bill Congress would also have to vote its approval. To require congressional approval of such an action puts GHMSI at a competitive disadvantage.

This bill is essential in order for GHMSI to fully compete in the marketplace and for the ability of subscribers in the region to obtain and maintain quality and affordable health care benefits.

Mr. Speaker, I want to make very clear that GHMSI will be the very same corporation after the repeal of the Federal charter as it was before the repeal of the Federal charter. This is merely a change in identity, form, or place of organization for the group health of GHMSI of the type recognized as a reorganization under section 368(a)(1)(F) of the Internal Revenue Code of 1986.

Mr. Speaker, I urge passage of this bill.

QUESTIONS AND ANSWERS REGARDING H.R.497, TO REPEAL THE FEDERAL CHARTER OF GROUP HOSPITALIZATION AND MEDICAL SERVICES, INC.

Q: What does this bill do?

A: It repeals the Federal Charter of Group Hospitalization and Medical Services, Inc. This is the entity that holds a license from the Blue Cross and Blue Shield Association to do business as Blue Cross and Blue Shield of the National Capital Area.

Q: Why repeal the federal charter?

A: To help regional consumers by giving the District Blues the same flexibility that all other health insurance companies in the country have. The charter has become an anachronism and an impediment to competition. GHMSI is the only health insurance company to hold a federal charter. This bill creates a more level playing field.

Q: When was the federal charter granted?

A: It dates back to 1939, when there was no local home rule in the District of Columbia and no local laws governing nonprofit health insurance companies. There is now a Superintendent of Insurance in the District and a local Nonprofit Corporation Act.

Q: How are other Blue Cross plans in the country treated?

A: All others are state chartered corporations operating under state regulatory oversight. GHMSI alone needs congressional approval to change its corporate structure.

Q: Does Blue Cross support this bill?

A: Yes. In fact, they requested it.

Q: Does the bill effect any other health insurance company in the country?

A: No. The bill, if enacted, would become part of the District of Columbia Code.

Q: Does the bill have any impact on federal employees?

A: No.

Q: Is the bill supported by District local officials?

A: Yes. It is supported by locally elected officials and by the control board.

Q: Does the bill change anything for Blue Cross subscribers?

A: Not at all.

Q: Does the bill have any direct effect on the federal budget?

A: No. The Congressional Budget Office and the Joint Committee on Taxation have so stated in writing.

Q: Has this bill been introduced before?

A: No. But it was included in the Omnibus Continuing Resolution passed by the House last year.

Q: Is there any known opposition to this bill at the present time?

A: No. Co-sponsors include members of the regional delegation from both sides of the aisle.

Q: Does the bill have any impact on for-profit health insurance companies?

A: No.

Q: How does this bill compare to the laws governing nonprofit health insurance companies in the bordering states of Maryland and Virginia?

A: It establishes comparability. The bill authorizes GHMSI to file articles of incorporation under the District's Nonprofit Corporation Act. The new entity would continue to be governed under its existing certificates of authority and licenses. It would continue to be bound by applicable laws and regulations. Local regulation would continue to be by the Superintendent of Insurance of the District of Columbia upon certification of the articles of incorporation.

Q: Is this bill strictly theoretical?

A: No. On January 14, 1997 Blue Cross/Blue Shield of the National Capital Area and Blue Cross/Blue Shield of Maryland signed a Letter of Intent to combine by forming a holding company, with both plans as subsidiaries. This is subject to review by the insurance commissioners for Maryland, Virginia, and the District of Columbia. Without this bill Congress would also have to vote its approval. To require congressional approval of such an action puts the Blues at a competitive disadvantage. Successful plans, reflecting market-based reforms, must compete to survive by being keyed to consumers.

Q: What about the waiver provision in the bill for D.C. Act 11-505?

A: This is necessary in order to ensure that there will be no delay and no gap in enforcement of local laws to the new nonprofit Blue Cross company authorized by this bill. D.C. Act 11-505 is the new Hospital and Medical Services Corporation Act enacted by the District government. It passed unanimously and was approved by the control board.

Q: Is there any known opposition to D.C. Act 11-505?

A: No. It was transmitted to Congress by the District Government on February 4, 1997.

Q: What happens if the congressional review period for D.C. Act 11-505 is not waived?

A: Then the enactment could not pass into the District Code until after H.R. 479 passes, hence creating a likely delay in enforcement. Thus, this section of the bill was included out of an abundance of caution.

Q: Why was D.C. Act 11-505 deemed necessary?

A: Because otherwise there would be no local laws governing GHMSI or its successor corporation in the District of Columbia. GHMSI is now operating under a consent order with the District of Columbia Insurance Administration. The original federal charter expressly exempts GHMSI from District Government regulation, though this was amended by Congress in 1992 to permit such regulation.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to begin by thanking the gentleman from Indiana [Mr. BURTON] for allowing us to expedite consideration of this bill, and I want to express my appreciation to the subcommittee chair, the gentleman from Virginia [TOM DAVIS], for his work in making certain that this bill came to the floor this morning.

Mr. Speaker, in August 1939 Congress granted a Federal charter to Group Hospitalization, Inc., which authorized it to arrange for the provision of hospital services on a nonprofit basis to individuals residing in the District of Columbia. This was necessary because, at the time, the District had no laws in place to regulate nonprofit health insurance companies and, of course, there was no self-government at the time, but this body was the legislating body for the District of Columbia. The District only had the means to regulate mutual insurance companies, which group hospitalization did not wish to become. As a consequence, Group Hospitalization, Inc. began its operations exempt from local regulation.

In October 1984, the charter was amended to expand Group Hospitalization's purpose beyond arranging for hospital services to include arranging for the provision of medical services on a nonprofit basis. This amendment also provided for a change of the company's name to Group Hospitalization and Medical Services, Inc., otherwise known as GHMSI. GHMSI is currently licensed by the Blue Cross and Blue Shield Association to do business as Blue Cross and Blue Shield of the National Capital area.

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In the early 1990's, GHMSI's management engaged in a wide range of questionable business practices which threatened the corporation's financial stability. The Senate Government Affairs Committee's Subcommittee on Investigations held hearings on the situation. The subcommittee determined that the situation might have been avoided had GHMSI been fully regulated by the District government.

To remedy this situation and protect the interests of the citizens served by GHMSI, the Congress amended its charter in both 1992 and 1993 to provide that it be licensed and regulated by the District government.

Last December, the District government enacted the Hospital and Medical Services Corporation Regulatory Act. This legislation establishes an improved statutory framework for the District's insurance administration to regulate GHMSI and any other similar nonprofit insurance corporations.

Last month GHMSI and Blue Cross and Blue Shield of Maryland announced that they had signed a letter of intent to combine their business operations through the formation of a nonprofit holding company. Both health plans will continue to operate as subsidiaries of the holding company. This arrangement is expected to enhance their financial stability and provide their members with access to a wider array of service providers.

The completion of this transaction would be made possible by the repeal of GHMSI's Federal charter. However, it would still be subject to regulatory reviews and approvals by the insurance commissioners of the District of Columbia, Maryland, and Virginia.

Today, GHMSI is the only federally chartered health insurance corporation. All other Blue Cross and Blue Shield plans and all other commercial insurance companies are State chartered and subject to State regulatory oversight.

In order for GHMSI to make a change in its corporate structure, the Congress would have to amend its charter. This is a burdensome process that encumbers GHMSI's efficient operation.

In order to enable GHMSI to compete within the insurance industry on a level playing field, it is appropriate that Congress grant its request to repeal the charter and allow the local government to exclusively regulate GHMSI's affairs.

This bill is fully in keeping with self-government and home rule. We therefore have before us, Mr. Speaker, a bill that facilitates the operations of a very important company located in the District of Columbia at the same time that it removes a remnant from the prehome rule period of the District of Columbia. So it serves the interests of all involved. I am pleased that it also serves the interests of the local governments in the neighboring regions as well.

Mr. CUMMINGS. Mr. Speaker, the proposal that we are considering today will help bring improved services and benefits to the many Blue Cross/Blue Shield subscribers in my district in Baltimore and to many of the constituents of representatives from suburban Maryland, Northern Virginia, and Washington, DC.

I commend the gentleman from Virginia for introducing this necessary legislation.

This bill extinguishes the Federal charter of Blue Cross/Blue Shield of the National Capital Area, which will permit it to organize and come under the jurisdiction of D.C. insurance laws—as it should have long ago. A merger between the National Capital area Blue Cross/Blue Shield and Maryland Blue Cross/Blue Shield will create a $3 billion-dollar-a-year nonprofit company—providing health care coverage to 25 percent of the 8 million residents of Maryland, the District, and the Northern Virginia suburbs.

Just as important, my constituents in Baltimore that are enrolled in the Blue Cross/Blue Shield plan will receive tangible results from the merger. It will increase competition, which will result in better service, more options, and access to a larger number of doctors, hospitals, and pharmacies at a lower cost for its customers.

The passage of H.R. 497 is essential to giving my constituents in Baltimore, and the constituents of the members of Maryland, Virginia, and Washington, DC the type of comprehensive, quality health care they deserve.

I am glad to know that we in Congress are doing all that we can to give health care providers greater flexibility to meet our constituents health care needs.

Again, I congratulate the gentleman from Virginia, Mr. DAVIS for introducing this meaningful legislation and for working with the minority in such a bipartisan fashion.

I urge my colleagues to suspend the rules and pass H.R. 497.

Mr. HOYER. Mr. Speaker, I rise today to express my support for H.R. 497, a bill to repeal the Federal Charter for Group Hospitalization and Medical Services, Inc., better known as Blue Cross and Blue Shield of the National Capital Area.

H.R. 497 eliminates an outdated arrangement under which GHMSI, alone among health insurance providers, has had to operate. H.R. 497 authorizes GHMSI to file articles of incorporation with the District of Columbia Nonprofit Corporation Act. The bill thus paves the way for GHMSI to become a District of Columbia nonprofit corporation—legally domiciled in the District of Columbia and subject to regulation by the superintendent of insurance for the District of Columbia.

GHMSI will continue to exist under the same name and will be authorized to transact business as it has—under all existing licenses and certificates of authority.

With the exception of GHMSI, Blue Cross Blue Shield plans and all other commercial insurance companies around the country are State chartered corporations operating under State regulatory oversight.

H.R. 497 will place GHMSI on an equal footing with other plans and health insurers—enabling it to continue to provide comprehensive and affordable coverage to residents of the District of Columbia and the Washington Metropolitan area, while meeting the challenges of a changing health care marketplace.

Of particular importance to my Maryland constituents, H.R. 497 will facilitate the proposed merger of GHMSI with Blue Cross and Blue Shield of Maryland. A recent letter of intent announced the plan to combine the business operations of the two entities under a single holding company.

This combination of business operations will provide a larger provider network—offering greater portability and choice, broader product options, and improved customer service to residents of the District of Columbia, northern Virginia, and Maryland who work in one area and reside in another.

I urge all of my colleagues to support this bill which will enable GHMSI to face the abundant challenges of the fast-changing health care marketplace and to compete and serve its customers on a fair and equal footing.

Ms. NORTON. Mr. Speaker, I yield back the balance of my time.

Mr. DAVIS of Virginia. Mr. Speaker, I urge the passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore [Mr. SHAYS]. The question is on the motion offered by the gentleman from Virginia [Mr. DAVIS] that the House suspend the rules and pass the bill, H.R. 479.

The question was taken.

Mr. DAVIS of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 479, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule 1, the Chair will now resume proceedings on approval of the Journal and put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained, and then on the motion to suspend the rules postponed from Tuesday, February 25, 1997.

Votes will be taken in the following order:

Approval of the Journal de novo; H.R. 624, by the yeas and nays; H.R. 497, by the yeas and nays; H.R. 668 by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DAVIS of Virginia. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 36, not voting 18, as follows:

[Roll No. 24]

YEAS—378

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Mica
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Weygand
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—36

Abercrombie
Borski
Brown (CA)
Chenoweth
Clyburn
Crane
DeFazio
English
Ensign
Fazio
Filner
Gephardt
Gillmor
Gutierrez
Gutknecht
Hastings (FL)
Hefley
Hilliard
Kucinich
Lewis (GA)
Menendez
Millender-McDonald
Miller (CA)
Oberstar
Pascrell
Pickett
Pombo
Ramstad
Rush
Sabo
Stearns
Thompson
Visclosky
Waters
Weller
Yates

NOT VOTING—18

Bilirakis
Buyer
Carson
Clay
Danner
Doolittle
Engel
Hostettler
Kaptur
Lantos
Largent
Linder
McCarthy (MO)
Morella
Reyes
Smith (OR)
Taylor (MS)
White

Mr. HILLIARD, and Mr. RUSH changed their vote from "yea" to "nay."

Mr. DELAHUNT changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore [Mr. SHAYS]. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

ARMORED CAR RECIPROCITY AMENDMENTS OF 1997

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 624.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana [Mr. TAUZIN] that the House suspend the rules and pass the bill, H.R. 624, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 16, as follows:

[Roll No. 25]

YEAS—416

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—16

Bono
Carson
Clay
Cooksey
Danner
Doolittle
Engel
Kaptur
Lantos
LaTourette
McCarthy (MO)
McInnis
Morella
Reyes
Smith (OR)
Taylor (MS)

□ 1228

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. McCARTHY of Missouri. Mr. Speaker, During rollcall vote No.'s 24 and 25 on the Journal and H.R. 624, I was unavoidably detained in transit. Had I been present I would have voted "yea" on both.

REPEALING FEDERAL CHARTER OF GROUP HOSPITALIZATION AND MEDICAL SERVICES, INC.

The SPEAKER pro tempore. [Mr. SHAYS]. The pending business is the question of suspending the rules and passing the bill, H.R. 497.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia [Mr. DAVIS] that the House suspend the rules and pass the bill, H.R. 497, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 15, as follows:

[Roll No. 26]

YEAS—417

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly

Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—15

Carson
Clay
Danner
Doolittle
Engel
Eshoo
Foley
Hoekstra
Hutchinson
Kaptur
Lantos
Morella
Reyes
Smith (MI)
Smith (OR)

□ 1238

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AIRPORT AND AIRWAY TRUST FUND TAX REINSTATEMENT ACT OF 1997

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 668.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARCHER] that the House suspend the rules and pass the bill, H.R. 668, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 347, nays 73, not voting 12, as follows:

[Roll No. 27]

YEAS—347

Abercrombie
Ackerman
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Castle
Chambliss
Christensen
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cook
Costello
Coyne
Cramer
Crane
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Herger
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Riggs
Rivers
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Sessions
Shaw
Shays
Sherman
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Sununu
Tanner
Tauscher
Thomas
Thompson
Thune
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates

NAYS—73

Aderholt
Andrews
Barr
Burton
Cannon
Chabot
Chenoweth
Coburn
Condit
Cooksey
Crapo
Cubin
Deal
Dickey
Dreier
Forbes
Gibbons
Gilman
Graham
Hall (TX)
Hefley
Hill
Hilleary
Hilliard
Hoekstra
Hostettler
Hunter
Jones
Kasich
Kingston
Klug
Kucinich
Largent
Maloney (CT)
McIntosh
Mica
Myrick
Neumann
Norwood
Pappas
Parker
Paul
Pickering
Pombo
Riley
Roemer
Rogan
Rohrabacher
Royce
Ryun
Salmon
Sanchez
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Shadegg
Shimkus
Snowbarger
Souder
Stearns
Stump
Talent
Tauzin
Taylor (MS)

Taylor (NC)	Tiahrt	Young (AK)
Thornberry	Upton	Young (FL)

NOT VOTING—12

Carson	Dingell	Lantos
Clay	Doolittle	Reyes
Cox	Engel	Smith (MI)
Danner	Kaptur	Smith (OR)

□ 1251

The Clerk announced the following pair:

On this vote:

Ms. Danner for, with Mr. Smith of Michigan against.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ENGEL. Mr. Speaker, I announce that I was necessarily absent from roll call votes 24, 25, 26, and 27. On roll call vote No. 24, I would have voted "aye." On roll call vote No. 25, I would have voted "aye." On roll call vote No. 26, I would have voted "aye." On roll call vote No. 27, I would have voted "aye."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1.

The SPEAKER pro tempore [Mr. SHAYS]. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

ELECTION OF MEMBERS TO COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. PAPPAS. Mr. Speaker, I offer a resolution (H. Res. 78) and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the following named Members be, and they are hereby, elected to the following standing committee of the House of Representatives:

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE: Mr. Fox of Pennsylvania; Mr. Davis of Virginia; Mr. LoBiondo; and Mr. Watts of Oklahoma.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

"SCHINDLER'S LIST"

(Mr. LAMPSON asked and was given permission to address the House for 1 minute.)

Mr. LAMPSON. Mr. Speaker, while noting the misplaced outrage of other Members of this body, I would like to express my admiration and thanks to NBC and to Ford for airing "Schindler's List" this weekend. I would like to thank the filmmaker, Steven Spielberg, not only for his brilliant film but also for his recommendation, broadcast before the film began Sunday evening, that the film may not be suitable for young children. Perhaps my colleague from Oklahoma was still at the refrigerator at that time.

I watched "Schindler's List" alongside my daughter and found it as moving a film as I have ever seen. Any allegation that any aspect of this story is gratuitous or improper would be laughable if it were not so sad. Our own great Nation is still plagued by hate crimes 221 years after being founded as a nation of freedom and equality. We watch with horror as churches and synagogues are burned and cemeteries are desecrated in our communities.

Mr. Speaker, the best way to fight hatred and intolerance is with truth about the most egregious crime against humanity in modern history, the Holocaust.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO THE TOWNSHIP OF CRANBURY, NJ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PAPPAS] is recognized for 5 minutes.

Mr. PAPPAS. Mr. Speaker, this year a community in my district, one of the oldest towns in the State of New Jersey, Cranbury Township, celebrates its tercentennial, 300 years since the time that it was founded.

Cranbury certainly looks different than it did back in 1697 but its residents have done a remarkable job in maintaining its historic qualities. While it has adapted to changing times, it has held firm to its roots.

Cranbury is a model of what many towns strive to be and what many people look for in a community. It is the kind of town that you read about, a place where people say hello on the street and look after each other.

□ 1300

Many people probably remember the theme song to the popular television show "Cheers." There is a line in the song that epitomizes what it is like to live in Cranbury. It is a place where everybody knows your name.

One drive down Main Street is all it takes to take hold of the hearts of the visitors. It reveals distinct beauty and history that makes the town the subject of pride for its residents and an unforgettable memory for visitors. As you walk down the street, you cannot help but get nostalgic.

Main Street itself is literally layered deep in American history. This modern-day paved road that runs through the center of the town was once an Indian trail, then a stagecoach road, and then a road partially covered with stone cinders and then laid with gravel.

Main Street was also where, on June 26, 1887, General George Washington stopped with his troops and established a temporary headquarters to lay out the plans that led to the Battle of Monmouth during the American Revolution.

As residents and visitors drive or stroll down Main Street, they cannot miss one of the town's principal attractions, Brainerd Lake. There is a colonial house right next to the lake that is so picturesque and tranquil that I am told at least once a week a visitor offers to buy it. Looking at that house by the lake makes you think that for many people this is the American dream come true.

Beyond its recreational uses and its sheer beauty, the brook off the lake has been used as a source of power and business since the mid-1700's. It provided power to a grist mill, a saw mill, and even ice harvesting.

Cranbury Township is more than a lake or a Main Street, it is America. The tercentennial celebration, which has been led by Betty Wagner, recognizes much more than the town's mere existence, the landmarks, and history. As we pause to pay tribute and recall the past of this community, we look forward to its future.

In 1980, the National Park Service recognized the historic, cultural, and architectural importance of Cranbury by listing the Cranbury Historic District in the National Register of Historic Places. The town's 18th and 19th century architecture has been maintained and can still be seen in its buildings and homes.

I would like to recognize the efforts of Mayor Alan Danser and the township committee, the tercentennial committee, the Cranbury Historical Preservation Society, and all the residents of Cranbury who have played a role in this year's celebration.

As the people of Cranbury look back on all that has occurred during the past 300 years, they stand at the crossroads between the past and the future, steadfast in their commitment to preserving the landmarks and values in the finest tradition of our country. It is in these values of the past that we find the many solutions for the future.

In conclusion, the people of Cranbury have made an investment in the future by preserving the past. Not only do they share their history, their landmarks, and their stories but they share

their values. In these days of the Internet, fax machines, and teleconferencing, it is reassuring to know that America still has places like Cranbury that people can call home.

PARTIAL-BIRTH ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. CANADY] is recognized for 5 minutes.

Mr. CANADY of Florida. Mr. Speaker, in partial-birth abortion, the abortionist forcibly turns a child into the breach position, pulls the living child by the leg out of the mother until only the head is left inside, stabs the child in the base of the skull, and removes the child's brain, then pulls the now dead child out of the mother.

This is a horrible procedure to describe, but it is a procedure which is being performed in this country today, and it is now a matter of public record that this type of abortion is performed at least several thousand times per year in the United States, primarily in the fifth and sixth months of pregnancy; that is, the second trimester, although sometimes in the third trimester, and mainly on healthy babies of healthy mothers.

The press and abortion advocates are finally beginning to admit the truth about this horrible procedure. The New York Times this morning reported that an abortion rights advocate admitted that he lied about partial-birth abortion just as Planned Parenthood, the National Abortion Federation, and the National Abortion Rights Action League claim that partial-birth abortion is a rare procedure used only under narrow circumstances such as when a mother's life or future fertility is threatened.

Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, says that he intentionally lied through his teeth, and I quote him, when he repeated these claims to a Nightline camera. He said he was physically ill after the episode and told his wife that he could not do it again.

The New York Times reported that Mr. Fitzsimmons says the procedure is performed far more often than his colleagues have acknowledged and on healthy women bearing healthy fetuses. The abortion rights folks know it, he said.

The Times took some of its information from an American Medical News article in which Mr. Fitzsimmons was interviewed. Fitzsimmons told the American Medical News that proabortion spokespersons should drop their spins and half-truths. He explained that the disinformation has hurt the abortionist he represents and said, "When you're a doctor who does these abortions and the leaders of your movement appear before Congress and go on network news and say these procedures are done in only the most tragic of circumstances, how do you think it makes you feel? You know they're primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret."

Based on the false claims of abortion advocates, a so-called compromise to a partial-birth abortion ban is being offered by Senator DASCHLE and President Clinton. The truth of the matter is, it is no compromise at all. In truth, it is irrelevant to partial-birth abortions.

The so-called compromise would ban partial-birth abortions performed in the third trimester except when they are necessary to preserve the life or the health of the mother, but the vast majority of partial-birth abortions are performed in the second trimester.

With regard to third trimester abortions, the bill's health exception effectively permits all abortions. The Supreme Court interprets health abortions to include all those related to social, psychological, financial, or emotional concerns.

The truth is, partial-birth abortion is never necessary. Hundreds of physicians and fetal maternal specialists along with former Surgeon General Koop have come forward to unequivocally state that partial-birth abortion is never necessary to preserve a mother's life or health or to preserve her future fertility. In fact, the procedure can significantly threaten a mother's health or ability to carry future children to term. Abortion advocates should stop trying to deceive the public with their phony ban.

In the American Medical News article, Mr. Fitzsimmons said the pro-choice movement has lost a lot of credibility during this debate not just with the general public but with our pro-choice friends in Congress. I think we should tell them the truth, let them vote, and move on.

Mr. Speaker, he is right. Abortion advocates should tell the truth about partial-birth abortion, Congress should vote to ban this horrible procedure, the President should sign the ban, and we should move on.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 1

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor on House Joint Resolution 1. It was placed there accidentally, and I ask that it be removed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, the politics of loopholes has angered the general public. We need to stop procrastinating about changes that need to be made in our campaign financing. There are some large loopholes you could run a truck through without violating the law. If we can't agree on all the changes and reforms that are on the table for discussion, at the very least we can close the loopholes.

Today, candidates for Federal office may obtain unlimited, unsecured loans from banks to finance their campaigns. Banks are able to bankroll their chosen candidates by obtaining a mere signature on a loan form without obtaining security for repayment, as is customary in their normal course of business.

I call upon this House to investigate how many unpaid, unsecured loans there are to Federal candidates.

When do these unpaid loans, secured by no assets, become an illegal contribution by a bank?

If a bank is not permitted by law to make a contribution to a Federal candidate, how is it allowed to make an unsecured loan? And what happens when this loan is not repaid? Who gets stuck? All the bank's depositors?

I have introduced a bill, H.R. 783, that prohibits all Federal candidates from making an unsecured loan.

This bill also requires that such unsecured loan be repaid within 90 days after the enactment of the bill, and in the interim, prohibits candidates who currently have an unsecured loan from accepting personal funds from a board member or officer of the bank who holds the loan.

I urge my colleagues to join me in closing at least the one obvious loophole in the law.

In Hawaii the Hawaii State Legislature is concerned about the same thing. The senate bill introduced by Senator Matt Matsunaga, provides that all loans must be repaid by that general election day and if not, the unpaid portion becomes an illegal contribution.

I agree that his bill is a step in the right direction, but it does not go far enough as noted by the Honolulu Adviser.

Let's close the temptation, totally. Let's not allow banks to bankroll any election with hundreds of thousands of dollars even if it is repaid by election day. The ability of banks, using depositors' money, to advance moneys to a candidate is wrong and invites corruption. This practice must be outlawed. My bill, H.R. 783, does that. I urge my colleagues to cosponsor this necessary first step.

□ 1315

FALSE BOMB THREAT PENALTY ACT OF 1997

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Mrs. KENNELLY] is recognized for 5 minutes.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise today to talk about legislation that I plan to introduce later

this afternoon. This legislation is titled "False Bomb Threat Penalty Act of 1997."

Unfortunately, in this day and age, we are concerned about bombings. We have a situation now in the State of Georgia that is causing great concern because there have been incidences of bombing. We have to take those situations very, very seriously.

I am introducing a piece of legislation that has to do with what we have to worry about in everyday life all across these United States, and this is the fact that there are false bomb threats. This legislation that I am going to introduce will institute a mandatory minimum penalty of 1 year for anyone willfully making a false bomb threat.

Current law allows a sentence of up to 10 years or a fine if one does this, or both, for placing a false bomb threat, but I believe we must institute a more stringent penalty for the commission of this crime. A clear message must be sent that we will no longer tolerate actions like false bomb threats which can cause injury to property and to life.

One constant concern about false bomb threats is that injuries can occur when individuals, often in panic, evacuate a building or a home. Another concern, one that I am very concerned about and have seen this type of action happen, is just the opposite of what I have just talked about, and that situation is when repeated bomb threats happen, we can have the situation of apathy. If this occurs, people may not evacuate and serious injury or death can occur if a bomb does exist, and this has to do with the very basic tenets of public safety.

This crime should not be tolerated, and I believe it is important to send a clear message to individuals who engage in making a false bomb threat that there will be repercussions for their actions.

We must continue our efforts to remain tough on crime. We read that by being tough on crime we are seeing the statistics go down, we are seeing everyday life being made better, and we have to work continually. We as lawmakers have to be very sure that we are involved constantly in making sure that we have the most secure environment for the people in these United States. Something as basic as this type of situation should not be tolerated and this legislation would make it known that one cannot in fact take advantage of others and make false bomb threats.

REAL HISTORY TEACHES REAL LESSONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I rise today to discuss a topic that is being debated today in our media regarding the NBC airing of "Schindler's List" on Sunday night.

One of my colleagues has taken offense to the airing of the show because it depicted nudity and violence on TV where our children would watch. I deeply respect my colleague and his point of view, but I have to stand today and first and foremost congratulate NBC News for airing uninterrupted a 3\1/2\-hour movie of one of the worst tragedies in our global history.

I must also add that the rating system voluntarily initiated by TV broadcasters was used that night. I must also reiterate that Steven Spielberg, creator of the movie, came on with a personal appeal to allow parents to know that what they were about to see would be graphic, violent, and they should caution their children against watching this show.

Mr. Speaker, this movie is real. The events of the Holocaust are real. This is not fantasy, this is not Disney World, this is not make believe, this happened to real people. Their possessions were taken from them, their clothing was stolen, their lifelong belongings were stolen, and they were executed and murdered by Nazis.

This was not some rating attempt to boost revenues. Ford Motor Co. paid for the entire production of the show that evening without running a commercial, the first time I can remember networks ever giving up commercial rights during a broadcast.

Superbowl, $200,000 for a 30-second ad went like that, a full lineup of commercials during Superbowl, made lots of money. NBC News chose to not take revenue, because America and every person on this planet needs to know the truth about the Holocaust, needs to know what happened, needs to see the historical significance of a tragedy that occurred so that they can become sensitive to the issues that confront us in this country.

It is not enough to talk about anti-Semitism and trying to eliminate it in America; you need to know the roots of the problems of why people have been hurt and harmed. We talk about civil rights. We have to understand from a black person's perspective of where we have been in America, where they were denied access to water fountains, where they were made to sit in the back of the bus, where they were treated as second class citizens. It is only through history will our children learn to become sensitive to the things that can change the course of history.

Yes, it was a tragic, tragic show, and I watched it Sunday night myself, and I have seen it before, and I thought as that movie went on and on how these people felt, how they were herded off to their deaths by a demonic creature who was murdering millions of Jews because they were Jews, and we are not supposed to tell that story.

We are not supposed to air it on TV, we are supposed to pretend it did not happen. We are supposed to make up some whole new story and put people in clothes and not show the gunshot wounds to the head. We are supposed to camouflage all of that destructiveness, that evilness, so that we can show people something that is not even a true portrayal.

Then we have calls for government to make mandatory ratings. So 10 or 20 years from now we may never know what happened. We may not know the tragedies that are going on in Cuba today with Fidel Castro in charge because we are not allowed to talk about it. We cannot portray what is really happening in our globe. I am frightened for the children in our society that are not being told the truth.

But the one thing that I feel so great about in this country is when I look at the young people, they are embracing each other, blacks, whites, Hispanics, Catholics, Jews, Protestants, because they believe in order for this world to survive we must be together as one people, regardless of race, color, creed, or ethnicity, one people.

That is my hope for our future in this country, that we will join together in a spirit of democracy and freedom for each and every one of us, regardless of where we were born, what our last name is or what the color of our skin is. But it will not happen if we cannot tell the truth, it will not happen if we cannot tell it like it is.

So for the Government to get in the rating business now and say we are going to have mandatory ratings and take away the historical importance of the show I watched Sunday night and was proud to view simply because it told me something about what happened at that horrible event. So I urge people around America to call and support what NBC showed on Sunday night, because I think that is what America is about, telling the truth.

Mrs. KENNELLY of Connecticut. Mr. Speaker, if the gentleman will yield, I would like to associate myself with the remarks of the gentleman.

THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, an earlier speaker today referred to the balanced budget amendment that will be on the floor sometime in the near future as being very important for our families, our businesses, the States, and particularly for our families, and I agree with him in that regard that what this vote will be about is very important to the families.

Mr. Speaker, let me ask, what family thinks it makes much sense to say that

you have to pay for your house in 1 year that you cannot mortgage over 20 years. You cannot borrow to buy that house, instead you have to pay for it in 1 year. What business could operate if you told it that it cannot borrow, and it cannot amortize over several years for those expensive buildings or pieces of equipment or whatever, but it must pay for them in one. What State government can operate if you told it that it could not borrow or issue bonds for the roads, the bridges, the infrastructure, the water, the sewer systems, the airports that make it grow?

The reality is that if you went to any business, State, or family and said you have to live by the terms of this balanced budget amendment that this Congress is about to put into the Constitution, they would say, you are crazy, because we all know that we have to borrow for those things that bring longer returns. We have to borrow for the roads, the bridges, we have to borrow for the business equipment, the shell buildings, the industrial parks, and we have to borrow to put our children through school and we have to borrow for our mortgage.

I was attending a meeting recently at Shepard College in West Virginia in which a student talked about why she had borrowed thousands of dollars, receiving financial assistance, and the reason is because she knew that was her future and that thousands of dollars would be repaid countless times over. That is what this is about.

No business, State, or family would voluntarily accept the terms of this balanced budget amendment that will be voted on by this House, because they know they could not operate under it. It is bad enough that the Federal budget currently operates this way. It is even worse that some would think of putting this into the Constitution of the United States. If you are going to put it into the Constitution of the United States to have this kind of requirement, then set it up like businesses and States and families do. And that is, you have capital budgeting. You permit a separate account for the investments in the roads, the bridges, the water, the sewer systems, the airports.

I was delighted to see last night and to receive a call from the White House last night that President Clinton has created a Capital Budgeting Commission. This is similar to legislation that I introduced and a number of my colleagues here in the House cosponsored last year to set up a commission to look at and evaluate capital budgeting for the Federal budget. This makes possible the investments and the infrastructure, the physical infrastructure that are so crucial, and I look forward to seeing whom the President names to this Capital Budgeting Commission and the report that it makes.

Once again, if you are going to have a balanced budget amendment in the Constitution, at least look at the substitute that I have offered the last two times and will be offering again that would require a capital budget.

Likewise, to take Social Security off budget. The fact is that Social Security runs a $60 billion surplus this year and has for the last few years. That is $60 billion more coming in because of Social Security than Social Security is paying out. That money is necessary for the year 2019 and the years thereafter when you do not have as much coming in. So why should that not be off budget, because if you do not take it off budget then it masks the size of the true deficit.

Every one of my colleagues, I dare say, or almost everyone who has been here longer than 6 months, has voted sometime in the past few years, we do it usually about once a year, to take Social Security off budget. We have passed more resolutions and statutes and budget resolutions and budget language saying Social Security is off budget. So if it ought to be off budget, then why should it not be off budget in a constitutional amendment that deals with balancing the budget? None of this will take it off budget in 2005 or something. What happened to it up until the year 2005?

So those are the reasons that many of us oppose the language that will be voted on here today. Indeed, we have been actively involved in balancing the budget. That is why the budget deficit has dropped from $300 billion to $107 billion, why it is at the lowest point it has been since 1974, why it is the lowest in the industrial world right now, is because of the deficit reduction efforts that have been made over the past several years on a bipartisan basis. But if we are going to have a balanced budget amendment in the Constitution of the United States, then we are saying we are doing it because we want the Federal budget to be balanced like States balance their budgets, like businesses balance their budgets, like families balance their budgets, then for Pete's sake at least put in the same mechanisms by which States, businesses, and families balance their budgets, and that is to have a capital budget, an investment budget to permit borrowing for those long-term items that give you back far more than you ever pay.

□ 1330

DISINFORMATION, MISINFORMATION, AND LACK OF KNOWLEDGE ON THE PART OF EUROPEAN LEADERS REGARDING LEGISLATION OF THE UNITED STATES

The SPEAKER pro tempore [Mr. SHAYS]. Under the Speaker's announced policy of January 7, 1997, the gentleman from Florida [Mr. DIAZ-BALART] is recognized for 60 minutes as the designee of the majority leader.

Mr. DIAZ-BALART. Mr. Speaker, last week I had the privilege of being a member of a delegation from our Congress to the European Parliament. Occasionally meetings take place between parliamentarians from Europe and from the United States. As I say, I had the privilege of being part of our delegation, led by the distinguished chairman of the Committee on International Relations, the gentleman from New York [Mr. GILMAN]. I had the opportunity to meet with parliamentarians and leaders from various capitals of the European Union to delve, to dive into a number of very difficult challenges facing Europe at this moment.

For example, there was the issue of the necessary peace in Northern Ireland, an extraordinarily difficult challenge for the good people of that area, and the amount of learning that I did was truly, I think, interesting on that very complicated issue because of the importance that this issue holds, not only for, obviously, the people of Ireland but for the people of the United States.

Mr. Speaker, what was interesting about every single meeting, what was constant about every single meeting that we had with leaders from different capitals in the European Union, is that with regard to our legislation, the legislation that we in Congress here in the United States adopted a year ago on Cuba, there is a tremendous amount of disinformation, misinformation, lack of knowledge, as I say, Mr. Speaker, that was manifested time and time again in meetings that we held with European leaders from throughout the capitals of the European Union.

It was extraordinary that time and time again, we had to explain to the Europeans that the Cuban Liberty and Democratic Solidarity Act passed by this Congress, commonly referred to as the Helms-Burton legislation, when it sanctions foreigners who traffic in stolen property, property stolen by the Cuban dictator, we had to explain time and time again to European leaders that the legislation deals with and applies to only property stolen from American citizens.

I was flabbergasted at the ignorance demonstrated time and time again by the European leaders on this issue. They talked about what they referred to as the extraterritoriality of our legislation. We would tell them that even though we would have liked to see a ban on investment in the slave economy that Castro in Cuba maintains, we cannot do that, and we did not do that in the legislation we passed a year ago; legislation, by the way, Mr. Speaker, which was exactly 1 year ago today, February 26, endorsed by President Clinton after, 2 days earlier, four American citizens or residents of the United States were cruelly, viciously, unjustifiably murdered over international waters in unarmed civilian

aircraft by the Castro dictatorship, pursuant to the direct and explicit order previously given by the Cuban dictator.

So it was 2 days after that happened, that act of terrorism, which was subsequently found to be an act of terrorism, totally unjustified, unjustifiable by the United Nations, it was 2 days after that act of terrorism by the Cuban dictator that President Clinton endorsed publicly what was then a bill, legislation pending before Congress, and a few days after that, on March 12, 1996, President Clinton signed the legislation into law.

What was amazing, Mr. Speaker, was that in meeting after meeting Europeans did not know, when they would refer to extraterritoriality, that the only extraterritoriality in this debate, the only extraterritorial conduct in this debate is what the Europeans now are seeking to justify, which is that their investors, they say, should have the right to knowingly go into Cuba and traffic in property stolen from American citizens.

That conduct is extraterritorial, Mr. Speaker. That is not conduct that is taking place in Europe. That conduct which they are seeking to defend, that indefensible conduct, is extraterritorial. It is taking place in another hemisphere, in the Western Hemisphere, specifically in the oppressed island of Cuba. That is the only extraterritorial conduct at issue in this debate, the unjustifiable conduct they are trying to defend.

What our law does, what our law says in its immigration chapter, is that if you are a foreigner who knowingly traffics, deals in property stolen from an American citizen, and after having the opportunity to divest from that stolen property you fail to do so, in other words, you knowingly and purposefully, and after having the opportunity to divest do not do so, continue to deal in stolen property from American citizens, that then under our immigration laws you are excluded from the United States.

We have said we do not want people to be admitted to the United States who knowingly deal in stolen property from American citizens. So we had to explain that to Europeans, and we were, as I say, shocked at the amount of ignorance they manifested in meeting after meeting.

But they not only have manifested ignorance on this issue, Mr. Speaker. They have gone so far as to take this issue, this foreign policy decision made by the U.S. Congress and the President of the United States to respond to the acts of terrorism by the Cuban regime, the legislation that was signed into law, they have taken that law and they have challenged it formally, filed a grievance, a suit, if you will, formally against that legislation in a trade organization, in the World Trade Organization.

As Members know, the World Trade Organization was founded, was created in the last round of what is known as or was known as the General Agreement on Tariffs and Trade, the GATT. There were many years of negotiations that culminated in what is known as the Uruguay Round, and that negotiation set up the World Trade Organization. It is to settle trade disputes when a country sets tariffs unjustifiably on another country.

Mr. Speaker, in response to an act of terrorism by a state that is on our list of terrorist nations—and there are only a handful of states on our list of terrorist states in the State Department, there is Iraq and there is Libya, there is North Korea, and there is Iran, and Communist Cuba—in response to an act of terrorism over international waters by that dictatorship, we passed the Cuban Liberty and Democratic Solidarity Act a year ago.

I think the most important thing we did in that legislation was that we set forth a blueprint for relations by the United States with not only the dictatorship now in Cuba, but during the transition and reconstruction after the inevitable collapse of the dictatorship in Cuba.

We said that there have to be, by the Cuban transitional government at the time of precisely the transition, there have to be three main conditions that have to be met before the President of the United States is authorized to normalize relations with a Cuban transitional government, and then to offer not only the lifting of sanctions, obviously, but the generosity of the American people, and we are confident of the international community at that time as well, to reconstruct Cuba from the destruction that has been brought about by this horrible regime that has oppressed and continues to oppress the Cuban people for more than three decades.

That is what we did in the legislation. We said that for the President of the United States to be able to normalize relations with a Cuban transitional government, that Cuban transitional government has to free all political prisoners, agree to legalize all political activity—that is, not interfere with people's opinions, not jail them because of their beliefs—and agree to hold free and fair elections within a reasonable time. That is the only thing we are saying has to occur before the President of the United States can normalize relations with a Cuban transitional government.

That I think is the most important thing we did in the Cuban Liberty and Democratic Solidarity Act, the Helms-Burton law, because it will be very important at the time of the transition in Cuba for there to be, once there is no longer a situation where there is a demented tyrant ruling over Cuba, a situation where they know, whoever is in a transition situation in Cuba, that not only will the U.S. sanctions be lifted, but there will be access to the U.S. market, and everything else we have included in that blueprint for relations between the United States and Cuba.

All they have to do, all the Cuban transitional government would have to do basically is to respect the Cuban people with those essential conditions I have outlined; no more political prisoners, no more prohibition on political activity, and the commitment to hold free and fair elections.

We had to explain this time and time again to the Europeans. They did not know this. They have read in the media, in press and heard in the media, that we have what they say is an extraterritorial ban on investment in Cuba. We would have to point out, as I say, time and time again, no, it is just that we say that if a foreigner knowingly traffics in property stolen from Americans, then pursuant to our immigration laws we do not want that foreigner in the United States.

No country has ever committed itself under the WTO, World Trade Organization, or its precursor, GATT, to an immigration policy. No country has ever committed itself with regard to who it admits in its borders and who it excludes from its borders. Those agreements, GATT before and the WTO now, are trade agreements on goods and services, not on immigration policy.

So this challenge that the European Union is now bringing before the WTO based against our foreign policy, that foreign policy with regard to the Cuban dictatorship and the transition that I have briefly outlined and our immigration policy, the statement we have made that we do not want foreigners who knowingly deal in stolen property from American citizens to come into the United States, and they have to have the opportunity to divest before they come into the United States, and they have to say no, I am not going to divest from the property stolen from American citizens, to be excluded from the United States—that is our immigration law—the Europeans are challenging that at the trade organization, at the WTO.

They are making a serious mistake, Mr. Speaker. We told them in Europe, I do not think you have thought it through. I do not think you Europeans have thought through what it is to get involved in the immigration debate in the United States. I do not think you have thought through what it is to use the World Trade Organization to challenge American foreign policy with regard to its closest neighbor, the oppressed island of Cuba, and American immigration policy with regard to those who knowingly traffic in property stolen from American citizens.

□ 1345

I do not think you have thought that through, Europeans. And we would tell

them this, and again they manifested a tremendous amount of ignorance with regard to what our law really does, what our law is and what our law is not.

The fact of the matter is that they have proceeded at the WTO and they have filed a challenge. I want to commend at this time our Speaker, NEWT GINGRICH, and the Chairman of the Committee on International Relations, BEN GILMAN, and the committee, the chairman of the Committee on Government Reform and Oversight, DAN BURTON, and the chairman of the Senate Committee on Foreign Relations, Senator HELMS. And my colleague, ILEANA ROS-LEHTINEN, chairman of the Subcommittee on International Policy and Trade of the Committee on International Relations, and Senator BOB GRAHAM from Florida, and Senator ROBERT TORRICELLI of New Jersey, and Congressman ROBERT MENENDEZ of New Jersey, and Senator CONNIE MACK of Florida for joining in the letter that I signed as well, a letter to our United States Trade Representative saying, since the Europeans have decided to bring forth this challenge, this ill-advised and reckless and irresponsible challenge in the trade organization against our foreign policy to our closest neighbor, the oppressed people of Cuba and our immigration policy with regard to those who knowingly traffic in property stolen from American citizens, it is imperative, and I will refer directly to the letter sent to our United States Trade Representative:

"We are writing to emphasize the importance we attach to victory by the United States in any proceeding brought within the World Trade Organization challenging U.S. policy toward Cuba.

"We strongly agree with the administration's view that 'the World Trade Organization was established to manage trade relations between member governments, not diplomatic or security relations that may have incidental trade or investment effects.' Therefore, it is imperative that the United States interpose all available defenses, including the national security defense provided under Article 21 of the General Agreement on Tariffs and Trade, to avoid an adverse WTO decision.

"The United States has a strong interest in promoting international trade. It is precisely for this reason that we must do everything possible to prevent the WTO from undermining its own credibility by reaching a decision on a nontrade matter that purports to circumscribe our ability to adopt policies essential to our national security.

"We understand, of course, that the United States has a compelling defense on the merits to any WTO complaint challenging our policy toward Cuba and should prevail without invoking the national security exception. Nevertheless, we think it would be irresponsible for the United States not to offer every available defense in a proceeding that could constrain our country's ability to defend its vital national security interests.

"We defer to your office regarding the best timing for putting forward the various defenses available to the United States, but we believe that the earliest possible use of the strongest defense is appropriate."

Mr. Speaker, I will include for the RECORD the letter to which I referred.

CONGRESS OF THE UNITED STATES,
Washington, DC, February 18, 1997.

Hon. CHARLENE BARSHEFSKY,
Acting U.S. Trade Representative,
Washington, DC.

DEAR AMBASSADOR BARSHEFSKY: We are writing to emphasize the importance we attach to victory by the United States in any proceeding brought within the World Trade Organization (WTO) challenging U.S. policy toward Cuba.

We strongly agree with the Administration's view that "the WTO was established to manage trade relations between member governments—not diplomatic or security relations that may have incidental trade or investment effects." Therefore, it is imperative that the United States interpose all available defenses, including the national security exception provided under Article 21 of the GATT, to avoid an adverse WTO decision.

The United States has a strong interest in promoting international trade. It is precisely for this reason that we must do everything possible to prevent the WTO from undermining its own credibility by reaching a decision on a non-trade matter that purports to circumscribe our ability to adopt policies essential to our national security.

We understand, of course, that the United States has a compelling defense on the merits to any WTO complaint challenging our policy toward Cuba and should prevail without invoking the national security exception. Nevertheless, we think it would be irresponsible for the United States not to offer every available defense in a proceeding that could constrain our country's ability to defend its vital national security interests.

We defer to your office regarding the best timing for putting forward the various defenses available to the United States, but we believe that the earliest possible use of the strongest defense is appropriate.

With best wishes,

Sincerely,

NEWT GINGRICH,
DAN BURTON,
BENJAMIN A. GILMAN,
JESSE HELMS,
ILEANA ROS-LEHTINEN,
LINCOLN DIAZ-BALART,
BOB GRAHAM,
ROBERT TORRICELLI,
ROBERT MENENDEZ,
CONNIE MACK.

The issue before us at this point, Mr. Speaker, is really an important one because the European policy—the American people realize that the Europeans are using the World Trade Organization to affect our foreign policy and our immigration policy. What is that going to do to the support by the American people toward precisely the World Trade Organization?

I have had disagreements, many disagreements in the past with proposals put forward by, for example, Pat Buchanan, but he has a wonderful article today, a very insightful column in numerous newspapers around the country today, including the Washington Times here in Washington, where he says, the title of his column is European Assault on U.S. Policy. And he ends his article, talks about this WTO challenge, and he ends his column saying Congress should make it very clear: "The WTO treaty provides for 'security exemptions,' and Helms-Burton is a security issue. Thus, we will not participate in your hearings or abide by your decision. If sanctions are imposed on us, we will withdraw from the WTO.

"As the Europeans are the ones who escalated, by taking Helms-Burton to the WTO, warning us of a conviction in absentia, let us accept the challenge and tell them: There will be no back-channel discussions on Helms-Burton, no compromises, no capitulation. America's right to use her power to advance her foreign policy is nonnegotiable."

This is a very strong and important statement, and it brings us to the issue really before us at this time. I have been speaking to numerous Members of Congress. For example, I was speaking to Congressman MANZULLO from Illinois. I have not met a stronger supporter of the WTO and of free trade in this Congress than Congressman MANZULLO. He brings out and emphasizes the facts that support in this institution as well as among the American people in the country at large, for American participation in the WTO is going to diminish dramatically when the American people begin to understand that the Europeans are using that trade organization to further their position with regard to a disagreement that they have with the United States on our foreign policy and our immigration policy. It is a reckless, irresponsible action taken by the Europeans.

Now especially, we can realize the recklessness of this action taken by the Europeans and really the hypocrisy of the action taken by the Europeans. They are saying: "No, the United States, you should not use the national security defense." How interesting. First of all, we have used it in the past more than once. President Reagan in 1985 used the national security defense with regard to the Sandinista complaints against United States sanctions on Nicaragua.

But national security interests were also alleged in many other well-known cases: for example, in 1949 Czechoslovakian complaints against United States military railroad export controls; 1975, the Swedes said that their right to control their footwear market was absolutely indispensable to their national security. Talk about a stretch of the argument.

In 1982, this is the ultimate hypocrisy, the European Union, at that time

the European community, used the national security defense to defend itself against an Argentinian complaint against Europe for sanctions that were placed on Argentina during the Falkland crisis. In 1991, the Europeans also used the national security defense against the Yugoslavian complaints brought, brought about after sanctions were imposed on Yugoslavia. In all of those cases and in others, national security was invoked by the nations imposing economic sanctions against other countries.

Now, with regard to our legislation, the Cuban Liberty and Democratic Solidarity Act, national security concerns are much more evident and have significantly more to do with passage of the law than in any of those cases that I cited. The essential purpose of the act is precisely to defend the United States and its citizens from the dangers to our national security posed by the Communist dictatorship just 90 miles from our shores.

To quote directly from the act: "For the past 36 years the Cuban government has posed and continues to pose a national security threat to the United States." The purpose of the act, the purpose of the act is to provide for the continued national security of the United States in the face of continued threats from the Castro government of terrorism, theft of property from United States nationals by the Castro government, and the political manipulation by the Castro government of the desire of Cubans to escape that results in mass migration to the United States. The act is necessary in view of the threat, I continue to quote directly from the act, Mr. Speaker, we are not talking about Swedish footwear here. We are talking about the act itself that we passed. The act is necessary in view of the threat to the national security posed by the operation of any nuclear facility by the Castro regime.

Mr. Speaker, Castro is trying to complete two nuclear power plants just a little over 100 miles from Florida. Those nuclear power plants are of the same model of the nuclear power plants that were closed immediately upon German reunification in east Germany and upon liberation in all the countries of the former Soviet Union. That same model, that same model nuclear power plant, VVR 440 is its exact description, that is the model of the nuclear power plants that Castro is trying to complete in Cuba. All European countries, as soon as communism fell, they closed down near those nuclear power plants because of their inherent dangers. Talk about a national security issue.

One of the main facets of our legislation is to stop assistance, all assistance to Castro for completion of those nuclear power plants. That is a national security issue if I have ever heard of a national security issue.

Many other references are made throughout the statute itself, specifically to national security as the fundamental motivation and purpose of the act. The role of the Castro regime in activities that constitute severe dangers to United States national security such as narcotrafficking, the DEA field office in Miami and customs made clear to local media there just a few months ago that over 50 percent of the cocaine that comes into the United States from the Caribbean area comes through or from Castro's Cuba. Now, the role of the Castro regime in activities such as narco-trafficking are specifically referred to as reasons for the legislation in the legislation.

And as I stated before, Mr. Speaker, it should never be forgotten that the law was passed with President Clinton's support just a few days after the premeditated, brutal, unjustified murder in cold blood of American citizens by the Castro dictatorship over international waters.

Now, in addition to constituting a travesty of justice, an adverse ruling by the World Trade Organization against our law would have serious consequences for the support within this institution, within Congress and by the American people, for the world trade structure, and for U.S. membership in the WTO. I think that it is obvious that we need to be not only ready, willing, and able to use the national security defense but that we have to go ahead and do so. We have to go ahead and do so.

This is a very serious matter, Mr. Speaker. We will continue talking about it in the weeks ahead because the sovereignty of the United States is at issue. The Europeans now have said they had a meeting of their foreign ministers on Monday. They said publicly after that meeting, we have a ban on furs, animal skins to the United States. We will consider lifting our ban on animal skins, the importation of animal skins from the United States into Europe if the United States lifts its ban on foreigners who knowingly traffic in property stolen from American citizens.

That is an unbelievable statement that the Europeans have made, demonstrating not only a tremendous lack of knowledge of what this issue is about and about what our law is about, what it is and is not, but a tremendous lack of sensitivity as well.

Now, this issue will need to be spoken of in the next months. When the American people come to realize that the Europeans are using, that this supernational trade body, the World Trade Organization, to deal with an issue that is not trade related, that is a foreign policy decision of the American Congress and the American President with regard to its closest neighbor, the oppressed people of Cuba and the immigration law of the United States, that the Europeans are politicizing the World Trade Organization for political purposes, the support within this Congress and in the American people at large for the World Trade Organization and our participation in it is going to diminish very rapidly.

I do not know if the Europeans have realized that. Nevertheless they have proceeded recklessly with this complaint. I think the important issue, the important reality at this matter with regard to this debate is that our Government must immediately invoke national security like President Reagan did in 1985 when the Sandinistas brought similar complaints. President Reagan invoked national security and the complaint fizzled away. We not only have to say we are willing to invoke national security. We have to invoke national security.

I did not criticize for one second the administration when I was in Europe, because I do not believe in criticizing the administration when you are not on United States soil. But I will say this. It is time for the administration not only to say they are going to invoke the national security defense but to go ahead and mean it. I think if Europeans believed that we meant it, this case would not have proceeded.

So there are issues that we have to continue debating and discussing. I think the American people when they realize in the next months that the Europeans are utilizing the World Trade Organization for political purposes in a reckless way, they are going to have a lot of questions to ask about, No. 1, what is this World Trade Organization, how did we get into this World Trade Organization, do we have a veto in this World Trade Organization like we have in the U.N. Security Council? The answer is no. We are one vote, and Castro was one vote in the World Trade Organization. And the Europeans, of course, have more than two dozen votes, because they have more than two dozen nation states. So this is a very serious issue and we will continue talking about it.

I think it is important that the alarm be sounded, that this is not an issue that is neither simple nor that lacks in importance and that we will continue talking about it in the weeks and months ahead.

□ 1400

At this time, Mr. Speaker, I want to yield to my distinguished colleague, also from the State of Florida, Congresswoman ROS-LEHTINEN, who so brilliantly defended this legislation and explained it time and time again in those meetings that we had last week in Europe.

Ms. ROS-LEHTINEN. Mr. Speaker, I thank my colleague from Miami so much. I think the U.S. Congress would have been very proud if they had had the opportunity, if our colleagues had been there with us, to hear Congressman DIAZ-BALART's statements time

and time again to the different officials from various countries with whom we visited and his very patient explanation time and time again of this law.

I think we have a greater appreciation of Ambassador Eizenstat's patience now that we have undergone some of what he has been doing for the past months. And as Congressman DIAZ-BALART so well pointed out, we are very distressed over the naming of the panelists by the World Trade Organization to hear this European Union complaint against our overwhelmingly supported legislation, Helms-Burton legislation, which was drafted, to a great extent, by my colleague, LINCOLN DIAZ-BALART, as well as other colleagues, such as the gentleman from New Jersey, BOB MENENDEZ, and many others.

This challenge, as we know, is based on what the European Union considers to be the extraterritorial aspects of not only Helms-Burton, but the challenge presented by the European Union in May includes many other aspects of United States policy toward Cuba, including, but not limited to, the embargo placed by the President in the early 1960's, the 1985 sugar certification requirements, the 1992 Torricelli law dealing with a ban on United States subsidiaries abroad that are doing business with Cuba and which places restrictions on cargo vessels going to Cuba, and on and on and on.

The list is rather long, and it is outlandish and incredible for the European Union to challenge the foreign policy of the United States.

As Congressman DIAZ-BALART has pointed out, we have the right to dictate our domestic and foreign policies, just as the European Union countries have the right to establish those policies with no interference from abroad.

And the World Trade Organization, just by them taking this step of naming the panelists to hear this grievance, threatens the support of the United States for this budding organization. If the U.S. Congress could vote again on the establishment of this organization and our participation in it, it might very well be defeated. It passed with almost 150 votes against its formation and our participation.

It is not in the European Union's interest nor the United States' interest for the WTO to continue with this challenge, but as Congressman DIAZ-BALART has pointed out, the United States is ready, willing, and able to invoke the national security exception, and leading Members of Congress have officially asked our Government representatives to do so immediately.

It is very sad to see the European Union continue to ignore the sad situation of the oppressed people of Cuba. Cuba, under Castro, has the worst human rights situation in the Western Hemisphere. It has no free and fair elections. The Cuban people have no freedom to speak, to express their opinions. There is no free press.

Raul Rivero, an independent Cuban journalist, has been hounded by Castro's thugs day in and day out, his home surrounded by them as they shout, "Traitor!" to him. And what is his crime? He calls out for democracy.

Just yesterday, two more independent journalists in Cuba were charged with working against the revolution. And what was their crime? Well, they had subversive materials: Newspaper articles, articles which call for liberty. And there are hundreds and hundreds of political prisoners. Dissidents are jailed, rounded up, and harassed.

Just 2 days ago in our community, we commemorated a very sad 1-year anniversary of the killing by Castro's military of four brave young men who were on a humanitarian mission in a civilian plane in international airspace. It was in their name, the names of Pablo, Carlos, Mario, and Armando, that President Clinton signed the Helms-Burton bill into law.

It was in the name of over 40 men, women, and children who were killed just a few years ago in 1994 by Cuban authorities as they sat in a tugboat trying to flee the island, and it was in the name of hundreds and hundreds of so many who were killed fighting for Cuba's freedom that we presented the legislation known as Helms-Burton.

And time and time again, Castro himself states that he will reform nothing. When they ask him about elections, he says, "Elections for what?"

Every dollar in Cuba by European investors is one more dollar Castro uses to keep himself in power. But we recognize the right of the European countries to continue to trade and do business with Castro, however morally reprehensible we feel that such commerce is.

Helms-Burton does not infringe upon their right to do so. Helms-Burton does not tell any country with whom they can trade, it just says that you cannot use illegally confiscated property that once belonged to U.S. citizens for you to do your dirty deed. You may continue to build the hotels on Cuban beaches, even though native Cubans are not allowed to enter those hotels. They cannot eat in the restaurants, they cannot swim in the pools that these European investors have built, but they can continue to build those hotels as long as the land they are using does not belong to United States citizens.

Once again we explained it day in and day out. Do they not understand, or do they just pretend not to understand? It is very important for the United States to maintain our right to set our immigration laws. The U.S. Congress will be outraged if this organization goes through with hearing this complaint and believes that it has jurisdiction over who we can or cannot enter into our borders.

Through this European Union challenge to Helms-Burton, the World Trade Organization is set to rule on United States immigration policy, and that is outrageous. The WTO is a multilateral trade forum, but Helms-Burton is not a trade bill.

We have asked the European countries as well as Mexico and Canada to join us in our quest, to join us in our struggle, to join us in our strong desire to help the Cuban people live in a democracy, live in liberty, and enjoy the same rights that they enjoy in those countries and that we enjoy in ours.

Congressman DIAZ-BALART so correctly pointed out a column by Patrick Buchanan, nationally syndicated columnist, who talks about the European assault on United States policy, and he says, "At stake here is the question who has the final authority to decide what America may or may not do to defend her national security: Us or them? At stake are the sovereign rights for which the American Revolution was fought.

"Let us have this issue decided now! As the Europeans are the ones who escalated, by taking Helms-Burton to the WTO, warning us of a conviction in absentia, let us accept the challenge and tell them: There will be no back channel discussions on Helms-Burton, no compromises, no capitulation. America's right to use her power to advance her foreign policy is nonnegotiable."

I think the U.S. Congress will hear a lot about this discussion, and they know, and we must make clear time and time again, that its sovereignty, our sovereignty, will not be compromised by the WTO.

The administration's decision not to recognize the WTO jurisdiction was a correct first step. However, we must make it clear that we are prepared to use our national security clause, which is permitted under WTO, and these rules must be used to defend Helms-Burton and our right to conduct our foreign policy.

I am sure that Congressman LINCOLN DIAZ-BALART and many other Members of Congress, we are on a campaign, and we will not be discouraged by our European allies. We will continue to fight the good fight on behalf of the enslaved people of Cuba and fighting for the United States sovereignty, and we will not let this issue die down.

They have many months to decide, and we have many months to continue to debate this issue, and, Mr. Speaker, I thank the gentleman for yielding his time.

Mr. DIAZ-BALART. I thank the gentlewoman.

I think that the Europeans have misunderstood the American character. Americans do not yield to blackmail.

The American people, and I would think that the American people will be contacted, and I would certainly urge the American people to contact their Members of Congress to let them know once again the need to tell the Europeans that they cannot dictate American immigration policy, that they cannot dictate American national security policy.

The American people, through their Congress and through their President, have a right to protect themselves against nuclear powerplants being built 100 miles from Florida, that in the case of an incident by the Cuban dictator, a purposeful incident because he likes to create crises to try to blackmail and threaten other countries, or, in the case of an accident, like in Chernobyl, it would be absolutely disastrous for not only Florida but the whole southern United States, all the way, according to nuclear experts, all the way here into northern Virginia and actually the Nation's capital.

So the American people have a right to protect themselves against national security threats, to decide their immigration policy, and I am fully convinced, and I would ask the gentlewoman's comments on this issue, because I am fully convinced that the American people in the next weeks and months are going to be outraged when they learn that the Europeans are using a trade forum to try to pressure and blackmail the American people into changing immigration law, because that is what they are concerned about.

The gentlewoman is correct, they have thrown everything into that case, from President Kennedy's cutting off the Cuban sugar quota as a sanction against the confiscation of property and other acts, illegal acts taken by Castro, to the Cuban Democracy Act in 1992, to the Helms-Burton law.

They are actually after one thing, and that was made clear to us in meeting after meeting. They want to change the immigration policy of the United States because they are mad that an investor of theirs knowingly can traffic in United States property in Cuba and get notice, get a right to divest, and yet they want to continue trafficking knowingly and dealing in stolen property from American citizens. Then under the U.S. immigration laws, they are excluded from the United States, and they are mad about that.

So that is what they want to change. They want to change U.S. immigration law, and when the American people realize in the next weeks and months what this debate is all about, I think they will be outraged.

Does the gentlewoman agree?

Ms. ROS-LEHTINEN. I agree, and one of the things I think that made us so sad on this trip is hearing from European leaders, knowing the history of that continent, an area that had suffered so long under tyranny, under a dictator, where the rights were stripped of its citizens, where we continually said never again would those horrendous situations ever occur. And yet right now they are willing to continue to wheel and deal with a dictator for a few fast dollars, looking the other way when they realize it is a slave economy.

And they say, yes, we realize that this trade continues to maintain Fidel Castro in power, and he will continue to degrade the Cuban people, and he has no free election, but if we can make a cheap dollar, then we are willing to do it.

And to see these country leaders, knowing the rich history of the terrible situation for centuries they have endured, and have them not stand in solidarity with us in our struggle to help the Cuban people, that was a real tragedy. And if there was any sad moment, it was hearing those leaders time and time again try to excuse their immoral behavior by using this trade organization as a tool to wash their hands of blood that cannot be washed away.

So I thank the gentleman for his time and his leadership on this issue, and our fight has just begun.

Mr. DIAZ-BALART. As the gentlewoman has stated numerous times, this is a campaign, Mr. Speaker, that just begins today to inform the American people and to reiterate what the Europeans really are out to do, and that is to change U.S. immigration law in a world trade forum, totally inappropriately, totally recklessly, and totally unjustifiably, but, nevertheless, they are trying to do it.

I do not know if they think they can get away with it, but the bottom line is, I know the American people, and the American people will not let themselves be blackmailed. And the American people will tell their Members of Congress and tell the Europeans that if they think they can use the World Trade Organization, this supernational World Trade Organization, to influence the policy decisions of the American people with regard to immigration law or national security matters, they do not know the American people, Mr. Speaker, but we do.

So I think the Europeans have made a dreadful mistake. They have this trade commissioner, whose name is Sir Leon Britten. He is acting like a zealot on this issue. I do not know why. I will not speculate why he is acting like a zealot on this issue.

But despite the fact that it has been explained to him that under our immigration law the only foreigners who are excluded under that chapter are those who knowingly deal in stolen property from American citizens and have been given the right to divest of their stolen property and refuse to do so, this Sir Leon Britten, trade commissioner for Europe, continues to act irresponsibly on this subject.

I think it is time for the American people to start having their voices heard and they let their Members of Congress know it is time to let the Europeans know the character of the American people once again.

This Nation saved the Europeans twice in this century alone. And when we go to Europe, we see the thousands of graves, the thousands of markers of brave soldiers who gave their lives to save the European continent, and we are so proud of those soldiers.

And for the Europeans to be saying now that they can take this new organization, the World Trade Organization, which is supposed to deal and is explicitly limited to trade issues—for example, if a country unfairly puts tariffs on another country or excludes products of that country from another country, hurting the business of that other country, then that other country that is hurt is supposed to file a complaint and is justified in filing a complaint before the World Trade Organization.

□ 1415

Whose businessmen according to our law are prohibited from making money from Castro's slave economy? The Europeans? No, the Americans. We are the ones telling our own business people, and we have made that bipartisan decision, but we do not want to make money, we do not want blood money from the Castro tyranny and the Castro slave economy. We do not want blood money from the Iranian terrorist state with all the oil in the world they can have. We do not want that blood money.

So if there is anybody who should be concerned about business being lost, it is Americans. And yet we because of ethics are saying we do not want that blood money, and yet if there has ever been proof that what the Europeans are doing is fully based on politics, irresponsible politicalization of the world trade body, they who are going in and making blood money, not only in Iran but in Castro's Cuba, they are the ones bringing this political complaint in front of the World Trade Organization.

This is outrageous as well as extraordinarily irresponsible, extraordinarily irresponsible on the part of the Europeans. We inform them and I am sure the American people will let their Members of Congress know that all of us should be telling the Europeans in the weeks and months ahead that this irresponsible action on their part is not going to succeed. It is going to reinforce the will and it is going to reinforce the commitment of the United States and the representatives of the United States to be able to control our sovereign policies with regard to national security and immigration. The Europeans will not dictate national security and immigration policy for our Congress, Mr. Speaker.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

NEW TELEVISION PROGRAM RATING SYSTEM NOT PROVIDING ENOUGH INFORMATION FOR PARENTS TO MAKE CHOICES FOR THEIR CHILDREN'S TV VIEWING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. COBURN] is recognized for 5 minutes.

Mr. COBURN. Mr. Speaker, permit me to take a moment to clarify a statement that I issued yesterday criticizing NBC's broadcast of "Schindler's List" last Sunday evening which was broadcast during prime time viewing hours. I would want my colleagues of this body as well as this country to not have any mistake that I believe that this movie is a landmark movie, a remarkable movie that profoundly affected me as well as my wife and our family as we watched it. Indeed I instructed my daughters to view this movie and I have had many discussions with friends and neighbors alike about the atrocities of the Holocaust that were made aware to us and made apparent to us through this movie. I feel terrible that my criticism of NBC for airing this movie has been misinterpreted as a criticism of "Schindler's List" or the millions of Jewish people who died senselessly during the Holocaust. To all those that I have offended I offer an apology, and I personally apologize for appearing insensitive to the worst atrocities known to human kind.

As many of you know I am a practicing physician dealing with life and death issues almost every day. I have devoted most of my adult life to working with religious groups across the spectrum. Religious tolerance is the hallmark of my professional and personal life. However I continue to be disturbed by the new television program rating system recently implemented by the broadcast and cable television network.

Mr. Speaker, I have been the leader on this issue since I arrived in Congress. As many of you will recall I offered an amendment on the floor of this House to the Telecommunication Reform Act of 1996, an amendment that would encourage parental responsibility for what their children watch on television. My amendment which passed the House would have accelerated new TV program blocking technologies that were coming to the marketplace. I did not support the V chip technologies because it was an abdication for parents' responsibility for what their children watch.

The bottom line is that parents need enough information to make good decisions for their children. Our children in our country are in trouble, and part of it is because of parental failure. We must have parental guidance, but we also must protect those children who have no parental guidance.

TRIBUTE TO TIM DUNCAN OF THE VIRGIN ISLANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands [Ms. CHRISTIAN-GREEN] is recognized for 5 minutes.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise today with great pride to recognize and pay tribute to a superb athlete and a wonderful Virgin Islander: Tim Duncan of Wake Forest University.

Timmy, as he is better known by his friends back home, has been a star center for the Wake Forest Demon Deacons since 1993 and is currently one of the 12 players in the running to be named the 1997 College Basketball Player of the Year.

Last night, at the end of the Demon Deacons' last home game and at Tim's last home game as a student at Wake Forest, the university and the Winston-Salem community paid tribute to this outstanding student-athlete by making him only the eighth player to have his jersey, No. 21, retired.

I had the privilege of attending last night's ceremony to personally extend congratulations to Timmy and to his family on behalf of his thousands of friends back home in the Virgin Islands and Virgin Islanders across the country who could not be there to congratulate him in person.

Mr. Speaker, entering this month, Timmy had played in 114 consecutive games at Wake Forest. He holds the distinction of participating in more winning games as a Demon Deacon than any other player in Wake Forest history.

The premier player in America for 1996–97, according to leading college basketball experts, Timmy will complete his career at Wake Forest as the NCAA all-time leader in blocked shots. He has blocked at least one shot in all of his first 114 games at Wake Forest.

Mr. Speaker, it goes without saying how especially proud the people of the Virgin Islands are of their native son, Tim Duncan. I ask my colleagues to please join me in congratulating this wonderful student-athlete as well as his family, who were with him last night as we witnessed him receiving his honor in front of thousands of cheering Wake Forest University fans. Tim's family who were with him last night are his proud father, William Duncan, his older sister Cheryl, and her husband Rick Lowery and their children Sheynne, Kristin and Delysia; his youngest sister Tricia and older brother Scott.

A heartfelt congratulations to Timmy and his family and best of luck to Wake Forest as they prepare for the ACC and NCAA tournaments.

Go Deacons.

Mr. Speaker, that concludes my remarks this afternoon.

MODIFICATION TO RECONSTITUTION OF REVIEW PANEL OF OFFICE OF FAIR EMPLOYMENT PRACTICE

The SPEAKER pro tempore. Without objection, the order of the House of Tuesday, February 25, 1997, providing for the reconstitution of the review panel of the Office of Fair Employment Practices is modified as follows:

By the Chairman of the Committee on House Oversight, as originally made on May 3, 1995: Mr. EHLERS of Michigan, chairman; vice, Mr. DIAZ-BALART of Florida.

There was no objection.

THE HOLOCAUST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. LAMPSON] is recognized for 5 minutes.

Mr. LAMPSON. Mr. Speaker, I noted Mr. COBURN's apology to the public for comments made earlier. While noting the misplaced outrage of other Members of this body, I want to express my admiration and thanks to NBC and to Ford for airing "Schindler's List" this weekend. I would like to thank the film maker Stephen Spielberg not only for his brilliant film but also for his recommendation broadcast before the film began Sunday evening that the film may not be suitable for young people, young children.

I watched "Schindler's List" with my daughter and found it as moving a film as I have ever seen, and any allegation that any aspect of this story is gratuitous or improper would be laughable if it were not so sad. And the comments, the words, of Mr. COBURN, that the airing of the film should outrage decent-minded individuals everywhere, should be taken note of.

Our own great Nation is still plagued by hate crimes 221 years after being founded as a nation of freedom and equality. We watch with horror as churches and synagogues are burned and cemeteries are desecrated in our communities, and the best way to fight hatred and intolerance is with the truth about the most egregious crime against humanity in modern history, the Holocaust.

REPORT ON GOVERNMENT CAPABILITIES TO RESPOND TO TERRORIST INCIDENTS INVOLVING WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on National Security:

To the Congress of the United States:

The National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201), title XIV, section 1411 requires the President to transmit a report to the Congress that assesses the capabilities of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction and to support State and local prevention and response efforts. In accordance with this provision, I transmit the attached report on the subject issue.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 26, 1997.*

REPORT TO CONGRESS ON RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION, JANUARY 31, 1997

EXECUTIVE SUMMARY

As the result of recent events, significant threats over the past few years, and the increased availability and proliferation of nuclear, biological, or chemical (NBC) materials, there is an increasing concern for the potential of terrorist incidents occurring in the United States involving weapons of mass destruction (WMD).

Under Presidential and Congressional direction, the Federal Government has made a concerted effort to better respond to domestic terrorist incidents involving WMD. These efforts include assessing current capabilities, identifying shortfalls, and taking steps to remedy them. The Federal Bureau of Investigation (FBI), as the lead agency for crisis management in response to a domestic terrorist threat or incident, has undertaken several initiatives to prevent, mitigate, and respond to the domestic terrorism threat. The Federal Emergency Management Agency (FEMA), with the responsibility for consequence management in response to a terrorist incident, has undertaken several initiatives to identify and enhance the Federal capability to respond to the consequences of a terrorist incident. Several departments and agencies, including the Department of Defense (DOD), Department of Energy (DOE), Department of Health and Human Services (HHS) and the Environmental Protection Agency (EPA) are involved in enhancing overall terrorism response capabilities, with others in the Federal response planning community actively supporting this effort.

Local response to a terrorist event is critical to the success of the overall response. Even with a timely Federal response, local first responders have the immediate requirement to deal with the incident and care for victims. FEMA has been working with local and State governments to assess their response capabilities, identify shortfalls and take measures to remedy them. These activities include surveying State terrorism response capabilities, convening a focus group to discuss capabilities and needs of local government for NBC response, sponsoring a conference for fire chiefs from major metropolitan fire departments to discuss lessons learned from recent international terrorism incidents, conducting training activities, and developing exercises featuring terrorism scenarios to test various aspects of crisis and consequence management activities.

In continuation of these efforts, the Federal Government has developed a program of activities in Fiscal Year (FY) 1997 encompassing training, some equipment and capability enhancements, planning, exercises, and other activities involving Federal, State, and local governments to improve the current levels of preparedness and response. The initial focus for training and capability enhancement is to target FY 1997 funding on cities and selected jurisdictions based on population, risk and geographic distribution. The FY 1997 activities will form the basis for further training, planning, and capability building efforts in FY 1998 and beyond for a broader base of jurisdictions, depending on budget constraints and resource availability.

INTRODUCTION

Background

Recent trends indicate growing prospects for terrorist incidents involving weapons of mass destruction (WMD). In 1993, a bomb rocked the World Trade Center in New York City, NY; in 1995, Japanese extremists successfully conducted a chemical attack in the Tokyo subway system and a bomb destroyed the Murrah Federal Building in Oklahoma City, OK. The chance of a significant WMD incident occurring in the United States is heightened by several factors, including:

Inexpensive production and availability of chemical/biological (C/B) agents;

Easily obtainable chemical precursors and biological production processes;

Portability of small amounts of C/B agents especially useful for clandestine purposes;

Potential for large-scale public impact based on limited ability to quickly identify and/or contain the effects of such substances;

Increased WMD stockpiles, with the potential for theft or acquisition of the weapons by terrorists groups;

Capability of inflicting mass casualties; and,

Increased media coverage of the use of WMD.

Scope of the Report

This report responds to the requirement in the Defense Against Weapons of Mass Destruction Act of 1996, Title XIV, Section 1411 of Public Law 104–201 (also referred to as the Nunn-Lugar amendment), for the President to transmit a Report to Congress that assesses the capabilities of the Federal Government to prevent and respond to terrorist incidents involving WMD and to support State and local prevention and response efforts. Also, the report highlights results and insights gained from earlier Fiscal Year (FY) 1996 initiatives and describes what is planned or under way in FY 1997 to improve Federal, State, and local capabilities. Finally, it addresses measures to improve capabilities in future years, including funding requirements, legislative improvements, and research and development.

Lead Agency Responsibilities

The Department of Justice (DOJ), through the Federal Bureau of Investigation (FBI), has been assigned the lead responsibility for management of the U.S. Government (USG) response to terrorist incidents. The FBI derives its fundamental legal jurisdiction to deter terrorist incidents from an assortment of Federal statutes and Executive Branch directives.

The FBI has the lead agency role in crisis management which entails the process of identifying, acquiring, and planning the use of resources needed to prevent and/or respond to a potential or actual terrorist incident. The crisis management response incorporates and emphasizes prevention, crisis mitigation efforts, and criminal prosecution of terrorists. Crisis management activities include proactive measures for prevention, immediate incident response, and post-incident response, including command of the operational response as the on-scene manager for an incident, in coordination with other Federal agencies and local and State authorities.

FEMA has the responsibility for consequence management which entails preparedness and response for dealing with the consequences of a terrorist incident. Consequence management activities include measures to alleviate damage, loss of life, hardship, or suffering caused by the incident; protection of public health and safety; restoration of essential government services; and provision of emergency assistance. FEMA will act in support of the FBI in implementing consequence management response activities.

The overall goal of Administration policy is to ensure that the United States is prepared to combat domestic and international terrorism in all its forms. Measures undertaken under this policy to deal with the terrorism threat include:

Reducing vulnerabilities—To reduce vulnerabilities to terrorism both at home and abroad, all Federal department heads have been directed to ensure that their personnel and facilities are fully protected against terrorism. This activity includes reviewing the vulnerability of Government facilities and the critical national infrastructure; reducing vulnerabilities affecting civilian personnel and facilities abroad, military personnel and facilities, U.S. airports, and other transportation modes; and undertaking counterterrorism measures to reduce both the domestic and international terrorist threat.

Deterring terrorist acts—To deter terrorism, the USG has made it clear that its policies will not be affected by terrorist acts and it will vigorously deal with terrorists and their sponsors to reduce terrorist capabilities and support. In this regard, the pursuit, arrest, and prosecution of terrorists are of the highest priority. Goals include the disruption of terrorist-sponsored activity including termination of financial support, arrest and punishment of terrorists as criminals, application of U.S. laws and new legislation to prevent terrorist groups from operating in the United States, and application of extraterritorial statutes to counter acts of terrorism and apprehend terrorists outside the United States. Return of terrorists from overseas who are wanted for violation of U.S. law is of the highest priority and a central issue in bilateral relations with any country that harbors or assists them.

Responding to terrorist acts—To respond to acts of terrorism, there must be a rapid and decisive capability to protect U.S. citizens, defeat or arrest terrorists, respond against terrorist sponsors, and provide relief to the victims. The goal during the immediate response phase of an incident is to terminate terrorist attacks so that the terrorists do not accomplish their objectives or maintain their freedom, while authorities seek to minimize damage and loss of life and

provide emergency assistance to the affected area. In responding to a terrorist incident, the Federal Government is working to rapidly deploy the needed Federal capabilities to the scene, including specialized elements for dealing with specific types of incidents resulting from WMD threats.

Recent Initiatives

While the primary Federal focus historically has been on developing crisis management capabilities, recent events have necessitated placing an increased emphasis on building consequence management capabilities as well. Thus, guidance provided by USG policy has resulted in a number of initiatives being undertaken in FY 1996 to continue to build crisis management capabilities and to enhance consequence management capabilities by assessing Federal, State, and local capabilities to respond to the consequences of a nuclear, biological, or chemical (NBC) WMD terrorist event. Ongoing activities through FY 1997 build upon these initiatives and respond to new legislation. Some recent initiatives include:

Development by the FBI of operational guidelines entitled Guidelines for the Mobilization, Deployment and Employment of U.S. Government Elements in Response to a Domestic Terrorist Threat or Incident.

The formulation of the FBI Domestic Emergency Support Team (DEST) and the first deployment of the DEST in support of the 1996 Democratic National Convention.

Pilot test of a Metropolitan Medical Strike Team (MMST) for the Washington, DC, area and in Atlanta, GA, at the 1996 Summer Olympic Games, to provide immediate on-site medical support in response to a terrorist incident involving WMD.

Multi-agency assessment of the capability of the Federal Response Plan (FRP) to respond to a WMD terrorist event.

Exercises using terrorism scenarios that address various aspects of crisis management and consequence management.

Planning, training, and exercises focusing on the terrorism threat conducted in preparation for the 1996 Summer Olympic Games, national political conventions, and the 1997 Presidential Inauguration.

Survey of State terrorism response capabilities conducted in conjunction with the National Governors Association (NGA).

Focus group discussions with management and emergency responders from four major metropolitan areas on the capabilities and needs of local government to respond to NBC WMD terrorist incidents.

Conference for fire chiefs of major metropolitan fire departments conducted in conjunction with the International Association of Fire Chiefs featuring lessons learned from recent international terrorism incidents.

Conferences and exercises on health and medical requirements needed in response to chemical/biological (C/B) terrorism sponsored by the Department of Health and Human Services—Public Health Service (HHS–PHS).

Numerous training activities sponsored by FEMA and the States to improve responder awareness of the terrorism threat and to begin to build the knowledge and skills required for response to such an incident.

Development of the Terrorism Incident Annex to the FRP.

Enhancement of 175 FBI Special Agents to work on WMD issues.

Establishment of the Hazardous Materials Response Unit (HMRU) to provide scientific and technical expertise to enhance FBI forensic and evidence capabilities.

ASSESSMENT OF FEDERAL CAPABILITIES TO PREVENT AND RESPOND TO THE USE OF WMD

Crisis Management/Prevention Capabilities

Lead Agency Role

The FBI has been designated as the lead agency for the management of the Federal response to terrorist incidents (hereafter referred to as crisis management). As the lead for crisis management, the FBI has the responsibility for proactive measures involving prevention, immediate incident response, and post-incident response, including functioning as the commander of the on-scene operational response.

The FBI On-Scene Commander (OSC) is responsible at the incident site for all decisions to resolve the terrorist incident, unless the lead agency responsibility is transferred by the Attorney General (AG) to FEMA, as warranted. In support of the FBI OSC, or as the designated lead agency after transfer of the responsibility by the AG, FEMA coordinates all Federal assistance in support of consequence management needs resulting from the incident with the affected State and local governments.

Operational guidelines (entitled Guidelines for the Mobilization, Deployment and Employment of U.S. Government Elements in Response to a Domestic Terrorist Threat or Incident) have been developed by the FBI and are awaiting final approval by the AG and the National Security Council (NSC). The Domestic Emergency Support Team (DEST), an interagency support component, has been developed and is managed by the FBI.

During a significant terrorist threat or event including a WMD incident, the FBI may deploy a tailored DEST enhanced with specialized interagency components capable of responding to situations involving chemical/biological (C/B) or nuclear/radiological weapons or agents. The FBI-led response will be activated to provide a graduated, tailored response based on the type of incident, in accordance with the FBI's Nuclear or C/B Incident Contingency Plans.

The FBI OSC, as lead agency official, retains the authority to take appropriate crisis management actions at all times during the crisis management response. On-scene decisions with interagency consultation are made with the Command Group at a Joint Operations Center (JOC), which includes the OSC, on-scene principals of the DEST agencies, other Federal agency representatives, and local and State representatives.

The DEST Team Leader (DTL) is designated by the Director, FBI. The DTL is primarily responsible for providing the FBI OSC advice and guidance concerning other Federal capabilities available for use in resolving a WMD terrorist incident. This includes crisis management and consequence management assistance, technical or scientific advice, and contingency planning assistance. Upon arrival at a crisis location, the DEST conducts an initial situation assessment, develops appropriate Courses of Action (COAs), makes a consequence assessment, and provides the OSC with recommendations. The DTL coordinates this process and thereafter facilitates the implementation of the OSC's selected COA through specific taskings. The DTL ensures continuous coordination within the various DEST components and with the FBI command post elements, resolves issues within the DEST, ensures effective communications among response elements, and implements required changes within the DEST to achieve the most efficient and effective team possible.

When determined appropriate by the OSC, the FBI command post will be modified to function as a JOC. The JOC configuration includes representatives of the primary participating agencies and Command, Operations, Consequence Management, and Support Groups as described below:

Command Group—Comprised of senior officials of the FBI, DOE, DOD, HHS-PHS, FEMA, and other Federal and State agencies, as appropriate, to provide the OSC with a means to quickly coordinate and reach decisions on interagency matters that affect the resolution of the incident.

Operations Group—Contains representatives of the organizations directly involved in actions in and around the crisis site and whose actions are deemed critical to the successful resolution of the crisis.

Consequence Management Group—Contains decisionmaking and liaison representatives of consequence management organizations to provide advice on decisions that may have implications for consequence management, and to provide continuity in leadership should a consequence management response become necessary. If consequences become imminent or actually occur, State and local organizations will initiate their consequence management actions, with FEMA expediting the provision of Federal consequence management response support. The Group is coordinated by FEMA with an FBI liaison from the OSC.

Support Group—Contains representatives of organizations whose primary task is to support members of the Operations Group. Depending on the nature of the crisis, organizations represented in the Operations Group will be asked to provide staff for various support components, including Logistics, Legal, Administrative, Liaison, and Media components. The Media component serves as the single point of contact for the coordination and release of public information to the media from the incident site. DOJ/FBI, in coordination with participating DEST agencies, will develop a strategy and procedures for responding to media inquiries. The overall intent will be for the Federal Government to speak clearly with one voice regarding any response to a terrorist incident.

Lead Agency Initiatives

As a result of recent terrorist incidents, and in recognition of the emerging threat of WMD, the FBI has enhanced and modified its capabilities. Some of the changes include:

Establishment of a separate Domestic Terrorism/Counterterrorism Planning Section. This growing section includes separate units formed specifically to more effectively address Domestic Terrorism Operations, WMD, Special Events Management, and Domestic Terrorism Analysis. It is anticipated that during Fiscal Year (FY) 1997 the WMD Unit will divide into two separate units, one handling NBC proliferation matters, threats, and incidents and the other managing exercise and response components (such as the DEST) and implementing the first responder training initiative.

Establishment of the Hazardous Materials Response Unit (HRMU) within the Laboratory Division. This unit is designed to lead and augment the Federal science and technology response capability to terrorist threats/incidents involving WMD and provide a law enforcement representative in evidence issues to enhance later prosecutive effectiveness and efficiency.

Establishment of the Critical Incident Response Group (CIRG) at Quantico, VA. The CIRG is recognized as an FBI entity that provides coordinated support to the FBI OSC. The Hostage Rescue Team (HRT),

which has been trained to operate in a HAZMAT environment, is part of the CIRG. To assist the HRT in protracted terrorist or other criminal incidents, regional FBI Special Weapons and Tactics (SWAT) teams have been enhanced to provide additional tactical support; however, at this time only the HRT has equipment and trains in a HAZMAT environment. The CIRG provides additional operations support in the areas of negotiation, behavioral profiling and assessment, and crisis management support.

Interagency Capabilities

To successfully resolve a WMD incident, closely coordinated efforts with appropriate Federal, State, and local law enforcement agencies and other authorities having emergency capabilities to respond to and mitigate the consequences of such an incident will be utilized by the FBI. Appropriate Federal agencies will support the FBI by providing personnel and equipment that will be rapidly deployed and made available for advice and assistance, as warranted by the situation and at the request of the OSC at the incident site. In order to develop close working relationships among Federal agencies concerned with a potential WMD incident, many interagency working groups (IWGs) have been established, some of which are:

Various Coordinating Sub-Groups, including a Sub-IWG on Exercises co-chaired by the FBI, and a Sub-IWG on Nuclear Trafficking;

Technical Support Working Group (TSWG) for research and development, science, and technology devoted to counterterrorism;

Interagency Intelligence Committee on Terrorism (IICT), Chemical/Biological/Radiological (CBR) Subcommittee;

SHIELD Group dealing with C/B proliferation, chaired by the Department of State (DOS);

Nuclear Export Violation Working Group (NEVWG);

Missile Trade Analysis Group (MTAG); and

Joint Atomic Energy Intelligence Committee (JAEC).

Interagency Roles and Responsibilities

The primary agencies participating in the response to a WMD incident include DOJ, DOD, DOE, HHS, EPA, and FEMA. Depending on the specific details of an incident, the FBI may also request specialized assistance from other agencies, including the Department of Transportation (DOT), the Department of Agriculture (USDA), the Department of the Treasury, the Nuclear Regulatory Commission (NRC), DOS, and the U.S. Intelligence Community (IC). The participating agencies will be incorporated into the existing onscene FBI crisis management structure, which is designed to provide the FBI OSC with a graduated and flexible response capability. For a WMD incident, the DEST will include a specially configured nuclear or C/B response component with staffing and equipment from appropriate Federal agencies, including DOD, DOE, HHS, EPA, and FEMA. Other agencies may be tasked to support the FBI on a case-by-case basis in an effort to prevent, mitigate, and/or manage a WMD incident or threat. Department and agency responsibilities include the following:

The Secretary of Defense has responsibility for:

Providing military units that can assist in both the crisis management and consequence management aspects of a WMD incident;

Designating the supporting equipment and those technical personnel who possess the required expertise to deploy with the DEST;

Designating pertinent assets for technical response, such as the identification of on-site contaminants, sample collection and analysis, limited decontamination capabilities, air monitoring, medical diagnosis and treatment of casualties, and render-safe procedures for WMD material;

Providing for the custody, transportation, and disposal of a C/B WMD when beyond the capability of an otherwise cognizant agency and after consultation with DOJ/FBI and EPA, or of nuclear and/or radiological material when beyond the capability of an otherwise cognizant agency (e.g., DOE or EPA) and after consultation with DOJ/FBI and DOE; and

Providing other support to the OSC through the use of military assets.

The Secretary of Energy has responsibility for:

Analyzing threat messages, through the Communicated Threat Credibility Assessment Program, for technical content, nuclear design feasibility, and general credibility, and for providing such analyses to the FBI;

Designating those technical personnel and supporting equipment to deploy with the DEST as the Nuclear/Radiological Advisory Team (NRAT). The NRAT will normally include a DOE Senior Official who will coordinate the overall DOE response at the scene and liaise with other agencies on matters of mutual concern. The responsibilities of the NRAT are to: Make a scientific and technical assessment of the situation, provide scientific and technical advice to the designated OSC, provide scientific and technical recommendations, including risk/consequence information and requirements for follow-on assets, support tactical operations as directed by the FBI OSC, and perform limited technical measurements and conduct liaison with appropriate DOE response assets.

Designating those specialized personnel, along with specialized instrumentation and equipment, to assist Federal agencies in locating nuclear weapons or special nuclear material that may be lost, stolen, or associated with bomb threats using the Nuclear Emergency Search Team (NEST). The responsibilities of the NEST are to provide for: Search of nuclear materials, identification of nuclear materials, diagnostics and assessment of suspected nuclear devices, and disablement and containment programs.

Providing scientific and technical assistance and support to the FBI, DOD, and FEMA in the areas of threat assessment and search operations, access operations, diagnostic and device assessment, disablement and render-safe operations, hazards assessment, containment, relocation and storage of special nuclear material evidence, and in post-incident cleanup;

Acquiring, maintaining, and making available any special equipment and capabilities required to provide the necessary scientific and technical assistance; and

Providing tactical/operational advice and assistance in supporting the FBI for incidents on a DOE facility or involving weapons or material in DOE custody.

The Secretary of Health and Human Services has responsibility for:

Designating those technical personnel and supporting equipment to deploy with the DEST;

Providing technical advice and assistance, such as threat assessment, identification of contaminants, sample collection and analysis, on-site safety and protection activities, medical management plans, and the provision of health and medical care;

To support this effort, pertinent assets capable of representing the following resources will be made available to the FBI in response to a WMD incident or threat: Office of Emergency Preparedness/Office of Public Health Service (OEP/OPHS), Federal Interagency C/B Rapid Deployment Team (CBRDT), Medical Management Support Unit (MSU), Medical Response Teams and Specialty Teams, and Agency Support Centers for Disease Control and Prevention (CDC); Food and Drug Administration (FDA); Agency For Toxic Substances and Disease Registry (ATSDR); National Institutes of Health (NIH); Substance Abuse and Mental Health Services Administration (SAMHSA); Health Resources and Services Administration (HRSA).

The Administrator of the EPA has responsibility for:

Designating technical personnel and supporting equipment to deploy with the DEST;

Providing technical advice and assistance, such as monitoring, identification of contaminants, sample collection and analysis, and on-site safety, prevention, and decontamination activities;

Issuing any permits required for the custody, transportation, and disposition of chemical material; and

Making appropriate assets from the following resources available to the FBI in response to a domestic WMD threat or incident: Office of the Emergency Coordinator, EPA, Environmental Response Team, Edison, NJ, Federal On-Scene Coordinators (FOSCs), located in all EPA Regional Offices, supported by technical assistance contractors to operate in contaminated environments; sample, monitor, cleanup, etc., National Response Team (NRT), the 16-agency team chaired by EPA, Regional Response Teams (RRTs), 13 teams co-chaired by EPA and the U.S. Coast Guard (USCG) that support the FOSCs, Office of Radiation and Indoor Air (ORIA)/Center for Risk Modeling and Emergency Response (CRMER), Radiological Emergency Response Team, National Enforcement Investigations Center (NEIC), and laboratory support, including: Regional Environmental Services Division and contract labs, Office of Water-Technical Support Division, Cincinnati, OH, National Air and Radiation Environmental Laboratory (NAREL), Montgomery, AL, and Office of Radiation Programs, Las Vegas, NV.

The Director of FEMA has responsibility for:

Designating appropriate liaison and advisory personnel to deploy with the DEST; and

Coordinating on-site consequence management activities with State, local, and appropriate Federal agencies.

Consequence Management/Response Capabilities

Lead Agency Role

FEMA is responsible for the coordination of Federal emergency response activities in support of State and local governments. FEMA coordinates these activities using the concept of operations described in the interagency Federal Response Plan (FRP) and supports other Federal emergency response plans, as described below.

A WMD terrorist incident may occur without warning and immediately impact large numbers of people. The incident may affect a local jurisdiction, several jurisdictions within a State, or several States. The existing emergency response system may be severely stressed in providing a timely and effective response to the consequences of the incident. Local resources are likely to be quickly exhausted or unavailable to meet the complex requirements of such an event, including immediate needs for lifesaving resources, resulting in a requirement for Federal assistance to augment State and local resources.

Due to the potentially devastating impact, coordination at all levels of Government is critical to ensuring that response needs are met. In responding to the consequences of a terrorist incident, the primary objective of the Federal response is to assist State and local governments in carrying out their responsibilities to prevent or minimize the loss of life and property.

Over the years, a significant base of capability has been developed at the local, State, and Federal levels of government for responding to natural disasters and technological emergencies, including incidents involving nuclear and chemical materials.

The current response framework includes an array of emergency plans, capabilities, and resources of local, State, and Federal governments, and of private and voluntary organizations. At the Federal level, emergency plans deriving from statutory authorities. Executive orders, national security guidance, and other guidance are used by departments and agencies to carry out their emergency response missions. Under this response framework, Federal resources and capabilities are provided to augment those of State and local responders, including private and voluntary organizations. Existing Federal plans are also being adapted for response to the consequences of a terrorist incident. Current interagency plans include:

The Federal Response Plan, supported by 29 departments and agencies, is used by FEMA for responding to any incident or situation requiring or potentially requiring Federal emergency or disaster assistance. The FRP implements the authorities of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) to provide Federal assistance to save lives, protect property, ensure public health and safety, and recover from the impact of the incident or event.

The Stafford Act provides FEMA with the authority to assign missions to any Federal department or agency in support of a disaster or emergency declared by the President.

The Federal Radiological Emergency Response Plan (FRERP), supported by 17 Federal departments and agencies, is used to coordinate the Federal radiological response to an incident involving nuclear materials. Radiological response activities under the FRERP include monitoring and assessing the situation, developing and recommending protective action recommendations for the affected population, and serving as the primary Federal source of technical and public information regarding the radiological incident.

The National Oil and Hazardous Substances Pollution Contingency Plan, or National Contingency Plan (NCP), supported by 15 Federal departments and agencies, is used to coordinate the Federal environmental response to an incident involving HAZMAT, including chemical agents. Environmental response activities include monitoring, decontamination, and long-term restoration.

As a supplement to the FRP, HHS has recently developed a Health and Medical Services Support Plan for the Federal Response to Acts of C/B Terrorism to coordinate the Federal public health and medical care response to an incident involving C/B materials, including biological agents. Public health and medical care response activities include assessment, triage, treatment, transportation, hospitalization, and followup of victims of a C/B incident.

Assessment of Response Capabilities

FEMA has been tasked by the NSC to review the adequacy of the FRP to respond to nuclear, biological, or chemical (NBC) WMD terrorism incidents and to identify and remedy any shortfalls in stockpiles, capabilities, or training that would affect our ability to respond. Scenarios describing NBC WMD incidents were used to help Federal, State, and local responders focus on the capabilities that would be required and to assess the adequacy of current capabilities to meet response requirements. The Federal effort included a review of the coordination of consequence management activities with crisis management activities, an examination of the relationships among existing Federal interagency emergency plans, an assessment of the capabilities of the FRP to respond to an NBC WMD incident, the availability of medical capabilities for terrorism response, and procedures for military support of medical facilities and decontamination activities.

The assessment of the FRP and Federal capabilities focused on identifying shortfalls in stockpiles, capabilities, and training that would affect the Federal Government's ability to respond. In conducting the review and subsequent assessment, FEMA sought input from the 29 departments and agencies supporting the FRP. Comprehensive scenario-specific information was provided by key responding agencies including DOD, DOE, HHS, and EPA. Major findings from the assessment are grouped under the following categories:

Planning and Coordination

Need for baseline information on capability to respond at all levels.—Emergency planners at all levels lack adequate information on how local, State, and Federal responders are organized, equipped, and trained to respond to a terrorist incident. There is a need for a carefully structured national inventory of local, State, and Federal capability to respond to NBC WMD terrorist incidents.

Need for better Federal interface with State and local authorities in planning for and developing a mutually supportive NBC WMD response capability.—A comprehensive system is required to provide effective coordination across political jurisdictions for organizing, training, exercising, and responding to a credible NBC WMD terrorist threat or actual terrorist incident, including a strategy for developing and sustaining fully interoperable capability, coordinating training, exercises and evaluation procedures, and supporting mutual operations needs.

Need for a tailored and timely Federal response to support or augment local and State first responders.—Emergency response actions taken during the initial minutes and hours after an NBC WMD terrorist incident are critical. The capability of local and State first responders, augmented by the use of supplemental Federal resources, needs to be effectively understood and coordinated. Initial response options may be severely limited until reliable assessments are made of the NBC WMD consequences at the incident site; therefore, the enhancement of rapid assessment capabilities, including specialized information sharing systems for rapid identification of NBC WMD agents, needs to be a high priority.

Need to finalize the FRP Terrorism Incident Annex.—The draft FRP Terrorism Incident Annex responds to NSC guidance by linking existing Federal authorities, plans, and capabilities that would be implemented in response to a terrorist incident. The Annex was used to help structure preparedness measures for the 1996 Summer Olympic Games and other special events.

Need to prioritize the use of the transportation infrastructure to ensure rapid movement of critical, time-sensitive response resources.—Disaster response requires time-urgent actions by a large number of participants from the Federal, State, and local response communities. Unless prior planning and prioritization of critical lifesaving response resources are in place and appropriate discipline is maintained, critical elements of the coordinated Federal response in support of State and local authorities will not be available when needed. Plans for the response to an NBC WMD terrorist incident must include a prioritized listing of critical response assets and the assurance of the timely transportation, deployment, and support of time-sensitive critical resources.

Need to deal with a large number of victims impacted by an NBC WMD terrorist incident.—Planning needs to address the management of large number of potentially contaminated victims and/or the disposition of human remains resulting from an NBC WMD incident. Adequate means must be developed for identifying and tracking victims who may suffer immediate or longer-term consequences from exposure to NBC WMD materials, and who experience psychological trauma from actual or perceived injury or contamination. Appropriate implementing procedures, including public information and other preparedness measures, should be included in all training and orientation efforts.

Need to manage the stringent public safety measures in response to an NBC WMD terrorist incident.—Actions required to establish and maintain positive control of a potentially contaminated area involved in a terrorist incident will require aggressive and, at times, forceful action which is in sharp contrast to conventional disaster response operations. Immediate, assertive, and time-sensitive public safety actions might not be fully understood or accepted by local officials and the public. Therefore, public safety requirements need to be fully addressed in emergency and disaster planning in order to deal with the unique and demanding requirements of response to an NBC WMD terrorist incident in coordination with State and local authorities.

Need for fully coordinated, timely, and accurate emergency public information.—With different emergency organizations responding, assessing, and reporting through a variety of Federal plans and programs (with many having no prior experience operating together in an NBC WMD environment), critical information may not be fully coordinated. Technically accurate, complete, and time-sensitive information will be urgently required by the OSCs, national authorities, and the public. Procedures should be established that mandate the establishment and coordinated use of a single Joint Information Center (JIC) that serves the combined response community. Sources of technically accurate information need to be identified, and where appropriate, comprehensive and time-sensitive information on NBC WMD protective measures should be developed and prepositioned to ensure immediate availability. Procedures need to ensure that the JIC is responsive to the particular threat and changing requirements of each phase of the disaster response.

Need for an electronic information management and communications capability to facilitate response coordination.—There is no dedicated system for the electronic transfer of information among headquarters elements and other emergency operations centers at the national level. This lack of capability extends to State and local entities.

Also, there is no national system of priority cellular access by emergency response personnel that ensures cellular access and allows coordination of critical assets within the disaster area. There is a need to continue development of an interagency electronic transfer mechanism that provides a dedicated forum for the electronic exchange of critical emergency response information among Federal departments and agencies.

Equipment and Training

Need for specialized equipment and coordinated training for response to an NBC WMD terrorist incident.—Local, State, and Federal organizations and personnel, and private industry supporting critical infrastructures need to be adequately equipped and trained to respond to an NBC WMD terrorist incident. there is a lack of specialized equipment and training, as well as standardization and interoperability necessary to fully respond in a safe, timely, and effective manner. A national program is needed to provide standards and resources for the organizing, equipping, and training of emergency personnel responding to NBC WMD acts of terrorism. This approach should build upon existing national programs and capabilities wherever possible and also identify opportunities for mutual support and cost savings in the procurement of equipment, delivery of specialized training, conduct of exercises, and operational evaluations.

Need to adequately protect all responders.—Safety considerations for first responders and augmentees from all sources in the initial phases of consequence management need to be a major factor in planning and preparedness.

Stockpiles

Need for adequate medical supplies and pharmaceuticals to be available or stockpiled to respond to an NBC WMD terrorist incident in a timely manner.—HHS has noted that adequate medical supplies and pharmaceuticals are not prepositioned and readily available for timely use in response to NBC WMD incidents. Mitigating and antidote medications need to be stockpiled at multiple locations throughout the United States. These stockpiled medications should include specialty medicines, antidotes, diagnostic devices, and general medications for anticipated conditions resulting from a terrorist incident. The Department of Veterans Affairs hospital centers will serve as feasible stockpile locations in view of the multiple sites in the United States and distribution channels already in place. Discussion should also be initiated with specialty medicinal manufacturers regarding internal stockpiles of medications for immediate distribution to an incident site.

Assessment Summary

An NBC WMD terrorist incident may occur as a local event with potentially profound national implications. In responding to an NBC WMD incident, first responders must be able to provide critical resources within minutes to mitigate the effects of NBC materials. As the capability of the local government to deal with the immediate effects of an incident is essential to the success of any NBC WMD response, enhancing or building and maintaining the local capability with trained and adequately equipped responders are key components of a viable national terrorist response capability.

While the assessment of the FRP and Federal capabilities found some deficiencies in overall capability, it also identified several current capabilities being built upon or expanded to ensure a more viable national NBC WMD responder capability. Current initiatives for supplementing existing plans, enhancing operations response capabilities, and increasing the availability of training are described in the Requirements for Improvements in Capabilities section of this report.

ASSESSMENT OF FEDERAL CAPABILITIES TO SUPPORT STATE AND LOCAL PREVENTION AND RESPONSE EFFORTS

Crisis Management/Support Activities

Many law enforcement, public safety, and emergency response agencies in the United States are well trained and equipped to handle the events surrounding many natural and technological emergency situations, such as improvised explosive devices (IEDs) or HAZMAT spills, without the involvement of the Federal Government. However, it is anticipated that the threatened or actual use of WMD will rapidly overwhelm local and State capabilities and require Federal assistance. In addition to advanced technological assistance available from Federal departments and agencies for the disablement, transport, disposal, and decontamination of such weapons and their effects, the primary jurisdiction for the resolution of a terrorist or criminal incident involving WMD also rests with the Federal Government; therefore, a Federal response deployment will be needed to augment the initial local response.

As the actions taken and notifications made within the first minutes of a response are critical to the ultimate resolution of the incident, first responders to a WMD incident need specialized training and equipment to ensure that their activities in response to the discovery or use of WMD are done in a manner that facilitates transition to Federal response operations. The FBI engages in a number of activities with State and local agencies to prevent and respond to acts of WMD terrorism, including planning, training, exercises, task forces, and intelligence sharing.

Planning

The FBI has been involved throughout the United States in developing plans to respond at a local level to a WMD event. Numerous FBI field offices have worked with State and local law enforcement and other emergency response agencies in planning the response to an event that incorporates the wide variety of resources that would be brought to bear on such an event. These plans are updated through continuous coordination and tested through various exercises.

Police, fire, and emergency medical personnel need to better understand the FBI's role in coordinating the response to a WMD threat or incident. To that end, the FBI is in the process of coordinating and disseminating national and local-level plans for a WMD event relevant to the activities of First responders. This effort is further described in the section on Requirements for Improvements in Capabilities. As discussed below, the FBI also has dedicated significant resources for planning the design and content of a first responder training initiative.

Training and Exercises

This past year, the FBI tasked all 56 of its field offices to conduct C/B WMD terrorism exercises in each of their regions in accordance with guidelines set forth in the FBI's C/B Incident Contingency Plan. This includes coordination and participation by other public safety agencies that would be involved in a C/B WMD incident, including first responders, regional offices of supporting Federal agencies, and State emergency management agencies involved in consequence management. Each of the 56 field offices has taken action in response to this tasking, and all are in the process of planning and conducting C/B WMD exercises.

The FBI is actively engaged with FEMA and other Federal agencies in developing WMD training for State and local emergency First responders. In training First responders throughout the country, this program will incorporate material from all aspects of the response to WMD terrorism, including both local crisis and consequence management activities. The approach to training and equipping Federal, State, and local officials for managing a crisis involving a use or threatened use of a WMD, including the consequences of the use of such a weapon, necessarily requires an understanding of the training mechanisms and delivery systems already in place that address target audiences on related matters and, which, with some adaptation, could accommodate the WMD subject matter. Thereafter, an assessment of the audiences and curricula that remain unaddressed can then be made. Many excellent training courses are currently available across the nation from Federal agencies including FEMA, DOD, DOE, EPA, and various State agencies. The FBI is working to incorporate law enforcement concerns into such training, including evidence protection and preservation.

Another successful training initiative has been the DOE Nuclear Emergency Search Team (NEST), which supports the FBI as lead Federal agency in various threats involving nuclear material. Through an ongoing cooperative FBI/DOE program, nuclear-related briefings are provided by NEST personnel at FBI field offices throughout the country. As part of this program, the field offices invite State and local law enforcement agencies, as well as first responders, to these briefings. Through these briefings, participants are made aware of the resources available and are provided with an overview of how the Federal Government investigates, manages, and responds to nuclear-related events. To date, 40 FBI field offices, including the largest metropolitan divisions, have received NEST briefings, and additional field offices are being briefed each month.

In preparation for the 1996 Summer Olympic Games, the FBI conducted a series of NBC-related counterterrorism exercises, including tabletop, command post, and full-field exercises. These exercises included participation by FEMA, EPA, HHS–PHS, DOD, and DOE; Georgia and Alabama State public safety and emergency management agencies; as well as city and county public safety and emergency management agencies. In addition, the FBI actively participated in several exercises hosted by other Federal agencies in preparation for the Olympics that focused on possible terrorist incidents, including WMD scenarios.

The FBI actively runs the Awareness of National Security Issues and Response (ANSIR) program. The ANSIR program disseminates information to industry and the public in general concerning national security matters, particularly key issues dealing with terrorism, espionage, proliferation, economic espionage, targeting of the national information infrastructure, targeting of the U.S. Government, perception management, and foreign intelligence activities.

Task Force/Intelligence Sharing

The most effective response to any potential or actual WMD incident is a well-integrated effort across local, State, and Federal agencies. The FBI has been involved in a number of actions related to recent events within the United States. For example:

Federal and local components of the FBI participated in the 1996 Summer Olympic Games in Atlanta, GA, including pre-event WMD training scenarios previously discussed, various interagency task forces involved with event management and intelligence activities, and other activities in support of the event.

Domestic Emergency Support Team (DEST) components deployed in support of the 1996 Democratic National Convention in Chicago, IL. This deployment was the first of its kind under the DEST concept.

The FBI is participating in the development of the Metropolitan Medical Strike Teams (MMSTs), organized by HHS to respond to incident health and medical services requirements.

The FBI manages 12 standing law enforcement task forces throughout the country. These task forces include both local entities such as sheriffs and State police, as well as local representatives of Federal agencies such as the Immigration and Naturalization Service (INS), Secret Service, and the U.S. Marshals Service. These task forces are prevention-oriented groups that allow the exchange and coordination of intelligence and activities across the law enforcement community.

Consequence Management/Support Activities

Any assessment of Federal capabilities to support State and local response efforts must address the abilities of State and local governments to respond to an incident and their expectations related to Federal response and support. Obviously there is great variation in response capabilities between jurisdictions at both the State and local levels of government. Local and State capabilities to respond to the consequences of such an event also vary with the particular agent used and whether it involves NBC material. For example, States and communities in proximity to nuclear power plants have better developed capabilities for responding to nuclear incidents than those that are not. Similarly, States and communities in proximity to chemical weapon disposal sites will have expanded capabilities for responding to a terrorist event involving a chemical weapon. Finally, States and communities that have hosted special events that might pose a target for terrorism, such as the 1996 Summer Olympic Games, national political conventions, or high-visibility national conferences and gatherings, are likely to have more complete terrorism response plans than those that have not planned for such events.

FEMA has been working closely with State and local governments to determine the extent to which their response capabilities are adequate to meet the challenges of responding to a WMD incident. Results from a National Governors Association (NGA) survey, a training focus group involving metropolitan area jurisdictions, and discussions with fire and emergency management constituencies provide good feedback on general State and local capabilities and support requirements. The scenarios describing WMD terrorist events involving NBC agents used in the Federal assessment also were used to help State and local responders focus on the capabilities that would be required and to assess the adequacy of their current consequence management capabilities. While the formats used for assessing the capabilities differed, the findings from the local and State efforts were surprisingly similar to the Federal findings.

The following summarizes the findings regarding capabilities and deficiencies obtained from the NGA State survey and the metropolitan area training focus group under the categories of planning and guidance, response resources, and training and exercises. Included is an assessment of Federal support capabilities required in each area.

Planning and Guidance

The majority of the 22 States responding to the NGA survey and all 4 of the cities participating in the terrorism focus group indicated that their plans address or include response to a terrorist incident; however, the responses also indicated that current planning is not adequate. Many participants in the metropolitan area focus group had limited understanding of the provisions of the Stafford Act (which authorizes and funds support for Federally declared disasters) and the assistance available under the Federal Response Plan. The metropolitan areas in general did not have a good understanding of the resources and support which the Federal Government could provide and how they would go about accessing those resources. The need to continue to stress the importance of communication and coordination between those responsible for crisis management and consequence management at all levels of government was noted by both State and local officials.

Other planning-related requirements included a need for a more thorough assessment and inventory of local response capabilities and expertise, expanded public awareness of the terrorism threat, additional planning for medical treatment and decontamination procedures (including management of mass fatalities), and legal guidance on the liabilities and authorities for governmental jurisdictions associated with response to NBC incidents. Many of these planning-related requirements parallel deficiencies noted in the State survey and the previously noted Federal assessment.

Significant progress has been made in defining the responsibilities of various Federal agencies in a terrorist event through planning initiatives, exercises, and Administration guidance. While Federal agencies are assisting their various counterparts at the State and local levels in terrorism planning to the extent that their resources allow, continuing integration of Federal planning with State and local planning is needed to ensure interoperability between plans at the various levels of government.

Response Resources

Resource requirements identified by both State and local governments include detection equipment, personal protective equipment (PPE), decontamination equipment and techniques, medical supplies, and access to technical information and additional trained response personnel. Most States and communities have some resources and capabilities in each of the above areas, but given the possible magnitude of the incident and the involvement of unfamiliar and potentially lethal agents, most local responders felt that their existing capabilities were either inadequate (for certain C/B agents) or would be rapidly overwhelmed.

While the Federal Government, especially DOD, DOE, HHS, and EPA, has relevant expertise and possesses some specialized equipment and supplies, the adequacy of the necessary equipment, supplies, and personnel to meet potential requirements and the Federal ability to get them to the incident site vary with both the particular resource required and the geographic location of the incident. Delays associated with getting the required equipment and technical expertise to the site where they are needed will likely result in increased fatalities; however, costs associated with providing appropriate equipment and supplies to all localities nationwide are extremely high.

Training and Exercises

Most States and major metropolitan areas have personnel trained in emergency response and disaster management with training delivery systems. In terms of nuclear and chemical WMD, many of the principles of HAZMAT and radiological incident response (e.g., scene management, decontamination, etc.) will apply with some modifications or enhancements. Training developed by FEMA and the DOD Chemical Stockpile Emergency Preparedness Program (CSEPP) has direct applicability to terrorist events using chemical agents; however, relatively little training exists on management of incidents involving a biological agent. This is an area of concern for both State and local responders.

Most requirements noted by both the States surveyed and the metropolitan focus groups addressed the unique characteristics of C/B WMD agents and the associated protective measures for response personnel, incident management skills to deal with potentially large numbers of casualties, and the political and public affairs challenges associated with a terrorist incident. Specifically, they noted a need for (1) additional training for first responders on response actions for incidents (where the hazard is known versus unknown) and use of the appropriate PPE for the various agents; (2) training on how to use the media effectively, coordinate media messages, and minimize public panic; (3) training on how to plan for and manage victim and family assistance in a mass casualty event; (4) training and assistance on medical management issues including triage and decontamination procedures, using available medical resources, and how to deal with immediate and long-term treatment issues; and (5) multi-agency and multi-jurisdictional training and exercising to clarify roles and responsibilities and improve interoperability of plans and procedures.

With the possible exception of biological terrorism, there is considerable technical expertise and many existing training materials within the Federal community to address most of the requirements cited above; however, the size and diversity of the target audience compared with the resources available to deliver the training and to exercise plans limits the Federal Government's capability to provide the required support immediately, thus making this a multi-year effort.

REQUIREMENTS FOR IMPROVEMENTS IN CAPABILITIES

Assessments of Federal, State, and local capabilities to respond to WMD terrorist incidents have identified several areas where improvements are required. FY 1997 funds have been allocated to several agencies for WMD-related activities. The FBI has received $133.9 million for Counterterrorism (CT) enhancements. These funds include increased staffing to conduct CT field investigations regarding WMD threats, infrastructure vulnerability, key assets, and international terrorism; resources for improving forensic and crisis management capabilities including specialized equipment, deployable laboratories and teams, training, and forensic database development; and other staffing and resources for improving WMD prevention and response.

Some $15 million has been allocated to FEMA for consequence management planning and coordination, assessment and training, personnel and protective measures, and grants for specialized training and equipment for firefighters. Besides the above, additional funds have been allocated to DOD, HHS, DOT, and other Federal agencies for terrorism-related activities.

Several activities and initiatives are already under way to address requirements to improve capabilities for responding to the threat or occurrence of a WMD incident, focusing on training, equipment and capability enhancements, planning, exercises, new initiatives, and research and development to improve the overall local, State, and Federal response capability. All of these activities are being closely coordinated with those of local and State governments to ensure optimal sharing of knowledge and expertise in WMD, while deriving maximum benefit from available resources.

Training

This area involves training for individuals involved in all areas of WMD prevention and response. It includes developing and implementing an interagency strategy for meeting priority training requirements efficiently. Several facets of current training activities are described below.

The FBI is pursuing significant efforts to prevent a WMD incident from occurring through continued proactive and interactive training, planning, exercising, intelligence gathering, and technology applications involving crisis management and consequence management agencies.

The FBI continues with WMD-related interagency training involving nuclear and C/B incident contingency planning for FBI Headquarters personnel and field office managers. The FBI continues to coordinate with DOD and other government agencies to determine the best equipment, protective gear, and training available. Ongoing training related to successfully operating in a hostile WMD environment will be required for the FBI Hostage Rescue Team (HRT) and other FBI tactical personnel. Equipping and training of selected FBI field office Evidence Response Teams (ERTs) to augment the Hazardous Materials Response Unit (HMRU) in the forensic exploitation of potentially contaminated crime scenes will also be an ongoing activity.

DOD, in coordination with DOE, FEMA, and other Federal agencies, including the FBI, is providing WMD training to State and local first responders, including local and State police, and fire and emergency medical personnel who would most likely represent the initial response at the site of a WMD incident.

Since first responders will be required to establish preliminary perimeters, provide triage to victims, and conduct initial interviews, among other actions, their value to the ultimate success of the Federal Government in managing a WMD incident cannot be overestimated. Presently, most first responders have little, if any, specialized training in the WMD area, and as such, would become casualties at the incident scene.

FEMA, DOE, DOD, HHS, EPA, and the FBI support training to develop a strong State and local first responder infrastructure. Some generic training is already being recast to address WMD requirements. For instance, FEMA and DOD currently have in place a training program for first responders in areas near chemical weapon storage sites under the Chemical Stockpile Emergency Preparedness Program (CSEPP). A training program based on CSEPP and tailored for police/fire/rescue personnel in all jurisdictions is in the initial stages of coordination with FEMA, FBI, and DOD. FEMA is also building on its training for first responders conducted through its National Fire Academy and Emergency Management Institute. In addition, other agencies, such as DOE, DOT, and EPA provide training through their normal programs that are applicable to terrorism response.

Funding targeted for training in WMD response is being provided through several different sources, as listed below by amount and agency:

$51 million from DOD to the Nunn-Lugar;

$5.3 million from FEMA in training grants, including firefighter training and equipment, to the States; and

$5 million from the Department of Justice (DOJ) for responder training and equipment.

Federal resources must be used effectively in meeting priority training needs of responders to the consequences of a WMD incident.

Federal resources will not meet all of the anticipated requests for dealing with the terrorist threat, especially in the area of training. To ensure a coordinated training approach, FEMA convened a Senior Interagency Group (SIG) on consequence management to provide policy-level guidance in the development of a Governmentwide terrorism training strategy, as well as to address other issues related to consequence management. In support of the SIG, an interagency Training Task Group (TTG) was established to identify training audiences and performance requirements, suggest training design (including delivery methodology), define the relationship to existing and ongoing training and capabilities, and set training priorities and plans for short-term and long-term activities. The SICG will continue to monitor results from the TTG and other task groups and provide additional guidance for implementation of an interagency training strategy, which includes the following elements:

Prioritize training under Nunn-Lugar.—In response to DOD's request for guidance from FEMA and the interagency community on the most appropriate way to allocate training resources to meet training requirements specified in Nunn-Lugar, Section 1412, Emergency Response Assistance Program, the interagency strategy calls for allocation of Nunn-Lugar resources (including those provided to HHS for the development of the MMSTs in FY 1997) to target these resources to the 20 largest cities, plus any cities identified by the FBI as being at particularly high risk. Participating cities will be asked to complete an initial training needs assessment and Federal resources and expertise will be applied to meeting those needs, using existing training resources to the extent possible. This focus of Nunn-Lugar resources on the 20 largest cities will in no way preclude other target audiences (States, communities, etc.) from eligibility for other training available from FEMA and other Federal agencies or for training resources that may become available in the future.

Continue to analyze training needs on the basis of performance requirements.—Using the training requirements identified during the FY 1996 assessment initiatives as a base, a list of performance goals for communities in preparing to respond to WMD incidents will be developed to serve as a basis for a community's own needs assessment efforts; however, needs assessment must be an ongoing process, since training needs will evolve over time as new equipment is fielded and experience gained.

Compile a compendium of existing training.—As noted earlier, many courses and training materials already exist that, with minor modifications, can begin to meet immediate training requirements. FEMA will serve as the repository for information on existing training courses and materials.

Share courses and delivery systems among agencies.—The previously noted compendium of training resources maintained by FEMA will facilitate sharing of courses and expertise among agencies, thus reducing duplication of efforts.

Deliver existing or modified training in non-traditional ways.—Alternative delivery strategies will be needed to reach more people than are currently reached with classroom, instructor-based training. Use of independent study, computer-based training, satellite broadcasts, etc., will be considered in the overall delivery strategy.

Develop new training for unmet needs.—It is anticipated that FY 1997 will be used for assessment and delivery of existing training and that development of new training will begin in earnest during FY 1998.

Enhance interface with States and cities.—To increase the success of the Federal interagency effort, full partnering with the States and communities and constituencies will help ensure that limited resources are applied most effectively.

Equipment and Capability Enhancements

This area involves identifying equipment and capabilities needed for a WMD response. It includes stockpiling specialized equipment, enhancing the medical response system to include developing specialized teams and managing mass casualties for a WMD incident, developing a master inventory list of equipment and assets that can be accessed by local and State responders, and undertaking other initiatives to improve operational procedures, including rapid deployment of resources to the incident site and improving communications access.

The FBI is addressing the need for additional equipment for specialized teams operating in a WMD environment.—While the FBI relies on the support of other Federal agencies possessing specific technical expertise and equipment to respond to an NBC incident, those agencies do not have the law enforcement authority or expertise to collect and preserve evidence at a crime scene, nor to testify in court proceedings. In addition to the critical issue of evidence collection, the FBI may be faced with an incident that requires a tactical response in an environment contaminated with NBC material. The FBI currently possesses a limited capability to operate in such an environment; recent acquisition of funds will allow for the purchase of HAZMAT protective suits and equipment for HRT and all field Special Weapons and Tactics (SWAT) Teams. This acquisition followed by training will allow the FBI to enhance its capabilities to operate in a WMD environment.

HHS is enhancing the capabilities of the medical response system to address WMD requirements.—The requirement for immediate and significant medical response to save and protect lives in incidents involving C/B WMD agents has led to several HHS initiatives to enhance the capabilities of the existing medical response system. The enhanced system would include trained and equipped local first responders, MMSTs, specialized medical teams for use in areas without MMSTs, Chemical/Biological Rapid Deployment Teams (CBRDTs), enhanced Disaster Medical Assistance Teams (DMATs), patient evacuation and definitive care capabilities of the National Disaster Medical System (NDMS), pharmaceutical caches, and a

nationwide network of facilities with specially trained staff equipped to treat WMD victims. Some of these activities are described below:

HHS continues work on developing MMSTs composed of technical and medical resources for responding to C/B incidents. The MMSTs provide a mechanism for immediate medical response while additional Federal resources are being mobilized and deployed. Each MMST operates as a specially organized, trained, and equipped team and includes capabilities for agent detection and identification, patient decontamination, triage and medical treatment, patient transportation to hospitals, and coordination with local law enforcement activities. After testing the concept in the Washington, DC, metropolitan area and at the 1996 Summer Olympic Games, the Washington, DC, MMST established its initial operational capability in January 1997, and was available to support the 1997 Presidential Inauguration. The goal is to establish a total of 100 MMSTs in the next 5 years.

HHS is developing three specialized national response teams, dispersed geographically throughout the nation, to augment local capabilities in areas without MMSTs.

The CBRDT is another capability developed by HHS providing a highly specialized, Federal, multi-agency C/B terrorist incident response, medical and health care, and technical assistance that supports the OSC for both crisis management and consequence management response.

HHS is enhancing 21 of the highest readiness level NDMS DMATs with specialized equipment and training to provide further response augmentation.

In concert with activities to enhance the medical response system, HHS is addressing the need to develop local response systems for the care of WMD victims. HHS is developing procedures for the handling of mass casualties that may result from an WMD incident to ensure that Federal resources will be available to augment local and State resources for dealing with a health problem of a large scale; however, a timely Federal response can only augment existing local capability and may not meet the needs of all of these victims.

Federal logistics support capabilities are being enhanced for WMD response.—FEMA is working with DOD, DOT and the General Services Administration (GSA) to enhance basic logistics support capabilities by developing a disaster transportation management system. The system will include a Time-Phased Force Deployment Data and List (TPFDDL) to pre-identify logistics requirements for specialized teams, equipment, and supplies needed to respond to an NBC incident and to then optimize their movement to an incident site on a priority basis. A Movement Coordination Center (MCC) is also being developed to coordinate the transportation and movement activities of the critical resources to the affected area.

FEMA is developing and implementing a Rapid Response Information System.—FEMA is developing guidance and format with data requirements for each FRP department and agency to use in compiling an inventory of its equipment and assets that could be made available to aid State and local officials in responding to a WMD incident. FEMA is working to ensure that FRP departments and agencies develop, maintain, and provide to FEMA their inventory lists for inclusion in a comprehensive Master Inventory, to be initially published by December 31, 1997, with annual updates. FEMA also will develop guidance on accessing and using the physical equipment and assets on the Master Inventory List, including a system to give Federal, State, and local officials controlled access. In coordination with DOD, FEMA will also prepare a database on C/B agents and munitions characteristics and safety precautions for civilian use. The initial design and compilation of this database is to be completed not later than December 31, 1997.

Planning

This area involves enhancing Federal contingency plans as well as national and regional response plans to better address the WMD threat. It also includes the development of guidance for local and State responders.

Each FBI office is developing contingency plans for response to WMD incidents.—Each FBI field office has been requested to furnish an updated plan yearly with points of contact and area facilities that could pose a threat of a WMD incident, or could supply the agents needed for a WMD incident and resources that can be utilized to respond to the incident. Additionally all field offices have been tasked to maintain contingency plans that identify points of contact with regional emergency response agencies and to engage with local authorities in planned WMD exercises, review nuclear facility response plans, and proceed with other proactive initiatives to counter the threat of a WMD incident.

All FBI field offices with DOE or NRC facilities within their territory maintain site-specific nuclear contingency plans that are updated annually. These plans ensure that the FBI possesses all necessary information regarding each DOE or NRC site to enable an effective FBI response to an incident at any of these sites. Classified and unclassified Nuclear and C/B Incident Contingency Plans have been updated, revised, and disseminated to all FBI Offices and OSCs. This year, all FBI field offices were tasked to provide unclassified versions of these plans to management levels of first responders, i.e., police, fire, and emergency medical personnel, to ensure their understanding and coordination during a unified Federal response.

Federal emergency response plans are being refined to address WMD consequences.—The PDD-39 assessment validated the need to amend the FRP with incident-specific annexes to better address the unique aspects of the response to a terrorist event. The FRP Terrorism Incident Annex describes the concept of operations for a terrorism response involving the crisis management response, led by the FBI, and the consequence management response, led by FEMA. The Federal interagency community has concurred on the annex and it is scheduled for publication in early 1997.

FEMA is also developing planning guidance on terrorism response for use by FEMA Regional Offices to incorporate into their interagency Regional Response Plans that describe how the FRP is implemented at the regional level.

A draft FRP Radiological Incident Annex has been developed that describes the relationship of the FRP to the FRERP, which is used to coordinate Federal monitoring, assessment, and other technical resources in response to a radiological incident, including a WMD involving nuclear materials. The draft annex is being validated in several radiological incident exercises this year and is expected to be published in 1997.

State and local governments are being supported in improving plans for responding to the consequences of a WMD incident.—States and localities face new planning challenges in preparing for response to a terrorist event using WMD. FEMA's experience in Oklahoma City and the feedback from the metropolitan area focus groups indicate a need for additional guidance by States and local governments for responding to a terrorist incident, including notification procedures, interface with law enforcement personnel, and access to unique Federal capabilities and resources. This is especially true for major metropolitan areas, where direct interface with Federal response personnel and unique Federal resources is more likely in a terrorist event than in a typical natural disaster; therefore, a terrorism supplement to the recently published Guide for All-Hazard Emergency Operations Planning is a priority for FY 1997. In addition to operational planning guidance, there is a need to ensure that Governors and other State senior policy officials are familiar with the challenges they may face in responding to a terrorist event. To meet this need, a popular NGA handbook, A Governor's Guide to Emergency Management, will be updated to address terrorism-specific issues.

Exercises

Improved plans and access to technical information, equipment, and supplies will do little to improve terrorism response capabilities without trained personnel who have had the opportunity to test plans and procedures and assume their roles and responsibilities in exercises. Therefore, while one goal for FY 1997 addresses the development of an interagency strategy for the delivery of training to State and local responders, a related goal focuses on a coordinated approach to exercising plans and procedures.

Agencies must test and evaluate plans, procedures, and coordination mechanisms for responding to a WMD incident.—Interagency WMD terrorism exercises are expensive and require extensive planning to ensure that all participating agencies most effectively test and evaluate their plans, procedures, and coordination mechanisms for responding to a WMD incident as part of the Domestic Emergency Support Team (DEST). Interagency participation in these exercises is vital to familiarize all members of the crisis management community with the command structures and functions of the various components.

Despite the high costs, continuous efforts must be made to exercise for possible WMD contingencies. The FBI is co-chair and an active member of an interagency planning group for exercises, which includes all Federal agencies with a role in response to terrorism as members. WMD scenarios have been the focus of most of the recent exercises and continue to be highlighted in future exercise planning. The FBI Crisis Incident Response Group (CIRG) plays a critical and essential role in all exercise planning deployments and response to credible incidents.

The FBI exercises with other Federal agencies extensively and anticipates participating in up to eight federally coordinated exercises and numerous State/local exercises annually. A full-field exercise should be scheduled and completed within the next two fiscal years.

Exercises will be used to test and improve consequence management response capabilities.—This effort addresses the need for improved understanding of and interoperability between response plans at various levels of government and responds to the previously noted requirement for multi-agency and multi-jurisdictional training and exercising

to clarify roles and responsibilities and improve interoperability of plans and procedures. FEMA's interagency National Exercise Schedule provides a mechanism for documenting and disseminating information on planned unclassified terrorism WMD exercises involving multiple agencies and/or levels of government.

Recognizing that terrorism consequence management plans and procedures are either under development or just being finalized, the FY 1997 Federal emphasis will be on tabletop exercises in each FEMA Region to familiarize regional and State responders with the new FRP Terrorism Incident Annex and associated roles and responsibilities. This will culminate in a functional consequence management exercise, ILL WIND, which is scheduled for late FY 1997 in the Washington, DC, area. In addition, FEMA and some States and localities will be involved in exercises sponsored by other agencies that will likely address both crisis and consequence management issues.

DOD recommends a multi-agency series of field exercises covering a wide range of C/B scenarios in order to build a solid understanding of potential C/B terrorism, and to systematically evaluate improved countermeasures to prevent and respond to such incidents.

Finally, the SIG has expressed interest in reviewing a coordinated terrorism exercise strategy similar to that developed for training. In interfacing with State and local governments, given the very limited resources available, Federal coordination on planned exercises and priorities for addressing deficiencies is essential. This Federal coordination will occur in the Interagency Working Group-Counterterrorism (IWG–CT) Exercise Subcommittee.

New Initiatives

Stemming from the FY 1995 National Defense Authorization Act is a joint FBI and DOD initiative, in coordination with the State Department, DOE, the U.S. Customs Service, the Department of Commerce (DOC), and the Intelligence Community (IC) to provide law enforcement officials, judges, and prosecutors from the Former Soviet Union (FSU) and Eastern Europe with training in countering nuclear/radiological smuggling/trafficking and C/B proliferation.

This 3-year initiative, which includes the training of officials from 3 to 12 FSU/Southern Tier countries at the International Law Enforcement Academy (ILEA) in Budapest, Hungary, or at the DOD facilities in Garmisch, Germany, is now under way. The initiative will also provide WMD detection equipment and training to law enforcement officials in their respective countries and undertake a review of each country's laws to recommend statutory changes to complement enforcement and training, as warranted.

The FBI Laboratory Division has developed the Hazardous Materials Response Unit (HMRU) to resolve scientific and technical aspects of illegal acts involving NBC and environmental incidents. The Laboratory Division has also coordinated with DOD and the Commonwealth of Virginia for training of FBI first responders and the Evidence Response Teams (ERTs) on how to function in tandem with the military in the hostile environment of a WMD incident. In this manner, a sworn FBI evidence expert will direct the collection and preservation of evidence, while at the same time, rely on military advice and assets in order to mitigate a C/B agent and for transport of C/B agents for examination purposes. To date, more than 50 ERT members from 6 major metropolitan field offices have been trained and equipped with HAZMAT protective suits.

Research and Development

The FBI is currently pursuing a number of research and development (R&D) efforts to enhance detection capabilities, disablement tools, advanced render-safe techniques, and new forensic tools for identifying terrorist bombings. R&D projects include development of explosive detectors, research on explosives residues, and development of a portable device for the analysis of explosives, drugs, and chemical warfare agents using Raman Spectroscopy. Other R&D projects aimed at providing first responders with the technical capabilities to safely and effectively contain a WMD incident include development of explosive ordnance disposal (EOD) countermeasures for large vehicle bombs, development of an affordable miniaturized robotics vehicle capable of delivering explosive disablement tools, identification of render-safe procedures for improvised C/B devices, enhanced explosive detection capabilities for civilian bomb technicians, and the development of methods to identify forensically and capture residues left by improvised explosive charges used by terrorists.

A number of agencies throughout the counterterrorism community participate in the Technical Support Working Group (TSWG), a subgroup of the NSC Interagency Working Group on Counterterrorism. The TSWG has the specific mission of conducting rapid research, development, and prototyping of counterterrorism technologies. Several different subgroups exist beneath the TSWG focusing on various aspects of counterterrorism. Continued funding of the TSWG and other research and development programs is critical to developing field-deployable technologies to deter, detect, prevent, and resolve potential WMD terrorist threats and incidents.

MEASURES TO ACHIEVE IMPROVEMENTS

Building upon current activities, the following describes the requirements for continued funding, legislative improvements, authorities, and research and development (R&D) initiatives to enhance current weapons of mass destruction (WMD) prevention and response capabilities.

Funding

FY 1997 funding is supporting a variety of activities deriving from existing NSC guidance, Nunn-Lugar initiatives, and other programs to determine requirements, assess and remedy shortfalls, and enhance capabilities for WMD prevention and response. To maintain and enhance capabilities, continued funding in FY 1998 and beyond is required to support training, equipment and capability building, planning, and exercises. This requirement for continued funding assumes that State and local governments are also willing to share some of the costs of the capability building.

In FR 1997, the coordinated interagency training strategy proposes to target the largest 20 cities to receive the majority of training and assistance provided via Nunn-Lugar, with the remaining resources spread among the many other jurisdictions and response groups. In FY 1998, additional jurisdictions are being added to increase the overall preparedness level of local governments to deal with WMD requirements. In support of this effort, training materials will need to be updated as plans and procedures are refined and responder needs are better defined.

Specialized equipment and protective gear for personnel operating in a WMD environment are required by the FBI and other agencies. The Rapid Response Information System will require annual updating to ensure that the resource and capability information being accessed by local and State response agencies is accurate and complete.

Continued interagency planning will be required to ensure close coordination among Federal departments and agencies and State and local emergency management agencies in dealing with WMD requirements.

Finally, most of the exercises planned for FY 1997 are Federal/State tabletop exercises that are relatively inexpensive to plan and deliver. In subsequent years, functional and full-scale exercises involving all levels of government will need to be developed and implemented to ensure full capability.

Legislation

On April 24, 1996, the President signed into law the Antiterrorism and Effective Death Penalty Act. This legislation, which was initially proposed by the President in the State of the Union Address in January 1995, represents the most significant and comprehensive antiterrorism legislative package ever enacted in the United States. Legislative proposals that remain relate to items that Congress dropped from the 1995 Administration proposal, or highly focused issues that have arisen in the course of administering existing law. Within this context, it is anticipated that DOJ will propose several items of legislation designed to enhance the Government's ability to combat terrorism.

The first priority for additional legislation remains Senate ratification of the Chemical Weapons Convention (CWC). The CWC is the best means to ensure the nonproliferation of chemical weapons and their eventual destruction by all nations. This Convention makes it illegal to develop, produce, acquire, stockpile, retain, transfer, use, own, or possess any chemical weapon, or to knowingly assist, encourage, or induce any person to do so, or attempt or conspire to do so. U.S. compliance with the CWC will require that changes be made to the existing criminal statutes relating to use of chemical weapons, 18 U.S.C. Section 2332c, and use of WMD, 18 U.S.C. Section 2332a. These legislative amendments have been drafted within DOJ and are currently undergoing review. Submission of such a legislative proposal would have to be closely coordinated with the Administration's efforts to achieve ratification of the CWC.

Although the CWC was not designed to prevent chemical terrorism, certain aspects of the Convention, including its implementing legislation and nonproliferation provisions, will augment existing law enforcement efforts to fight chemical terrorism. Implementing legislation required by the CWC will strengthen legal authority to investigate and prosecute violations of the treaty and raise the level of public alertness to the threat and illegality of chemical weapons. For example, the proposed U.S. implementing legislation contains the clearest, most comprehensive, and internationally recognized definition of a chemical weapon available, far more precise than the term "poison gas" contained in Title 18 of the Criminal Code. The definition contained in the implementing legislation will enable an investigator to request a search warrant on the basis of suspicion of illegal chemical weapons activity (such as production of a chemical weapon agent), rather than suspicion of conspiracy to commit terrorism, as exists under current U.S. law. By providing investigators and prosecutors a more precise legal basis for pursuing the development,

production, transfer, or acquisition of chemical weapons, CWC implementing legislation improves prospects for detection, early intervention, and possibly even prevention of chemical terrorism in the United States.

Research and Development

New or enhanced technical capabilities needed to counter increasingly sophisticated terrorist organizations include the ability to intercept advanced telecommunications, with a primary focus on wireless and satellite-based systems; improved tracking and physical surveillance technologies for weapons, explosives, etc.; automatic language translation and text/key word recognition; and technology to support surreptitious entry.

Current research and development funding is not adequate. Additional funding is needed to continue work on an indepth chemical characterization of foreign explosives and for continued development of contraband detection technology. Additional funding would accelerate development in a number of key technologies, particularly communications interception, tracking, covert communications, and surreptitious access. These technologies are critical to the support of counterterrorism investigations, especially WMD-related threats.

ACRONYMS

AG—Attorney General
ANSIR—Awareness of National Security Issues and Response
ATSDR—Agency for Toxic Substances and Disease Registry
C/B—Chemical/Biological
CBR—Chemical/Biological/Radiological
CBRDT—Chemical/Biological Rapid Deployment Team
CDC—Centers for Disease Control and Prevention
CIRG—Crisis Incident Response Group
COA—Course of Action
CRMER—Center for Risk Modeling and Emergency Response
CSEPP—Chemical Stockpile Emergency Preparedness Program
CT—Counterterrorism
CWC—Chemical Weapons Convention
DEST—Domestic Emergency Support Team
DMAT—Disaster Medical Assistance Team
DOC—Department of Commerce
DOD—Department of Defense
DOE—Department of Energy
DOJ—Department of Justice
DOS—Department of State
DOT—Department of Transportation
DTL—DEST Team Leader
EMS—Emergency Medical Services
EOD—Explosive Ordnance Disposal
EPA—Environmental Protection Agency
ERT—Evidence Response Team
ESF—Emergency Support Function
FBI—Federal Bureau of Investigation
FDA—Food and Drug Administration
FEMA—Federal Emergency Management Agency
FOSC—Federal On-Scene Coordinator
FRERP—Federal Radiological Emergency Response Plan
FRMAC—Federal Radiological Monitoring and Assessment Center
FRP—Federal Response Plan
FSU—Former Soviet Union
FY—Fiscal Year
GSA—General Services Administration
HAZMAT—Hazardous Materials
HHS—Department of Health and Human Services
HMRU—Hazardous Materials Response Unit
HQ—Headquarters
HRSA—Health Resources and Services Administration
HRT—Hostage Rescue Team
IC—Intelligence Community
IED—Improvised explosive device
IICT—Interagency Intelligency Committee on Terrorism
ILEA—International Law Enforcement Academy
INS—Immigration and Naturalization Service
IWG—Interagency Working Group
IWG-CT—Interagency Working Group-Counterterrorism
JABC—Joint Atomic Energy Intelligence Committee
JIC—Joint Information Center
JOC—Joint Operations Center
MCC—Movement Coordination Center
MMST—Metropolitan Medical Strike Team
MSU—Medical Management Support Unit
MTAG—Missile Trade Analysis Group
NAREL—National Air and Radiation Environmental Laboratory
NBC—Nuclear, Biological, or Chemical
NCP—National Contingency Plan
NDMS—National Disaster Medical System
NEIC—National Enforcement Investigations Center
NEST—Nuclear Emergency Search Team
NEVWG—Nuclear Export Violation Working Group
NGA—National Governors Association
NIH—National Institutes of Health
NRAT—Nuclear/Radiological Advisory Team
NRC—Nuclear Regulatory Commission
NRT—National Response Team
NSC—National Security Council
OEP/OPHS—Office of Emergency Preparedness/Office of Public Health and Science
ORIA—Office of Radiation and Indoor Air
OSC—On-Scene Commander
PDD—Presidential Decision Directive
PHS—Public Health Service
PPE—Personal Protective Equipment
R&D—Research and Development
RRT—Regional Response Team
SAC—Special Agent-in-Charge
SAMHSA—Substance Abuse and Mental Health Services Administration
SIG—Senior Interagency Groups
SWAT—Special Weapons and Tactics
TEU—Technical Escort Unit
TPFDDL—Time-Phased Force Deployment Data and List
TSWG—Technical Support Working Group
TTG—Training Task Group
U.S.—United States
USCG—U.S. Coast Guard
USDA—United States Department of Agriculture
USG—United States Government
WMD—Weapons of Mass Destruction

□ 1430

SOCIAL SECURITY AND THE BALANCED BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 60 minutes.

Mr. NEUMANN. Mr. Speaker, at 3:30 this afternoon there is going to be a very important announcement made, as I understand, from the Senator who holds the deciding vote on perhaps the most important piece of legislation that has faced this body for a long time, and that is the balanced budget amendment to the Constitution of the United States.

As we understand the vote totals in the Senate right now, if he announces that he is going to vote in favor of the balanced budget amendment, there are enough votes in the Senate to pass the balanced budget amendment to the Constitution of the United States. And that would put us as a Government, provided it can be passed through the House of Representatives, in a position where for the first time since 1969, we would be required to actually balance the Federal budget.

I have asked for this time today to address my colleagues on the issue of balancing the Federal budget, the balanced budget amendment, why it is so important and how the issue relates to Social Security and other trust funds, and most important of all, how it relates to our children and our children's future and the opportunity for our children to make a living in this Nation and the opportunity for our children to live the American dream, the same kinds of chances and opportunities that we have had.

I would like to begin this discussion today by showing a chart that I have been showing now for about 5 years, and it literally shows the growth in the debt facing the United States of America. A lot of people do not think that the Federal debt has anything to do with them personally or with their lives, but the reality is when the U.S. Government borrows money it is borrowing money on behalf of the American people, and the responsibility to repay that money will rest with our children. The legacy that we are going to leave our children is this ever-growing debt.

I would point out on this chart that the debt from 1960 to 1980 grew very little, but from 1980 forward, the bulk of the debt is fast enough and sharp enough that it can bring our Nation to its knees if it is not stopped. Our Nation today stands $5.3 trillion in debt. That is approximately $20,000 for every man, woman, and child in the United States of America, and to all of my colleagues on the Democrat side of the aisle who look at 1980 and say, well, that is Ronald Reagan's fault and to all of my Republican side of the aisle who look at the Democrats and say, it is the Democrat Congress' fault, I think it is time that we, not as Republicans or Democrats, but as the American people, face up to a very serious problem facing the United States of America, and that is an ever-growing debt picture.

I personally have three teenagers in my house, and when I talk about kids I talk about my kids and other kids like them all across America. This is the legacy that we are passing on to our children in this Nation, and something needs to be done about it and done now.

I have watched with great interest as some of our Senators on the other side

of the aisle and some of our House colleagues have talked about the balanced budget amendment and say, well, we do not really need a balanced budget amendment to the Constitution of the United States. Congress can just go ahead and balance the budget all by itself, it already has the tools it needs. To those people I would ask them simply to look at history. History tells us that since 1969, even though Congress did have all of the tools, they have literally every single year since 1969 spent more money than what they collected from the American people.

That is why we need a balanced budget amendment. For those who say we do not need an amendment to our Constitution, I would simply ask them to think of the Gramm-Rudman-Hollings Act passed in the middle 1980's, Gramm-Rudman-Hollings II, the budget deal of 1990, the budget deal of 1992, and our most recent budget deal of 1994, and then I would like them to look at the spending levels that occurred after those budget deals and say, we do need a balanced budget amendment to the Constitution if we are actually going to get this job done.

It is an important issue, however, that relates to the balanced budget amendment that is currently being discussed with a great deal of interest on both sides of the aisle and that is the Social Security issue. It is important to understand how Social Security relates to the balanced budget amendment, and to begin that discussion I would like to just point out how much money is coming in to the Social Security system and how much is being paid back out to our seniors in benefits.

This year alone, the Social Security system will collect $418 billion out of the taxpayers' paychecks. That is, when you look at your paycheck and you see the money being withheld, the total sum of the money being withheld is $418 billion. The Government is writing checks back out to our senior citizens of $353 billion this year; that leaves a surplus.

The idea is they are supposed to be collecting more money in Social Security than what they are paying back out to the senior citizens in benefits. That extra money is supposed to be set aside in a kitty. The kitty is supposed to be growing bigger and bigger, so why do these two numbers change around? That is, there is not enough money coming in to make the payments to our senior citizens. They can at that point go to the kitty and make good on the checks.

Well, here is what is happening in our Government today. Remember, we are collecting more money than we are paying back out to our seniors in benefits. Unfortunately, the Federal Government today is not handling that money properly. What is happening today is that $65 billion is going directly into the Government's big checkbook. You can think of it as a general fund or just like your own personal checkbook.

They put that $65 billion into the checkbook. We all know we are running a deficit. The deficit means they are writing out more in checks than what they are collecting. So they are taking the $65 billion, putting it in their checkbook, overdrawing their checkbook and there is no money left. So at the end of the year since there is no money left in their checkbook because they have overdrawn it, that is the deficit, they simply write an IOU to the Social Security trust fund. Make no mistake about this, folks. There is no money in the Social Security trust fund. It is a pile of IOU's. This is a practice that must be stopped if we wish to preserve Social Security.

I have introduced legislation, and I am happy to say I have the support of 50 of my colleagues at this point in time. Our legislation would require the Federal Government to put that $65 billion directly into the Social Security trust fund. Why is this issue important? Well, everybody talks about Social Security as being safe and secure through the year 2029, and then everybody's eyes kind of glaze over. Well, here is the facts of the situation.

If this money is not put into the Social Security trust fund, as I am suggesting here, if we continue the practice of doing nothing but putting IOU's in the Social Security trust fund, the Social Security account is in trouble, the best case scenario in the year 2012 and realistically in the year 2005 or 2006.

Let me put this another way and bring it back to our kids and our working families in America today. In the year 2000, 2005, 2006, exactly when my kids graduate from college and will be having their own families and having their own children, like other kids like them all across America, at that point in time the Federal Government is going to have two choices since they have not done this. The Federal Government is either going to have to go out to senior citizens and say I am sorry, there is nothing but IOU's in the trust fund and we cannot make good on our payments to you, or they will go out to our families, like my kids graduating from college, starting their own families, and they will have to say, we need more money out of your paychecks.

Folks, we are not talking about decades away; we are talking about 2005, 2006, and in the best case scenario 2012, that we cannot make good on our Social Security payments to our senior citizens. The only two choices left at that point in time are reduced benefits to our seniors or collect more taxes from our working families in America. I, for one, am not willing to accept either one of those alternatives.

This bill that we have introduced, the Social Security Preservation Act, it needs to be passed and it needs to be passed in the near future so that we start putting real assets down here in the Social Security trust fund and, if the shortfall occurs, we will then have a savings account to go to to get the money to make good on our payments to our senior citizens without asking our working families for more out of their paychecks. They work too hard right now to earn the money that they earn for this Government to go and demand more out of their paychecks.

How does this whole discussion relate to the balanced budget amendment? Well, let me relate it to the balanced budget amendment. First, when we report the deficit right now, we simply report the amount of money that the Government is spending more than it is taking in. It is sort of like your own checkbook. They report the overdrawn check part of it. But remember, they are putting the $65 billion into their checkbook.

So when the deficit is reported by our Government today, when Washington reports the deficit to the American people, we only report $107 billion and we do not tell the American people that in addition to that $107 billion we are spending $65 billion more out of the Social Security trust fund. So when we talk about our deficits, we only report this blue area in the chart.

When we talk about balancing the Federal budget, here is how it works. When we talk about balancing the Federal budget, what we are talking about is this blue area. We are talking about getting to a point where the Federal Government takes in as much money as they are spending out, but at that point will still be spending the Social Security trust fund.

So make no mistake about this. When the people say, when the President's budget says he is going to be balanced in the year 2002, what the President really means is that he is going to make his budget look balanced by going into the Social Security trust fund and taking $104 billion out and applying it as a credit toward the deficit.

Let me say that again so there is no mistaking what is going on in this town. When the people in Washington say they are going to balance the Federal budget, what they really mean is that they are going to make the budget look balanced by going into the Social Security trust fund, taking the money that is supposed to be there and applying it toward the deficit.

In the year 2002, when everybody talks about a balanced budget, in the year 2002 when everybody says the budget is going to be balanced, what they really mean is that they are going to make the budget look balanced by taking $104 billion out of the Social Security trust fund and applying it to the

deficit so that the deficit appears zero. That practice is dead wrong, and that practice needs to be stopped if we hope to have Social Security in the future.

I would like to talk a little bit about what has happened over the last 1\1/2\, 2 years. I have only been here 2 years, and I would like to talk a little bit about what has happened and the positive potential for this country and how we can accomplish this without, quote, "cutting spending".

□ 1445

In the last 2 years since I have been here, for the first time in a generation we actually went into one part of the budget and reduced spending.

The budget is divided into 3 parts: interest; mandatory spending, which includes Social Security, Medicare and so on; and discretionary spending. Discretionary spending is the only part that is actually voted on year in and year out here in Washington, DC.

We went into discretionary spending and we reduced spending by $50 billion. For those of my colleagues that know the gentleman from Louisiana [BOB LIVINGSTON], a lot of the credit goes to our chairman of the Committee on Appropriations for this effort. They brought down spending by $50 billion. That meant that $50 billion remained available in the private sector.

With an additional $50 billion available in the private sector, here is what happened. It is no surprise. More money available in the private sector meant the interest rate stayed down; more money available, a larger supply, lower interest rates. It follows very logically.

With lower interest rates, people were able to afford to buy houses and cars. When they bought houses and cars, other people had to go to work building the houses and cars. When they went to work building the houses and cars, they left the welfare rolls and started paying taxes in. It works, folks. The possibility of balancing the Federal budget without raising taxes on the American people works. We have got some good news. The economy, because of his efforts to reduce government spending, leaving more money available in the private sector, the economy performed much better than expected.

The good news that we have is that we can balance the Federal budget without using the Social Security trust fund simply by holding spending to the levels that were proposed last year. But again, to my colleagues, I want them to understand that when we found out the economy was doing better than anticipated and there was this extra revenue coming in, in this community, in Washington, DC., the first thing I saw was people doing this with their hands. I want you all to see this, because what they are doing is just wringing their hands, waiting to get their hands on that money so they can go and spend it.

Mr. Speaker, I want the Members to understand when they go and spend that money, that is money coming right straight out of the Social Security trust fund, and they ought to leave their hands off that money. The purpose of passing the Social Security Preservation Act is to force the people in Washington to leave their hands off the money that belongs in the Social Security trust fund.

So again, let me make this perfectly clear. Because the economy is performing better than anybody expected, we can now put the money away in the Social Security trust fund, as we should do, without harming the other spending levels as proposed last year.

So the good news is that if we just live up to what passed through Congress last year, we can balance the budget, put the Social Security money aside and do what is right for the future of this country, so our children have the same sorts of opportunities that we had as we were growing up during the last generation.

I have a couple more charts. I brought these charts with me to show the difference in the balanced budget amendment that is being proposed with what the American people are being led to believe by our colleagues here in the House, versus the reality of what is actually happening in the balanced budget amendment.

This first chart shows what I believe the American people think is going on in Washington, DC., and certainly what the people in Washington, DC. are trying to lead the American people to believe. That is that the deficit is going to continue through the year 2002, but after the year 2002, since we have a balanced budget there will be no increase in the debt. This is the line that should exist if we had a true balanced budget in the year 2002. The debt would not keep climbing.

Let me show Members another chart as to what is actually going to happen. Under the balanced budget amendment that is being proposed and being discussed out here, and again I have to say it is better than where we are today, but under the balanced budget amendment as it is currently written, if the Social Security money is not set aside, here is what the debt growth looks like. The debt grows now from the year 2002, and after the year 2002 the debt continues to grow.

So even though we have reached a balanced budget and the American people are being led to believe that means the debt is not going to keep growing, if the Social Security money is not set aside, the reality is that even under the balanced budget amendment that is being passed out here right now, the debt will continue growing after the year 2002 if our Social Security Preservation Act is not passed into law.

I cannot say how important this is, not only to senior citizens, but to people in their forties and fifties who are expecting to get Social Security in the not distant future, and also to the people who are under age 40 who will be threatened with higher taxes, and with no ability to at some point start setting some of their own money aside, instead of paying into the Social Security system. I can't tell Members how important it is that we get the Social Security Preservation Act passed.

My colleagues, I know, are hearing from many of the people in their districts and their constituents on a very regular basis on this issue. I contend that the only way to solve this problem is not through people like myself here in Washington, but rather when the American people get involved.

I encourage my colleagues, call our office for a copy of these overheads. We will get them to you so you can take them out and show the American people exactly what is going on. Then let us get this situation solved so that it is fair, and we can hope to have Social Security for our senior citizens in the future.

I would like to kind of go back, before I conclude today, I would like to kind of go back and review one more time exactly what the situation is with Social Security, so any of my colleagues who are watching and missed part of this might pick it up. Again, I am going to start with the Social Security system.

The Social Security system today is collecting $418 billion. It is going into the paychecks of our constituents and it is literally taking out $418 billion. It is collecting that money in taxes. It is paying out in benefits to our senior citizens $353 billion. That leaves a surplus of $65 billion.

That surplus money is supposed to be set aside into a kitty. It is supposed to be an ever-growing kitty, so when there is not enough money coming in and there is too much money going out, they can go to that kitty.

This is no different, Mr. Speaker, than it is in Members' own savings accounts and checkbooks. Now there is more money coming in than what is going out, so you establish a savings account. If you lose your next election, you may have more money going out of your checkbook than what you have coming in. You go to your savings account, get the money, and make good on your checks.

That is how Social Security is supposed to be working. They are collecting more money than they are paying back in benefits, $65 billion this year alone. The money is supposed to be set aside in the Social Security trust fund. Today what is happening with that money, it is going directly into the general fund. They spend all the money out of the general fund or the big Government checkbook, and

when they are done spending the money, there is no money left to put in the Social Security trust fund, so they very simply put an IOU down there.

I have a chart that shows that. That is $65 billion they are collecting over and above what they are paying out in benefits that is going directly into the general fund, the big Government checkbook. They spend all the money out of the big Government checkbook, there is nothing left, so they simply put an IOU down here in the Social Security trust fund.

That is what is going on today. We have legislation on the floor today that has been proposed that would change that procedure. What our legislation would do, and it is called the Social Security Preservation Act, it would force that $65 billion to be put directly into the Social Security trust fund.

Why is that important? If there are nothing but IOU's in the Social Security trust fund, we will not be able to make our payments to senior citizens in Social Security by the year 2012, and I repeat, 2012. That is when Social Security is in trouble if this bill is not enacted. In all probability, when Washington says 2012, they actually mean 2005, 2006.

If this bill is not enacted, we are looking at a situation not very far down the road where we are going to have two choices in Washington: Charge more taxes of our working families, go out to our young couples and ask them to pay more taxes in, or cut benefits to seniors. I do not think either one of those are accepted.

Make no mistake about it, this money today is currently being wasted on other Government programs. This whole issue is related very directly, it is related very directly to the whole discussion on the balanced budget amendment. Here is why.

In the balanced budget amendment, in the balanced budget amendment, the balanced budget amendment talks about the amount of money that the Federal Government is spending more than it is taking in. It does not mention the fact that this $65 billion, that this is not being included in the deficit. As a result, the deficit is actually much higher than it appears.

When we talk about the balanced budget amendment we simply mean we are going to get rid of this blue area in the chart. That is the area where we have cash flow going out more than coming in. We do not mention the fact that even in the year 2002, when everybody in Washington is telling the American people that the budget is balanced, in the year 2002 when the President says he is going to balance the budget, what the President actually means and the rest of the people in Washington, what they actually mean is they are going to balance the budget by going into the Social Security trust fund, taking the money out of the Social Security trust fund, applying it to the deficit, and making the budget look balanced because they took the money out of the Social Security trust fund.

This is inexcusable as a Nation that we would allow this to go forward. It is absolutely inexcusable to me that we as a Nation would say and lead the American people to believe that we are balancing the Federal budget when in fact we are taking the money out of the Social Security trust fund to make it look balanced.

How does that impact things? Well, the American people are being led to believe that once we hit the year 2002, there will be no more growth in the debt. They are being led to believe that the debt will grow through the year 2002, but then since the budget is balanced there would be no more growth in the debt and it would remain steady at that point.

I have to tell the Members, in our budget plan, the plan that I put forward, the debt would start going back down after the year 2002. We would actually start paying the debt off, which is something we ought to be doing.

The facts are when the balanced budget amendment is passed, what is actually going to happen is the debt is going to keep going up through the year 2002, and then, since we are not counting the fact that we are borrowing the Social Security trust fund money, the debt is actually going to keep rising, even after the year 2002. So instead of the debt going down, or at least staying steady so our children can have hopes of a bright future, instead of that, the debt will keep going up if our Social Security Preservation Act is not passed.

Again, the emphasis here is on the future of this Nation as we look forward. I would just add one more thing as we are looking at this chart. It seems to me that not only should we not let the debt keep growing, as a Nation, not only should we be responsible as a generation to not pass more debt on to our children, but what we should do is get to that point of a balanced budget and then start paying the debt down.

Out here in Washington that is kind of a novel idea. When I go to town hall meetings in Delavan and Janesville and Kenosha and Racine, Wisconsin, people ask me about the debt. They ask me, hey, MARK, after the balanced budget, don't you think you ought to pay that debt down? It is going to be $6.7 trillion when you get to a balanced budget. By the time we get to a balanced budget in 2002, we are going to be in debt $25,000 for every man, woman, and child in the country. Do you not think you ought to do something about paying down the debt?

I agree with my constituents. I agree with those people at the town hall meetings. Not only should this thing not be allowed to continue the upward pattern that appears in this chart, it should start going back down, so we as a generation can look forward to passing our Nation on to our children debt-free.

Everybody in Washington goes, well, we cannot possibly do that. Let me lay out for my colleagues exactly how we can in fact pay off the debt by the year 2025 and pass this Nation on to our children debt-free.

Revenues are growing to the Federal Government for two reasons: They grow at the rate of inflation, plus the rate of real growth in the economy. So if we think about this, the amount of taxes that the Government is collecting, the amount of revenue coming into the Government, it gets bigger because of inflation.

If you get a pay raise next year, when you get that pay raise you may pay a little more taxes. That is inflation. In addition to inflation, in addition to inflation the Government gets more revenue because the economy gets bigger. That is, when the economy is bigger, somebody is making a profit over that additional business that is being done, and they therefore pay more taxes in, so revenues to the Federal Government grow not at the rate of inflation, but rather, at the rate of inflation plus real growth in the economy.

How can we make this line go back down? How can we pay that debt off so our children could receive our Nation debt-free? This is how we do it. After the year 2002 when we reach a balanced budget, we cap spending growth at the Federal level at a rate 1 percent below the rate of revenue growth.

Remember, revenue goes up at the rate of inflation plus real growth in the economy. If we simply cap spending increases at a rate 1 percent below the revenue growth, we would in fact create a surplus, because we were at balance. If revenues go up by 5 percent, spending goes up by 4 percent, that creates a surplus. That is the surplus that could then be used to first put the money back into the Social Security trust fund that has already been taken out, but second, to start paying down the Federal debt so we would have hopes of passing this Nation on to our children debt-free.

I have to tell my colleagues that in terms of service here in Washington, I came here really for two reasons. I came here to get a balanced budget and to solve this problem facing the Social Security system. To me, it is not about all these charts and it is not about Perot's charts and graphs, it is not about numbers. It is about the opportunities that we hope to have for our children. It is about whether or not our children are going to have the opportunity to live the American dream in this great Nation of ours.

Make no mistake about it, we are currently in a situation where a 1 percent change in the interest rate, just 1

small percent change in the interest rate, adds $50 billion to the deficit. Two percent is $100 billion to the deficit.

If the deficit starts exploding, the only thing the Government can do is print the money. When they print the money, that is more inflation. When they have more inflation, we, of course, have higher interest rates. Higher interest rates is a higher deficit. So the spiral goes.

As that goes on, Mr. Speaker, we need to understand that when the interest rates go up, our young people, our hardworking families, the people that get up every morning and go to work, they cannot afford the higher interest rate that would be applied to their home mortgage or to their auto loans. As those interest rates go up, people can no longer afford to buy houses and they can no longer afford to buy cars. The end result is that means we do not need as many people building houses and cars.

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When the people are not building the houses and cars, of course, that means there are no job opportunities. So what we are really talking about here, when we talk about balancing the budget, we are talking about the Government staying out of the private sector. We are talking about making the Federal Government smaller and less intrusive in our lives.

As the Government quits borrowing that money out of the private sector, leaves more money out there in the private sector, that means with more money available we can expect the interest rates to stay down. When the interests rates stay down, that means people can afford to buy houses. They can afford to buy cars.

And I have to tell you, this is the hope for the future of America. Because when they can afford to buy houses and cars, the poor people in this country are going to have opportunities to have a job because somebody has to build those houses and somebody has to build those cars. That is the hope; that is welfare reform.

Welfare reform is a job opportunity for the people that are not currently working. Welfare reform is the Federal Government quitting spending more money than it has, leaving the money in the private sector so the interest rates stay down so people can afford to buy houses and afford to buy cars in this Nation of ours and people go to work building those houses and those cars. That is job opportunities. That is the welfare reform that we need to talk about in this Nation. That is the hope for my children's future.

When I say "my children," I do not just mean MARK NEUMANN's children, I mean all the kids that are teenagers. The three teenagers in my house, yes, they are going to be out of school in 5 years, but there are going to be millions of teenagers out of school in 5 years. What we are talking is whether those kids are going to have the opportunity to start with a job, to get promotions, and then go through their lives and to provide a better living for themselves and their family as they, too, attempt to achieve the American dream.

That is what this issue is all about. It is not about numbers. It is not about all these charts. It is about our kids. It is about whether or not our kids are going to have the same opportunities that we have had. It is about our senior citizens who have been promised Social Security, and it is about whether or not this Government can make good on those promises to our seniors without destroying the opportunities for our kids. That is what this whole discussion is about.

I conclude today by simply encouraging the support of a balanced budget amendment to the Constitution and encouraging the support of the Social Security Preservation Act so we get both jobs done at the same time and make this place much more credible with the American people and, again, arrive at a point where our children can achieve the American dream.

RULES OF PROCEDURE FOR THE COMMITTEE ON APPROPRIATIONS 105TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 5 minutes.

Mr. LIVINGSTON. Mr. Speaker, pursuant to the requirement of clause 2(a) of rule XI of the Rules of the House, I submit herewith the rules of the Committee on Appropriations for the 105th Congress. The committee rules were approved by the full committee on February 5, 1997, and amended on February 12, 1997.

Resolved, That the rules and practices of the Committee on Appropriations, House of Representatives, in the One Hundred Fourth Congress, except as otherwise provided hereinafter, shall be and are hereby adopted as the rules and practices of the Committee on Appropriations in the One Hundred Fifth Congress.

The foregoing resolution adopts the following rules:

SECTION 1. POWER TO SIT AND ACT

For the purpose of carrying out any of its functions and duties under Rules X and XI of the Rules of the House of Representatives, the Committee or any of its subcommittees is authorized:

(a) To sit and act at such times and places within the United States whether the House is in session, has recessed, or has adjourned, and to hold such hearings; and

(b) To require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, reports, correspondence, memorandums, papers, and documents as it deems necessary. The Chairman, or any Member designated by the Chairman, may administer oaths to any witness.

(c) A subpoena may be authorized and issued by the Committee or its subcommittees under subsection 1(b) in the conduct of any investigation or activity or series of investigations or activities, only when authorized by a majority of the Members of the Committee voting, a majority being present. The power to authorize and issue subpoenas under subsection 1(b) may be delegated to the Chairman pursuant to such rules and under such limitations as the Committee may prescribe. Authorized subpoenas shall be signed by the Chairman or by any Member designated by the Committee.

(d) Compliance with any subpoena issued by the Committee or its subcommittees may be enforced only as authorized or directed by the House.

SEC. 2. SUBCOMMITTEES

(a) The Majority Caucus of the Committee shall establish the number of subcommittees and shall determine the jurisdiction of each subcommittee.

(b) Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the Committee all matters referred to it.

(c) All legislation and other matters referred to the Committee shall be referred to the subcommittee of appropriate jurisdiction within two weeks unless, by majority vote of the Majority Members of the full Committee, consideration is to be by the full Committee.

(d) The Majority Caucus of the Committee shall determine an appropriate ratio of Majority to Minority Members for each subcommittee. The Chairman is authorized to negotiate that ratio with the Minority;*Provided, however,* That party representation in each subcommittee, including ex-officio members, shall be no less favorable to the Majority than that ratio for the full Committee.

(e) The Chairman and Ranking Minority Member of the full Committee are authorized to sit as a member of all subcommittees and to participate, including voting, in all its work.

SEC. 3. STAFFING

(a) Committee Staff—The Chairman is authorized to appoint the staff of the Committee, and make adjustments in the job titles and compensation thereof subject to the maximum rates and conditions established in Clause 6(c) of Rule XI of the Rules of the House of Representatives. In addition, he is authorized, in his discretion, to arrange for their specialized training. The Chairman is also authorized to employ additional personnel as necessary.

(b) Assistants to Members—Each of the top twenty-one senior majority and minority Members of the full Committee may select and designate one staff member who shall serve at the pleasure of that Member. Such staff members shall be compensated at a rate, determined by the Member, not to exceed 75 per centum of the maximum established in Clause 6(c) of Rule XI of the Rules of the House of Representatives; *Provided,* That Members designating staff members under this subsection must specifically certify by letter to the Chairman that the employees are needed and will be utilized for Committee work.

SEC. 4. COMMITTEE MEETINGS

(a) Regular Meeting Day—The regular meeting day of the Committee shall be the first Wednesday of each month while the House is in session, unless the Committee has met within the past 30 days or the Chairman considers a specific meeting unnecessary in the light of the requirements of the Committee business schedule.

(b) Additional and Special Meetings:

(1) The Chairman may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purpose pursuant to that call of the Chairman.

(2) If at least three Committee Members desire that a special meeting of the Committee be called by the Chairman, those Members may file in the Committee Offices a written request to the Chairman for that special meeting. Such request shall specify the measure or matter to be considered. Upon the filing of the request, the Committee Clerk shall notify the Chairman.

(3) If within three calendar days after the filing of the request, the Chairman does not call the requested special meeting to be held within seven calendar days after the filing of the request, a majority of the Committee Members may file in the Committee Offices their written notice that a special meeting will be held, specifying the date and hour of such meeting, and the measure or matter to be considered. The Committee shall meet on that date and hour.

(4) Immediately upon the filing of the notice, the Committee Clerk shall notify all Committee Members that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered. Only the measure or matter specified in that notice may be considered at the special meeting.

(c) Vice Chairman To Preside in Absence of Chairman—A member of the majority party on the Committee or subcommittee thereof designated by the Chairman of the full Committee shall be vice chairman of the Committee or subcommittee, as the case may be, and shall preside at any meeting during the temporary absence of the chairman. If the chairman and vice chairman of the Committee or subcommittee are not present at any meeting of the Committee or subcommittee, the ranking member of the majority party who is present shall preside at the meeting.

(d) Business Meetings:

(1) Each meeting for the transaction of business, including the markup of legislation, of the Committee and its subcommittees shall be open to the public except when the Committee or its subcommittees, in open session and with a majority present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed.

(2) No person other than Committee Members and such congressional staff and departmental representatives as they may authorize shall be present at any business or markup session which has been closed.

(e) Committee Records:

(1) The Committee shall keep a complete record of all Committee action, including a record of the votes on any question on which a roll call is demanded. The result of each roll call vote shall be available for inspection by the public during regular business hours in the Committee Offices. The information made available for public inspection shall include a description of the amendment, motion, or other proposition, and the name of each Member voting for and each Member voting against, and the names of those Members present but not voting.

(2) All hearings, records, data, charts, and files of the Committee shall be kept separate and distinct from the congressional office records of the Chairman of the Committee. Such records shall be the property of the House, and all Members of the House shall have access thereto.

(3) The records of the Committee at the National Archives and Records Administration shall be made available in accordance with Rule XXXVI of the Rules of the House, except that the Committee authorizes use of any record to which Clause 3(b)(4) of Rule XXXVI of the Rules of the House would otherwise apply after such record has been in existence for 20 years. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to Clause 3(b)(3) or Clause 4(b) of Rule XXXVI of the Rules of the House, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination upon the written request of any Member of the Committee.

SEC 5. COMMITTEE AND SUBCOMMITTEE HEARINGS

(a) Overall Budget Hearings—Overall budget hearings by the Committee, including the hearing required by Section 242(c) of the Legislation Reorganization Act of 1970 and Clause 4(a)(1) of Rule X of the Rules of the House of Representatives shall be conducted in open session except when the Committee in open session and with a majority present, determines by roll call vote that the testimony to be taken at that hearing on that day may be related to a matter of national security; except that the Committee may by the same procedure close one subsequent day of hearing. A transcript of all such hearings shall be printed and a copy furnished to each Member, Delegate, and the Resident Commissioner from Puerto Rico.

(b) Other Hearings:

(1) All other hearings conducted by the Committee or its subcommittees shall be open to the public except when the Committee or subcommittee in open session and with a majority present determines by roll call vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or Rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present at a hearing conducted by the Committee or any of its subcommittees, there being in attendance the number required under Section 5(c) of these Rules to be present for the purpose of taking testimony, (1) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate Clause 2(k)(5) of Rule Xi of the Rules of the House of Representatives or (2) may vote to close the hearing, as provided in Clause 2(k)(5) of such Rule. No Member of the House of Representatives may be excluded from nonparticipatory attendance at any hearing of the Committee or its subcommittees unless the House of Representatives shall by majority vote authorize the Committee or any of its subcommittees, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subsection for closing hearings to the public; *Provided, however,* That the Committee or its subcommittees may by the same procedure vote to close five subsequent days of hearings.

(2) Subcommittee chairmen shall coordinate the development of schedules for meetings or hearings after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings.

(3) Each witness who is to appear before the Committee or any of its subcommittees as the case may be, insofar as is practicable, shall file in advance of such appearance, a written statement of the proposed testimony and shall limit the oral presentation at such appearance to a brief summary, except that this provision shall not apply to any witness appearing before the Committee in the overall budget hearings.

(4) Each witness appearing in a nongovernmental capacity before the Committee, or any of its subcommittees as the case may be, shall to the greatest extent practicable, submit a written statement including a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness.

(c) Quorum for Taking Testimony—The number of Members of the Committee which shall constitute a quorum for taking testimony and receiving evidence in any hearing of the Committee shall be two.

(d) Calling and Interrogation of Witnesses:

(1) The Minority Members of the Committee or its subcommittees shall be entitled, upon request to the Chairman or subcommittee chairman, by a majority of them before completion of any hearing, to call witnesses selected by the Minority to testify with respect to the matter under consideration during at least one day of hearings thereon.

(2) The Committee and its subcommittees shall observe the five-minute rule during the interrogation of witnesses until such time as each Member of the Committee or subcommittee who so desires has had an opportunity to question the witness.

(e) Broadcasting and Photographing of Committee Meetings and Hearings—Whenever a hearing or meeting conducted by the full Committee or any of its subcommittees is open to the public, those proceedings shall be open to coverage by television, radio, and still photography, except as provided in paragraph (f)(2) of the Rules of the House of Representatives. Neither the full Committee Chairman or Subcommittee Chairman shall limit the number of television or still cameras to fewer than two representatives from each medium.

(f) Subcommittee Meetings—No subcommittee shall sit while the House is reading an appropriation measure for amendment under the five-minute rule or while the Committee is in session.

(g) Public Notice of Committee Hearings—The Chairman of the Committee shall make public announcement of the date, place, and subject matter of any Committee or subcommittee hearing at least one week before the commencement of the hearing. If the Chairman of the Committee or subcommittee, with the concurrence of the ranking minority member of the Committee or respective subcommittee, determines there is good cause to begin the hearing sooner, or if the Committee or subcommittee so determines by majority vote, a quorum being present for the transaction of business, the Chairman or subcommittee chairman shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly

entered into the Committee scheduling service of the House Information Systems.

SEC. 6. PROCEDURES FOR REPORTING BILLS AND RESOLUTIONS

(a) Prompt Reporting Requirement:

(1) It shall be the duty of the Chairman to report, or cause to be reported promptly to the House any bill or resolution approved by the Committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, a report on a bill or resolution which the Committee has approved shall be filed within seven calendar days (exclusive of days in which the House is not in session) after the day on which there has been filed with the Committee Clerk a written request, signed by a majority of Committee Members, for the reporting of such bill or resolution. Upon the filing of any such request, the Committee Clerk shall notify the Chairman immediately of the filing of the request. This subsection does not apply to the reporting of a regular appropriation bill or to the reporting of a resolution of inquiry addressed to the head of an executive department.

(b) Presence of Committee Majority—No measure or recommendation shall be reported from the Committee unless a majority of the Committee was actually present.

(c) Roll Call Votes—With respect to each roll call vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those Members voting for and against, shall be included in the Committee report on the measure or matter.

(d) Compliance With Congressional Budget Act—A Committee report on a bill or resolution which has been approved by the Committee shall include the statement required by Section 308(a) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the bill or resolution provides new budget authority.

(e) Constitutional Authority Statement—Each report of the Committee on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution.

(f) Changes in Existing Law—Each Committee report on a general appropriation bill shall contain a concise statement describing fully the effect of any provision of the bill which directly or indirectly changes the application of existing law.

(g) Rescissions and Transfers—Each bill or resolution reported by the Committee shall include separate headings for rescissions and transfers of unexpended balances with all proposed rescissions and transfers listed therein. The report of the Committee accompanying such a bill or resolution shall include a separate section with respect to such rescissions or transfers.

(h) Listing of Unauthorized Appropriations—Each Committee report on a general appropriations bill shall contain a list of all appropriations contained in the bill for any expenditure not previously authorized by law (except for classified intelligence or national security programs, projects, or activities).

(i) Supplemental or Minority Views:

(1) If, at the time the Committee approves any measure or matter, any Committee Member gives notice of intention to file supplemental, minority, or additional views, the Member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays) in which to file such views in writing and signed by the Member, with the Clerk of the Committee. All such views so filed shall be included in and shall be a part of the report filed by the Committee with respect to that measure or matter.

(2) The Committee report on that measure or matter shall be printed in a single volume which—

(i) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(ii) shall have on its cover a recital that any such supplemental, minority, or additional views are included as part of the report.

(3) Subsection (h)(1) of this section, above, does not preclude—

(i) the immediate filing or printing of a Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by such subsection; or

(ii) the filing by the Committee of a supplemental report on a measure or matter which may be required for correction of any technical error in a previous report made by the Committee on that measure or matter.

(4) If, at the time a subcommittee approves any measure or matter for recommendation to the full Committee, any Member of that subcommittee who gives notice of intention to offer supplemental, minority, or additional views shall be entitled, insofar as is practicable and in accordance with the printing requirements as determined by the subcommittee, to include such views in the Committee Print with respect to that measure or matter.

(j) Availability of Reports—A copy of each bill, resolution, or report shall be made available to each member of the Committee at least three calendar days (excluding Saturdays, Sundays, and legal holidays) in advance of the date on which the Committee is to consider each bill, resolution, or report; *Provided*, That this subsection may be waived by agreement between the Chairman and the Ranking Minority Member of the full Committee.

SEC. 7. VOTING

(a) No vote by any Member of the Committee or any of its subcommittees with respect to any measure or matter may be cast by proxy.

(b) The vote on any question before the Committee shall be taken by the yeas and nays on the demand of one-fifth of the Members present.

SEC. 8. STUDIES AND EXAMINATIONS

The following procedure shall be applicable with respect to the conduct of studies and examinations of the organization and operation of Executive Agencies under authority contained in Section 202(b) of the Legislative Reorganization Act of 1946 and in Clause 2(b)(3) of Rule X of the Rules of the House of Representatives:

(a) The Chairman is authorized to appoint such staff and, in his discretion, arrange for the procurement of temporary services of consultants, as from time to time may be required.

(b) Studies and examinations will be initiated upon the written request of a subcommittee which shall be reasonably specific and definite in character, and shall be initiated only by a majority vote of the subcommittee, with the chairman of the subcommittee and the ranking minority member thereof participating as part of such majority vote. When so initiated such request shall be filed with the Clerk of the Committee for submission to the Chairman and the Ranking Minority Member and their approval shall be required to make the same effective. Notwithstanding any action taken on such request by the chairman and ranking minority member of the subcommittee, a request may be approved by a majority of the Committee.

(c) Any request approved as provided under subsection (b) shall be immediately turned over to the staff appointed for action.

(d) Any information obtained by such staff shall be reported to the chairman of the subcommittee requesting such study and examination and to the Chairman and Ranking Minority Member, shall be made available to the members of the subcommittee concerned, and shall not be released for publication until the subcommittee so determines.

(e) Any hearings or investigations which may be desired, aside from the regular hearings on appropriation items, when approved by the Committee, shall be conducted by the subcommittee having jurisdiction over the matter.

SEC. 9. OFFICIAL TRAVEL

(a) The chairman of a subcommittee shall approve requests for travel by subcommittee members and staff for official business within the jurisdiction of that subcommittee. The ranking minority member of a subcommittee shall concur in such travel requests by minority members of that subcommittee and the Ranking Minority Member shall concur in such travel requests for Minority Members of the Committee. Requests in writing covering the purpose, itinerary, and dates of proposed travel shall be submitted for final approval to the Chairman. Specific approval shall be required for each and every trip.

(b) The Chairman is authorized during the recess of the Congress to approve travel authorizations for Committee Members and staff, including travel outside the United States.

(c) As soon as practicable, the Chairman shall direct the head of each Government agency concerned not to honor requests of subcommittees, individual Members or staff for travel, the direct or indirect expenses of which are to be defrayed from an executive appropriation, except upon request from the Chairman.

(d) In accordance with Clause 2(n) of Rule XI of the Rules of the House of Representatives and Section 502(b) of the Mutual Security Act of 1954, as amended, local currencies owned by the United States shall be available to Committee Members and staff engaged in carrying out their official duties outside the United States, its territories, or possessions. No Committee Member or staff member shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in applicable Federal law.

(e) Travel Reports:

(1) Members or staff shall make a report to the Chairman on their travel, covering the purpose, results, itinerary, expenses, and other pertinent comments.

(2) With respect to travel outside the United States or its territories or possessions, the report shall include: (1) an itemized list showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, and any funds expended for any other official purpose; and (2) a summary in these categories of the total foreign currencies and/or

appropriated funds expended. All such individual reports on foreign travel shall be filed with the Chairman no later than sixty days following completion of the travel for use in complying with reporting requirements in applicable Federal law, and shall be open for public inspection.

(3) Each Member or employee performing such travel shall be solely responsible for supporting the amounts reported by the Member or employee.

(4) No report or statement as to any trip shall be publicized making any recommendations in behalf of the Committee without the authorization of a majority of the Committee.

(f) Members and staff of the Committee performing authorized travel on official business pertaining to the jurisdiction of the Committee shall be governed by applicable laws or regulations of the House and the Committee on House Oversight pertaining to such travel, and as promulgated from time to time by the Chairman.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. REYES (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of illness in the family.

Ms. DANNER (at the request of Mr. GEPHARDT) for today, on account of the death of her mother.

Ms. CARSON (at the request of Mr. GEPHARDT) for today, on account of illness.

Mr. ENGEL (at the request of Mr. GEPHARDT) for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

Ms. CHRISTIAN-GREEN, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. SKAGGS, for 5 minutes, today.

(The following Members (at the request of Mr. PAPPAS) to revise and extend their remarks and include extraneous material:)

Mr. CANADY of Florida, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today.

Mr. WOLF, for 5 minutes, on February 27.

Mr. THUNE, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. COBURN, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. FOLEY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) and to include extraneous material:)

Mrs. KENNELLY of Connecticut.

Mr. HAMILTON.

Mr. STARK.

Mr. KENNEDY of Rhode Island.

Mr. HALL of Ohio.

Mr. CUMMINGS.

Mr. POSHARD.

Mrs. MINK of Hawaii.

Mr. RANGEL.

Mr. SISISKY.

Mr. BORSKI.

Mrs. MEEK of Florida.

Ms. JACKSON-LEE of Texas.

(The following Members (at the request of Mr. PAPPAS) and to include extraneous material:)

Mr. CALLAHAN.

Mrs. ROUKEMA, in two instances.

Mr. GILMAN, in two instances.

Mr. HYDE, in two instances.

(The following Members (at the request of Mr. LAMPSON) and to include extraneous matter:)

Mr. HASTINGS of Florida.

Mr. HOYER.

Mr. MORAN.

Mr. TRAFICANT.

Mr. SOLOMON.

Mr. PETRI.

Mr. SAXTON.

Mr. TALENT.

Mr. LAHOOD.

Mr. BONILLA.

Mr. KLINK.

Mr. SAM JOHNSON of Texas.

Mr. NADLER.

(The following Members (at the request of Mr. NEUMANN) and to include extraneous matter:)

Mr. WOLF.

Mr. ABERCROMBIE.

Mr. KENNEDY of Massachusetts.

Mr. HALL of Ohio.

Mr. NUSSLE.

ADJOURNMENT

Mr. NEUMANN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, February 27, 1997, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1914. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the transfer of property to the Republic of Panama under the Panama Canal Treaty of 1977 and related agreements, pursuant to 22 U.S.C. 3784(b); to the Committee on National Security.

1915. A letter from the Under Secretary of Defense, transmitting notification that the Department's Vision 21 Plan will be transmitted to the Congress in the near future; to the Committee on National Security.

1916. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting the annual report to Congress on the operations of the Export-Import Bank of the United States for fiscal year 1996, pursuant to 12 U.S.C. 635g(a); to the Committee on Banking and Financial Services.

1917. A letter from the Acting General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Indemnification of Department of Housing and Urban Development Employees [Docket No. FR-4143-F-01] (RIN: 2501-AC34) received February 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1918. A letter from the Assistant Secretary for Employment and Training, Department of Labor, transmitting the Department's final rule—Unemployment Insurance Program Letter [Letter No. 05-97] received February 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1919. A letter from the Secretary of Energy, transmitting a corrected copy of a report on the cofiring of natural gas with coal in utility and large industrial boilers (EC 1843) which was transmitted February 25, 1997; to the Committee on Commerce.

1920. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Norway (Transmittal No. DTC-66-96), pursuant to 22 U.S.C. 2776 2776(d); to the Committee on International Relations.

1921. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1922. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a listing of gifts by the U.S. Government to foreign individuals during fiscal year 1996, pursuant to 22 U.S.C. 2694(2); to the Committee on International Relations.

1923. A letter from the Director, Federal Emergency Management Agency, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1924. A letter from the Chair, Federal Energy Regulatory Commission, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

1925. A letter from the Assistant Comptroller General, General Accounting Office, transmitting the Office's report on the United States-Japan Fighter Aircraft Program; to the Committee on Government Reform and Oversight.

1926. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Introduction of Miscellaneous Amendments (DOD, GSA, NASA) [Federal Acquisition Circular 90-43] received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1927. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting

the Administration's final rule—Federal Acquisition Regulation; FASA and the Walsh-Healey Public Contracts Act (DOD, GSA, NASA) [FAC 90-43, FAR Case 96-601, Item I] (RIN: 9000-AH31) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1928. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Individual and Class Deviations (DOD, GSA, NASA) [FAC 90-43; FAR Case 96-004; Item II] (RIN: 9000-AH32) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1929. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Use of Data Universal Numbering System as Primary Contractor Identification (DOD, GSA, NASA) [FAC 90-43, FAR Case 95-307, Item III] (RIN: 9000-AH33) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1930. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Inapplicability of Cost Accounting Standards to Contracts and Subcontracts for Commercial Items (DOD, GSA, NASA) [FAC 90-43; FAR Case 96-310; Item IV] (RIN: 9000-AH01) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1931. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Allowable Cost and Payment Clause (DOD, GSA, NASA) [FAC 90-43; FAR Case 93-024; Item V] (RIN: 9000-AG74) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1932. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Mentor Protege Program (DOD, GSA, NASA) [FAC 90-43; FAR Case 93-308; Item VI] (RIN: 9000-AG70) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1933. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Minority Small Business and Capital Ownership (DOD, GSA, NASA) [FAC 90-43; FAR Case 95-028, Item VII] (RIN: 9000-AH34) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1934. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Extension of Small Business Competitiveness Demonstration Program (DOD, GSA, NASA) [FAC 90-43; FAR Case 96-328, Item VIII] (RIN: 9000-AH40) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1935. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Morale, Health, Welfare Costs/Contractor Overhead Certification (DOD, GSA, NASA) [FAC 90-43; FAR Case 92-613, Item IX] (RIN: 9000-AG85) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1936. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Impairment of Long-Lived Assets (DOD, GSA, NASA) [FAC 90-43; FAR Case 95-003, Item X] (RIN: 9000-AG73) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1937. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Local Government Lobbying Costs (DOD, GSA, NASA) [FAC 90-43, FAR Case 96-003, Item XI] (RIN: 9000-AH35) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1938. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Clause Flowdown (DOD, GSA, NASA) [FAC 90-43; FAR Case 92-035, Item XII] (RIN: 9000-AG76) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1939. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Collection of FASA-Related Information within the Federal Procurement Data System (DOD, GSA, NASA) [FAC 90-43; FAR Case 95-310, Item XIII] (RIN: 9000-AH36) received January 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

1940. A letter from the Associate Administrator, General Services Administration, transmitting the Administration's 1996 annual report to the Congress; to the Committee on Government Reform and Oversight.

1941. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

1942. A letter from the Director, Peace Corps, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

1943. A letter from the Marshal of the Court, Supreme Court of the United States, transmitting the annual report on the cost of the protective function provided by the Supreme Court Police to Justices, official guests and employees of the court, pursuant to 40 U.S.C. 13n(c); to the Committee on the Judiciary.

1944. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Classification of Certain Scientists of the Commonwealth of Independent States of the Former Soviet Union and the Baltic States as Employment-Based Immigrants [INS No. 1602-92] (RIN: 1115-AD33) received February 18, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1945. A letter from the Secretary of Energy, transmitting a detailed progress review of the research and development authorized under the act, pursuant to Public Law 101-425, section 10 (104 Stat. 919); to the Committee on Science.

1946. A letter from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting the Department's final rule—Government Securities Act Regulations: Recordkeeping (Bureau of the Public Debt) [17 CFR Part 404] received February 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1947. A letter from the Chairman, Federal Election Commission, transmitting a supplemental fiscal year 1997 request for additional funds, pursuant to 2 U.S.C. 437d(d)(1); jointly, to the Committees on Appropriations and House Oversight.

1948. A letter from the Chairman, Federal Election Commission, transmitting its amended fiscal year 1998 budget request and justification, pursuant to 2 U.S.C. 437d(d)(1); jointly, to the Committees on Appropriations and House Oversight.

1949. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's obligation of funds for additional program proposals for purposes of Nonproliferation and Disarmament Fund [NDF] activities, pursuant to 22 U.S.C. 5858; jointly, to the Committees on International Relations and Appropriations.

1950. A letter from the Secretary of Commerce, transmitting the annual report of the Secretary of Commerce to the Congress for the fiscal year ending September 30, 1995, pursuant to 15 U.S.C. 1519; jointly, to the Committees on Commerce, Ways and Means, Government Reform and Oversight, the Judiciary, Science, Transportation and Infrastructure, Banking and Financial Services, and International Relations.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GILMAN (for himself and Mr. FILNER):

H.R. 836. A bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. BACHUS:

H.R. 837. A bill to improve the administration of the Fair Debt Collection Practices Act; to the Committee on Banking and Financial Services.

By Mrs. CHENOWETH (for herself, Mr. CRAPO, and Mr. SMITH of Oregon):

H.R. 838. A bill to require adoption of a management plan for the Hells Canyon National Recreation Area that allows appropriate use of motorized and nonmotorized river craft in the recreation area, and for other purposes; to the Committee on Resources.

By Mr. CONYERS (for himself, Mr. DELLUMS, Mr. EVANS, Mrs. MEEK of Florida, and Ms. WATERS):

H.R. 839. A bill to amend the United States Housing Act of 1937 to require the Secretary

of Housing and Urban Development to administer a program of construction and revitalization of public housing, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. CALVERT, Mr. FOX of Pennsylvania, Mr. HOLDEN, Mr. FROST, Mr. MASCARA, and Mr. FATTAH):

H.R. 840. A bill to amend the Internal Revenue Code of 1986 to disregard certain amounts of capital expenditures in applying $10,000,000 limit on such issues, and for other purposes; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. MATSUI, Mr. ROYCE, Mr. ENSIGN, Mr. GEJDENSON, and Mr. WAXMAN):

H.R. 841. A bill to amend the Internal Revenue Code of 1986 relating to the unemployment tax for individuals employed in the entertainment industry; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself and Mr. HOLDEN):

H.R. 842. A bill to amend the Internal Revenue Code of 1986 to exempt small issues from the restrictions on the deduction by financial institutions for interest; to the Committee on Ways and Means.

By Mr. FORD (for himself, Mr. LEWIS of Georgia, Mr. THOMPSON, Mr. REYES, Mr. BLAGOJEVICH, Mr. JACKSON, Mr. MALONEY of Connecticut, Ms. JACKSON-LEE, Mr. CLYBURN, Ms. MCKINNEY, Mr. STARK, Mr. HINOJOSA, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. KILPATRICK):

H.R. 843. A bill to prohibit the location of solid and hazardous waste facilities near residential, day care, church, and school properties; to the Committee on Commerce.

By Mr. HASTINGS of Florida:

H.R. 844. A bill to amend title 18, United States Code, to prohibit the disposition of a firearm to, and the possession of a firearm by, nonpermanent resident aliens; to the Committee on the Judiciary.

By Mrs. KENNELLY of Connecticut:

H.R. 845. A bill to amend title 18, United States Code, to provide a minimum mandatory penalty for conveying false bomb threats through instrumentalities of interstate and foreign commerce; to the Committee on the Judiciary.

H.R. 846. A bill to amend the Internal Revenue Code of 1986 to require gain recognition in the case of certain transactions that are equivalent to sales of financial instruments, and for other purposes; to the Committee on Ways and Means.

By Mrs. LOWEY (for herself and Mrs. MORELLA):

H.R. 847. A bill to amend the Public Health Service Act to establish a program of providing information and education to the public on the prevention and treatment of eating disorders; to the Committee on Commerce.

By Mr. MCHUGH:

H.R. 848. A bill to extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, and for other purposes; to the Committee on Commerce.

By Mr. PACKARD (for himself, Mr. BILBRAY, Mr. CUNNINGHAM, Mr. HUNTER, Mr. ROHRABACHER, and Mr. TRAFICANT):

H.R. 849. A bill to prohibit an alien who is not lawfully present in the United States from receiving assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; to the Committee on Transportation and Infrastructure.

By Mr. RANGEL (for himself and Mr. GILMAN):

H.R. 850. A bill to amend certain provisions of law concerning communications between Government agencies and the Immigration and Naturalization Service; to the Committee on the Judiciary.

By Ms. ROYBAL-ALLARD (for herself, Mr. TORRES, Mrs. MORELLA, Mr. FROST, Mr. GUTIERREZ, Ms. SLAUGHTER, Ms. LOFGREN, Ms. NORTON, Mrs. MALONEY of New York, Ms. PELOSI, Mr. ACKERMAN, Mr. JACKSON, Mr. CONYERS, Mr. LEWIS of Georgia, and Mr. BALDACCI):

H.R. 851. A bill to amend the Family and Medical Leave Act of 1993 to allow leave to address domestic violence and its effects, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Government Reform and Oversight, and House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TALENT:

H.R. 852. A bill to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies; to the Committee on Government Reform and Oversight, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TRAFICANT:

H.R. 853. A bill to direct the Comptroller General of the United States to study the effect that a tax system comprised of a 10 percent Federal consumption tax and a 10 percent flat Federal income tax would have on the Federal Government and the U.S. economy; to the Committee on Ways and Means.

H.R. 854. A bill to discourage domestic corporations from establishing foreign manufacturing subsidiaries in order to avoid Federal taxes by including in gross income of U.S. shareholders in foreign corporations the retained earnings of any such subsidiary which are attributable to manufacturing operations in runaway plants or tax havens; to the Committee on Ways and Means.

By Ms. WOOLSEY:

H.R. 855. A bill to amend the Higher Education Act of 1965 to provide administrative support and information to States for the establishment and operation of prepaid tuition programs, and for other purposes; to the Committee on Education and the Workforce.

By Mr. WATTS of Oklahoma (for himself, Mr. BISHOP, Mr. MCINTOSH, Mr. SOUDER, Mrs. MALONEY of New York, Mrs. KELLY, Mr. WOLF, Mr. FROST, and Mrs. KENNELLY of Connecticut):

H.J. Res. 56. Joint resolution celebrating the end of slavery in the United States; to the Committee on Government Reform and Oversight.

By Mr. SENSENBRENNER:

H.J. Res. 77. Resolution providing amounts for the expenses of the Committee on Science in the 105th Congress; to the Committee on House Oversight.

By Mr. PAPPAS:

H.J. Res. 78. Resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. BURTON of Indiana:

H.J. Res. 79. Resolution amending the Rules of the House of Representatives to discourage frivolous ethics complaints; to the Committee on Rules.

By Mr. KASICH:

H.J. Res. 80. Resolution providing amounts for the expenses of the Committee on the Budget in the 105th Congress; to the Committee on House Oversight.

MEMORIALS

Under clause 4 of rule XXII,

22. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to House Concurrent Resolution No. 2: To request of the 105th Congress and the President of the United States of America to respond to the democratic aspirations of the American citizens of Puerto Rico, in order to achieve a process that guarantees the prompt decolonization of Puerto Rico by means of a plebiscite sponsored by the Federal Government, which must be held no later than 1998; to the Committee on Resources. February 26, 1997.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1: Mr. GIBBONS, Mrs. ROUKEMA, Mr. ROGAN, Mr. PETERSON of Pennsylvania, Mr. WATTS of Oklahoma, Mr. SHADEGG, and Mr. COX of California.

H.R. 4: Mr. GALLEGLY, Mr. FAWELL, Mr. HINCHEY, Mr. COMBEST, Mr. BISHOP, Mr. MCCOLLUM, Mr. GONZALEZ, Mr. SKELTON, Mr. POMBO, Mr. MOAKLEY, Mr. GUTIERREZ, Mr. DAVIS of Virginia, Mr. HALL of Texas, Ms. HARMAN, Mr. MCINTOSH, Mr. OXLEY, Mr. HASTINGS of Washington, Mr. HILLIARD, and Mr. RILEY.

H.R. 7: Mr. LIPINSKI, Mr. HEFLEY, Mr. BURR of North Carolina, Mr. GREENWOOD, Mrs. ROUKEMA, and Mrs. KELLY.

H.R. 15: Mr. NETHERCUTT, Mr. ENSIGN, Mr. MCKEON, Mr. WAXMAN, Mrs. MORELLA, Mrs. JOHNSON of Connecticut, and Mr. LEWIS of Georgia.

H.R. 38: Mrs. MEEK of Florida, Mr. PASTOR, Mr. MANTON, Mr. WELDON of Florida, Mr. FILNER, and Mr. FARR of California.

H.R. 44: Mr. GIBBONS.

H.R. 65: Mrs. MEEK of Florida, Mr. PASTOR, Mr. RAHALL, Mr. FAZIO of California, Mr. RIGGS, Mr. GIBBONS, Mr. COBURN, Mr. MCINTYRE, Mr. EHRLICH, and Mr. JEFFERSON.

H.R. 80: Mr. SANFORD, Mr. COSTELLO, Ms. LOFGREN, Mrs. LINDA SMITH of Washington, and Mr. POMBO.

H.R. 107: Mr. VENTO, Mr. GILLMOR, Mr. DAVIS of Virginia, Mr. METCALF, Mr. SMITH of New Jersey, Mr. CHAMBLISS, Mr. ENGEL, Ms. NORTON, Mr. SANDERS, Mr. HORN, Mr. BROWN of California, Mr. GALLEGLY, Mr. PETRI, Ms. LOFGREN, Mr. RAHALL, and Mr. ENGLISH of Pennsylvania.

H.R. 108: Mr. UNDERWOOD.

H.R. 123: Mr. DAVIS of Virginia, Mr. MANZULLO, Mr. COBLE, and Mr. HOEKSTRA.

H.R. 127: Mr. FORD, Mr. MURTHA, Mrs. MCCARTHY of New York, and Mr. PRICE of North Carolina.

H.R. 150: Mr. THOMPSON and Mr. SERRANO.

H.R. 158: Mr. KLINK, Mr. SOUDER, Mr. CHABOT, Ms. PRYCE of Ohio, Mr. PETRI, Mr. HEFLEY, and Mr. POMBO.

H.R. 160: Mr. BUNNING of Kentucky, Mr. CRANE, and Mr. WELLER.

H.R. 162: Mr. LUCAS of Oklahoma and Mr. CRANE.

H.R. 163: Mr. LUCAS of Oklahoma.

H.R. 177: Ms. JACKSON-LEE.

H.R. 182: Mr. THOMPSON and Mr. LEWIS of Georgia.

H.R. 192: Mr. SPRATT, Mr. DOOLEY of California, Mr. RILEY, Mr. GRAHAM, Mr. GREEN, Mr. ROMERO-BARCELO, Mr. BRYANT, Mr. CANADY of Florida, Mr. MCINTYRE, Mr. WELDON of Florida, and Mr. HALL of Texas.

H.R. 230: Mrs. THURMAN.

H.R. 250: Mr. HINCHEY.

H.R. 279: Mr. TRAFICANT, Mr. BILBRAY, Mr. GREENWOOD, Mr. ENGLISH of Pennsylvania, Mr. GILMAN, Mr. DREIER, Mr. HOUGHTON, Mr. KIM, Mr. LAZIO of New York, Mr. ANDREWS, Mr. FARR of California, Mr. FILNER, Mr. GUTIERREZ, Mrs. LOWEY, Mr. SCHUMER, Mr. WAXMAN, Mrs. MYRICK, Mr. METCALF, Mr. GEKAS, Mr. MARKEY, Mr. KLUG, Mr. FLAKE, Mr. RANGEL, Ms. VELÁZQUEZ, Ms. SANCHEZ, Mr. DICKEY, Mr. HYDE, Mr. KANJORSKI, Mr. MCCRERY, Mr. STOKES, Mr. FOGLIETTA, and Mr. FALEOMAVAEGA.

H.R. 303: Mrs. MEEK of Florida, Mr. PASTOR, Mr. RAHALL, Mr. FAZIO of California, Mr. RIGGS, Mr. GIBBONS, Mr. MCINTYRE, Mr. WELDON of Florida, Mr. FALEOMAVAEGA, and Mr. JEFFERSON.

H.R. 345: Mr. WELDON of Pennsylvania, Mr. KOLBE, Mr. LARGENT, Mr. LIPINSKI, Mr. COBURN, and Mr. RIGGS.

H.R. 347: Mr. LIPINSKI and Mr. SENSENBRENNER.

H.R. 366: Mr. GREEN.

H.R. 382: Ms. LOFGREN.

H.R. 383: Mr. ROMERO-BARCELÓ, Mr. CLYBURN and Mr. OWENS.

H.R. 406: Mr. STEARNS.

H.R. 408: Mr. PACKARD, Mr. PORTER, Mr. FLAKE, Mr. POMBO, and Mr. JEFFERSON.

H.R. 409: Mr. KING of New York, Mr. LAHOOD, and Mr. RIGGS.

H.R. 414: Mr. SPRATT, Mr. DOOLEY of California, Mr. RILEY, Mr. POMBO, Mr. GRAHAM, Mr. GREEN, Mr. BONO, Mr. ROMERO-BARCELO, Mr. BRYANT, Mr. CANADY of Florida, Mr. MCINTYRE, Mr. WELDON of Florida, Mr. HALL of Texas, and Mr. MCHALE.

H.R. 446: Mr. BURR of North Carolina, Mr. NETHERCUTT, Mr. TAYLOR of North Carolina, Mr. NEY, Mr. COBLE, and Mrs. CHENOWETH.

H.R. 464: Mr. HOLDEN and Mr. GRAHAM.

H.R. 465: Mr. MORAN of Virginia, Mr. GOODLING, and Mr. FILNER.

H.R. 476: Ms. JACKSON-LEE, Mr. DELAHUNT, and Mr. MCGOVERN.

H.R. 501: Mr. FROST and Ms. JACKSON-LEE.

H.R. 519: Mr. KILDEE, Mr. EHLERS, Mr. CRANE, Mr. CANADY of Florida, and Mr. UPTON.

H.R. 532: Mr. CLAY, Mr. ENGLISH of Pennsylvania, Mr. EDWARDS, Mr. TURNER, Mr. PAUL, Mr. HERGER, Mr. SANDLIN, and Mr. JEFFERSON.

H.R. 533: Mr. ABERCROMBIE, Mr. HORN, Mr. ACKERMAN, Mr. UNDERWOOD, Mr. FOLEY, Ms. NORTON, Mr. ENGLISH of Pennsylvania, Mr. CLEMENT, Mr. MALONEY of Connecticut, Mrs. LOWEY, Mr. SKAGGS, Mr. MCCOLLUM, and Mr. BACHUS.

H.R. 548: Mr. TRAFICANT, Mr. RAHALL, Mrs. MINK of Hawaii, Mr. DELLUMS, Ms. CHRISTIAN-GREEN, Mrs. CLAYTON, Mr. LAFALCE, Mr. COYNE, Mrs. MALONEY of New York, Ms. PELOSI, Mrs. LOWEY, Mr. MORAN of Virginia, Mr. FROST, Mr. BERMAN, and Mr. MCDERMOTT.

H.R. 586: Ms. SANCHEZ and Mr. SHAYS.

H.R. 594: Mr. GOODLATTE, Mr. BALLENGER, Mr. NEY, Mr. HOLDEN, Mr. MCDERMOTT, Mr. DELLUMS, and Ms. RIVERS.

H.R. 598: Mr. WATTS of Oklahoma, Mr. LAHOOD, Mrs. MEEK of Florida, and Mr. FRANK of Massachusetts.

H.R. 603: Mr. CHABOT, Mr. PARKER, and Mr. FRELINGHUYSEN.

H.R. 612: Mr. YATES, Mr. DICKS, Mr. GONZALEZ, Mr. ROMERO-BARCELO, Mr. CAMPBELL, Mr. THOMPSON, Mr. RUSH, Mr. FOGLIETTA, Mr. GRAHAM, Mr. DELLUMS, Mr. LEACH, Mr. SKELTON, Mr. OLVER, and Mr. KIND of Wisconsin.

H.R. 614: Mrs. MYRICK and Mr. SANFORD.

H.R. 622: Mr. SOLOMON, Mr. BONO, Mr. MANZULLO, Mr. NORWOOD, and Mrs. MYRICK.

H.R. 636: Mr. HERGER, Mrs. MYRICK, Mr. MCINTOSH, Mr. BUTON of Indiana, and Mr. SCARBOROUGH.

H.R. 671: Ms. KAPTUR, Mr. EVANS, and Ms. RIVERS.

H.R. 695: Mr. HASTINGS of Washington, Mr. COOK, and Mr. FOX of Pennsylvania.

H.R. 715: Mr. KENNEDY of Massachusetts, Mr. KLECZKA, Mr. RAMSTAD, Ms. RIVERS, Mr. ROTHMAN, and Ms. MOLINARI.

H.R. 716: Mr. SENSENBRENNER and Mr. RIGGS.

H.R. 722: Mr. SESSIONS, Mr. METCALF, Mr. GOODE, Mrs. MORELLA, Mr. PEASE, Mr. CLEMENT, Mr. WELDON of Florida, Mr. BACHUS, and Mr. HILL.

H.R. 738: Mr. DELLUMS.

H.R. 752: Mr. CALVERT.

H.R. 755: Mr. THOMPSON and Mr. WEYGAND.

H.R. 760: Mr. GREEN.

H.R. 766: Ms. NORTON, Mr. CONDIT, Mr. FROST.

H.R. 784: Mr. BORSKI, Mr. DELLUMS, and Mr. JEFFERSON.

H.R. 789: Mr. WATTS of Oklahoma, Mr. NETHERCUTT, and Mr. MCINTOSH.

H.R. 820: Mr. WAXMAN and Mr. CARDIN.

H.J. Res. 52: Mr. EVERETT, Mr. POMBO, and Ms. DUNN of Washington.

H. Con. Res. 14: Mr. SAXTON, Ms. NORTON, Mr. ROTHMAN, Mr. KIND of Wisconsin, Mr. FROST, Mr. ABERCROMBIE, Ms. LOFGREN, and Mr. WATTS of Oklahoma.

H. Res. 27: Ms. JACKSON-LEE.

H. Res. 37: Ms. MCKINNEY, Mr. MARTINEZ, Mr. GILCHREST, Mr. NETHERCUTT, and Mr. SKAGGS.

H. Res. 40: Mr. DELLUMS, Mr. ENGEL, Ms. RIVERS, Mr. BARCIA of Michigan, Ms. KILPATRICK, Mr. MARTINEZ, Ms. ESHOO, Mr. RUSH, Mr. FROST, Ms. MILLENDER-MCDONALD, Mr. OWENS, Ms. WATERS, Mrs. THURMAN, Mrs. CLAYTON, Ms. PELOSI, Mr. ACKERMAN, and Mr. PAYNE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1: Ms. JACKSON-LEE.

H.J. Res. 1: Mr. BROWN of Ohio.

SENATE—*Wednesday, February 26, 1997*

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Lord God, we want to be so committed to You, so filled with Your spirit, so open and expectant of Your blessings and so willing to be surprised by Your goodness, that we will be spontaneous people. We long to be "all-signals-go!" leaders who can respond to life's opportunities and challenges with immediacy and intensity. It is so easy to be navigated by negativism into the eddies of stagnation. Instead, we step into the fast-moving currents of the river of Your spirit and are carried along by supernatural power. We accept the gift of enthusiasm and welcome life expectantly. We are open to Your serendipities and we are thankful for all You will do to help us. We greet the future as a friend. Help us to be a lift and not a load, a blessing and not a burden, to the people around us. We dedicate this day to spontaneous prayer, moment-by-moment relationship with You that will give us responsiveness to the many splendored thing we call life. In the name of our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able chairman of the Judiciary Committee is recognized.

Mr. HATCH. Thank you, Mr. President.

SCHEDULE

Mr. HATCH. Mr. President, on behalf of the majority leader, I announce that today the Senate will begin consideration of Senator FEINSTEIN's amendment to Senate Joint Resolution 1, the balanced budget amendment. Under a previous agreement, there will be 2 hours of debate on Senator FEINSTEIN's amendment with a vote occurring on or in relation to that amendment at 11 a.m.

Following the vote, Senator TORRICELLI will be recognized to offer an amendment relating to capital budgeting. Senator TORRICELLI's amendment is limited to 3 hours of debate, with a vote expected at the expiration or yielding back of any debate time.

Following disposition of Senator TORRICELLI's amendment, the Senate will continue with amendments to the balanced budget amendment. Therefore, all Senators should anticipate additional votes throughout today's session. I thank all of our colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. HAGEL). Under the previous order, the leadership time is reserved.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

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

The assistant legislative clerk read as follows:

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

The Senate resumed consideration of the joint resolution.

Pending:

HOLLINGS-SPECTER-BRYAN amendment No. 9, to add a provision proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

LEAHY (for KENNEDY) amendment No. 10, to provide that only Congress shall have authority to enforce the provisions of the balanced budget constitutional amendment, unless Congress passes legislation specifically granting enforcement authority to the President or State or Federal courts.

GRAHAM-ROBB amendment No. 7, to strike the limitation on debt held by the public.

The PRESIDING OFFICER. Under the previous order, the Senator from California, [Mrs. FEINSTEIN] is recognized to offer an amendment with the time between 9 a.m. and 11 a.m. to be equally divided in the usual form.

Mrs. FEINSTEIN. I thank the Chair. Good morning, Mr. President.

Mr. President, I ask unanimous consent that my legislative director, Susy Elfving, be permitted to be on the floor.

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

Mrs. FEINSTEIN. I thank the Chair.

AMENDMENT NO. 11

(Purpose: To propose a substitute)

Mrs. FEINSTEIN. Mr. President, I send an amendment in the nature of a substitute to the desk, and I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will report the amendment first.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] for herself, Mr. DURBIN, Mr. TORRICELLI, and Mr. CLELAND, proposes an amendment numbered 11.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless a majority of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"The provisions of this article may be waived for any fiscal year in which the United States is experiencing a national economic emergency or major natural disaster, which is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal. Effective one year after the effective date of this article, the receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors and Disability Insurance Trust Funds (as and if modified to preserve the solvency of the Funds (as and if modified to preserve the solvency of the Funds) used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of complying with this article.

"SECTION 8. Nothing in this article shall preclude the authority to enact and implement a separate capital budget for those

major capital improvements which require multi-year Federal funding, and which would be excluded from the requirements of section 7 of this article.

"SECTION 9. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.".

Mrs. FEINSTEIN. Mr. President, the amendment I have just sent to the desk essentially differs from the Senate Joint Resolution 1, the majority balanced budget amendment, in just four ways. I would like to quickly summarize the distinctions and then go over each one of them and explain why I believe this amendment will stand the test of scrutiny. This substitute approach, in my view, represents how we need to address the balanced budget amendment.

Mr. President, we have just had quite a bit of debate on the Reid amendment. The arguments have been made as to why the Social Security trust funds, should be removed from the unified budget. This amendment would allow Social Security trust funds to continue to remain as part of the unified budget up to the point Congress achieves balance, which has been estimated at 2002. The administration and Congress have both indicated a commitment to balancing the budget by 2002. This amendment respects that goal.

The amendment would require that 1 year after enactment, whenever the amendment is ratified by three-quarters of the legislatures of the States, the amendment would go into effect and be binding. If the amendment becomes effective in 2002, the year in which bipartisan consensus exists for balancing the budget, the year in which Social Security would be excluded would be 2003. This provides an opportunity to transition away from our current reliance on the Social Security trust funds to offset deficit spending in other areas and reach balance under a balanced budget amendment.

As Senator HATCH will recall, last year when the amendment was on the floor, we held some negotiations to try to reach agreement. Many of us feel very strongly that Social Security should not be part of balancing the budget. We had some negotiations to review whether we might agree to a balanced budget, that excluded the Social Security trust funds, by the year 2008. The majority did not support the approach and the response to the offer was that it is too difficult to balance the budget if you withdraw Social Security trust funds from the unified budget. I have given that considerable thinking and believe that if we use it up to the point of balance, and then separate it out, that gives time to adjust to this withdrawal of Social Security. My amendment prohibits the use of the Social Security trust funds after Congress has reached balance and would prohibit the use of the trust funds thereafter.

My amendment's second point would retain restrictions on lifting the debt limit. However, it would require a majority vote, rather than a three-fifths vote, as the majority balanced budget amendment provides.

The third point of the amendment would permit Congress to respond to serious economic emergencies or major national disasters. Without that, a bailout for a California earthquake would have to be paid for within the confines of balanced outlays and expenditures. A savings and loan bailout would have to be offset by cuts elsewhere in the budget, balancing revenue and expenditures. This balance, if the Nation faced an economic emergency or major natural disaster, would be much more difficult to achieve in the outyears.

Fourth, this amendment would clarify that passage of the amendment would not prohibit Congress from developing a capital budget. It does not mandate a capital budget, but as has been made clear by Senator TORRICELLI and others, the majority amendment would essentially prevent the Federal Government of the United States of America from ever developing a capital budget. A capital budget has been a useful budget structure for many of the States, as you know from experience, Mr. President, and many of the cities, as I know. These cities and States have capital budgets separate and distinct from their operating budgets. They fund these capital budgets for physical assets, like buildings, bridges, and highways, in a multiyear funding mechanism. This structure could make sense for the Federal Government as well, and we should not close the door on this option. Unfortunately, the majority balanced budget amendment does precisely that.

So these are the four points of difference. I would like to elaborate on these concerns.

Let me just tell you why I feel so strongly about Social Security. To begin with, Social Security is already separate and discreet. Every worker, workers in your family and in my family, have 6.2 percent of their paycheck deducted every month for FICA taxes. This is matched by 6.2 percent from every employer in the country for a total of 12.4 percent FICA contribution. Workers are told that this money goes into a trust fund to be used for their retirement, invested by the Federal Government, so it will be there when they retire for their Social Security benefits. This I view as a solemn pledge. The workers are never told that the 12.4 percent FICA contribution is actually part of the unified budget. They are never told their payments, in fact, support the purchase of a battleship, or the payment of a lawyer's salary, or the payment of a clerk's salary, or the building of a highway or for any other activity of our Government's general operations.

Now, this is also wrong because of the looming retirement of the baby boom generation. Analysts concluded Congress needed to increase FICA taxes a while back to be able to provide for the retirement of our large baby boom generation. Well, the taxes were increased, but, again, the funds are part of the unified budget and they support a battleship, a lawyer, a clerk, recreation programs, and so on and so forth.

I think that is wrong. I also think the Congress recognized it was wrong when this House, virtually unanimously, enacted the Hollings resolution in 1990. As you know, the Hollings resolution said, henceforth, we will not include Social Security as part of the unified budget.

The majority amendment essentially enshrines in the Constitution, for all time, the use of Social Security trust funds as part of the unified budget. The funds will be used to pay for every soldier, every battleship, every highway, every clerk, and every park employee of the Federal Government.

I think this is wrong. I think it is wrong morally, I think it is wrong ethically, and I think if it were ever tested, it would be found to be wrong legally, as well. But we have been using the Social Security trust funds and we are in a budget hole as a result. It is really a catch-22 situation. The only way out is to amend this majority balanced budget amendment, and this is what I propose to do.

Now, let me give you some idea of the challenge Social Security faces. This chart represents the Social Security trust funds, between 1996 and 2002. According to the Social Security Administration data, we use approximately $570 billion of these surplus trust funds to balance the budget. Between 2002 and 2019 we use $1.8 trillion of Social Security trust funds part of the unified budget. My amendment represents a compromise, if you will. The amendment recognizes how difficult it is to balance the Federal budget without the Social Security trust funds. We will only use the $570 billion up to 2002, and after 2002, these funds will be separated out from the unified budget. These Social Security receipts will remain in a separate and discreet trust fund. They will not be used to pay for a battleship or a soldier or a clerk's salary or a lawyer's salary or anything else. That is $1.8 trillion that will essentially be saved to pay for retirements. This restriction makes the task of shoring up the long-term solvency of Social Security, which the majority balanced budget makes more difficult, a lot easier to achieve.

As a former mayor, I know that one of the things you do to really assess spending at any government level is look at outlays. Outlays are dollars the government actually spends. If you look at outlays, you will see in 1995, more than 50 percent of all of the

money spent by the Federal Government was essentially spent for entitlements, like Medicare, Medicaid, Social Security, and welfare, and 14 percent was dedicated to pay interest on the debt. Interest, which buys nothing, has doubled since 1969. Therefore, if you do nothing by the year 2003, almost 75 percent of all of the outlays of the Federal Government are effectively Medicare, Medicaid, Social Security, welfare, and interest on the debt. The spending trends are what really motivates me, and I hope others, to accept a constitutional balanced budget amendment.

These spending priorities will run into each other and it becomes more difficult to balance the budget under any balanced budget amendment. One has to understand what we are going to protect. I think Social Security is critically important to protect for a number of reasons.

If we look at the funding patterns for Social Security, Social Security revenue, payroll taxes and interest that has built up a surplus, begins to drop around 2019. As soon as these funds begin to drop, Social Security outlays begin to exceed our Social Security revenue. Under the majority balanced budget amendment, total expenditures and the outlays meet. When outlays exceed our revenue, Congress either has to increase taxes, cut Social Security payments or cut other programs or in some way find revenues so that those outlays and expenditures match. This is the significance of the Congressional Research Service memo that has been discussed by several Senators. So as it goes straight down, every year you have to either make deeper cuts, in Social Security or somewhere else, or you have to increase taxes just to pay these Social Security checks.

Now, is this fair? Is this what we want to do? Is it fair in these outyears to place Social Security recipients so deeply at risk? I have come to the conclusion that it is not fair, that it is not the right thing to do. Therefore, my amendment would permit the use of the Social Security trust funds up to 2002 and remove it from the unified budget thereafter.

Critics suggest this amendment creates a big problem in the year 2003. However, this amendment would also provide the ability to develop a capital budget. Our Nation has significant capital needs, yet we are underinvesting in this important area. In 1965, the United States invested 6.3 percent of its budget in infrastructure spending. We built the Nation's highways, we built bridges, we built other major projects which benefit this Nation. This is not a nation whose population is going down. It is a nation whose population is increasing and a growing population has infrastructure needs. However, by 1992, our investment in capital infrastructure declined to 3 percent of the budget. When push comes to shove, Congress reduces capital spending, dropping those things that enable us to provide a decent quality of life for our citizens, such as the ability to get to a job without gridlock or the ability to travel over a bridge on a Federal highway that is not going to fall down. Our infrastructure has been decaying and it needs adequate funding.

More than one-third of the major highways of the United States, representing one-quarter of a million miles, are in poor or mediocre condition and need to be repaired. Approximately 25 percent of our 570,000 highway bridges are described as structurally deficient, or functionally obsolete. What does this say? We are becoming capital poor in infrastructure.

Those of us that have been Governors and mayors know that one of the prime responsibilities of government is infrastructure, something that is not very sexy for the public. Our responsibilities are the streets, keeping potholes off of streets, keeping bridges and roads in good repair and minimizing the risk of accidents for people. I contend we cannot do that under the restrictions of this balanced budget, unless, at some point in the future, Congress has the ability to enact a capital budget and to fund long-term capital improvements on a multiyear basis rather than in cash up front as is done now.

If you take 2 percent of GDP as your measure of investment, it would be about $160 billion right now. Congress could create a limit based on a percentage of GDP. I think we spend about $140 billion now. So if you wanted to ratchet it up, to permit a higher level of investment, you would simply set a limit at a higher percent of GDP.

The limit would operate similar to a kind of bond limit, as we use in States. The Government would have a certain bonding capacity and you would stay within the limit of that bonding capacity, which would reflect our economic strength, interest payments, and payback schedule and similar factors.

I think it makes tremendous sense. I think that without providing for a capital budget, we undermine our Nation's ability to do and carry out one of the most important responsibilities of a Federal Government, the providing of safe and adequate Federal infrastructure for the future of our people.

Now, let me speak about the economic emergency. The majority amendment does not provide for an economic emergency. In an economic emergency, it is important that the automatic stabilizers be able to function. It is important that we be able to respond to extreme and serious national emergencies, whether this be a major depression or, I might say, a savings and loan crisis, that develops in the future, or another crisis. Congress was forced to spend an additional $135 billion to clean up the fiscal mess of the savings and loan crisis in the 1980's and 1990's. These costs weren't anticipated and they weren't projected. Yet, we had to honor the United States' commitment to protect depositors.

If Senate Joint Resolution 1 were in place, Congress would have been forced to cut the budget by $66 billion in 1991, to meet its savings and loan bailout obligations in that year, by cutting education, cutting highways, cutting crime fighting and other priorities in order to pay off depositors. Now, is that really the situation we want to place ourselves in for, not just 10 or 15 years, but in perpetuity, forever and ever and ever?

If you asked me in the 1960's or 1970's, would I ever think that these savings and loans would default, the answer would have been no. But the fact of the matter is that they did. The fact of the matter is that the cost to the Federal Government was $135 billion, and in 1991 this Congress ponied up $66 billion. Now, that is $66 billion that would be pitted against the purchase of a new battleship or soldiers' salaries or their cost-of-living raise, or a clerk in the Agriculture Department, or a lawyer in the Justice Department. That is the inescapable truth of budgeting.

Therefore, the majority amendment prohibition on the development of a capital budget, even if this or a future Congress believes it would be necessary or prudent or wise to enact one, I think, is a major error. Consequently, my amendment would permit Congress to develop a capital budget in the future.

Now, let me briefly address extending the debt limit. A three-fifths vote in Government is something you do when you really want the minority to control the process. We are a representative democracy. We represent the people, and the bulk of votes in a representative democracy are a majority. The majority speaks. All of you down there, Mr. and Mrs. America, how many of you favor more police on your streets? The hands go up. A majority. How many favor more firefighters? Hands go up. A majority. We reflect those views when we come back to the Congress. We generally know what the majority believes. It is very hard to know what a minority really believes, and this gives inordinate power to a minority.

People often argue it is easy to receive a majority vote. That is wrong and let me try to show you how wrong it is. Since 1990, no budget resolution or conference report has received a three-fifths majority. Since 1990, no vote to raise the debt limit has received a three-fifths majority.

In 1985, the Gramm-Rudman-Hollings law was adopted in the Senate by a vote of 51 to 37.

The 1990 budget reconciliation bill was passed with a budget vote of 54 to 45.

The 1993 Omnibus Budget Reconciliation Act was passed with a vote of 51 to 50.

The 1995 budget reconciliation bill was adopted on a vote of 52 to 47.

The 1995 temporary debt limit increase was adopted on a vote of 49 to 47.

If that doesn't demonstrate that majority votes even are tough to get, I don't know what does.

Now, the issue here is, what happens if the debt limit isn't extended, and what happens if we permit 41 people to make that determination? Well, we just saw that. The Government shuts down. We default on our obligations. The full faith and credit is cast in doubt.

I think it is a huge mistake to put forward a balanced budget amendment that would permit a minority in Congress to hold the Government hostage, shut it down, bring it to the brink of default, risk the loss of our full faith and credit, and the respect that goes with it. This gives 41 Senators and 179 House Members the power to hold this Nation's credit hostage during budgetary disagreements. So I think it is a big, big mistake.

In closing, I am pleased to submit this amendment on behalf of Senators TORRICELLI, DURBIN, and CLELAND.

Essentially, this amendment keeps Social Security as part of the unified budget up to the point we reach balance. As I mentioned, approximately $570 billion will be taken from the trust funds and used to balance the budget by 2002. The amendment separates Social Security out at the point of balance and is able to retain $1.8 trillion of Social Security trust funds outside of the unified budget for the future. This means Social Security will remain financially viable much longer.

Social Security is critical for many recipients. Fourteen percent of people on Social Security today are totally dependent on it. Social Security prevents abut 57 percent of beneficiaries from falling into poverty. It is important to protect it. It is the one Government program, beyond all others, that guarantees that people in their golden years will have an opportunity for a decent quality of life.

Second, this amendment provides for a national economic emergency. I have spoken about the savings and loan bailout, an unpredictable event, which cost the Treasury $135 billion, a $66 billion appropriation in 1991, alone. Emergencies occur and will need congressional attention. The majority amendment will undermine our ability to address emergency needs.

Third, this amendment does not mandate a capital budget, but it would say that the Constitution does not prohibit the development of a capital budget if a majority of the Congress desires to develop and implement one.

Fourth, this amendment would change the restrictions on extending the debt limit from three-fifths to a majority vote. I am a member of the Judiciary Committee and attended the hearings and listened to the testimony. I sincerely believe, that my amendment is a balanced budget amendment that will stand the test of time and has an opportunity to be ratified by three-fourths of the State. The Senate should adopt this amendment.

I thank the Chair. I yield the floor for the moment.

Mr. ENZI. Mr. President, I have a question on some of the things the Senator has been talking about on capital budgeting.

Could the Senator give me a little better definition of what she is talking about with capital budgeting? Is the Senator talking about all capital projects being off budget? Are we talking about that? What kind of limitations do we have on what can be a capital budget item?

Mrs. FEINSTEIN. I am happy to answer that question. I want to read my amendment's specific language. The language does not talk about any specific capital budget plan. All the language says is "Nothing in this article shall preclude the authority to enact and implement a separate capital budget for those major capital improvements which require multi-year funding and which would be excluded from the requirements of section 7." That is the requirement that outlays and expenditures balance.

I will tell the Senator what I would develop a capital budget. I would set a basic amount of capital. Whether that amount would be anything above $5 million, $10 million, $15 million, or $20 million would be up to the Congress. But you set the basic amount for major capital purchases, for bridges, office buildings, or a battleship, whatever you want that to be. Also, because you float debt to be able to fund these items, you would also set a debt limit. That would most likely be a percentage of our Gross Domestic Product. For example, 2 percent of GDP would provide about $160 billion, 3 percent would be more, and so on.

As I mentioned, we have dramatically dropped our infrastructure spending. It was 6 percent of the budget in the 1960's. It is now down to 3 percent of the budget.

Mr. ENZI. So the amendment really says that there won't be any restriction on doing capital budgeting, which is exactly where we are at the moment.

Mrs. FEINSTEIN. No. I respectfully direct the Senator to the amendment. It simply says, "Enact and implement a separate capital budget."

With every constitutional amendment, as the Senator well knows, the Congress would enact enabling legislation. The Congress would sit down and develop a capital budget if one was desired. My amendment does not mandate one, but if they felt that a capital budget was worthy and desirable and needed by this Nation, they would sit down and discuss the legal parameters and develop the legislation.

All this does is permit it. That is all.

Mr. ENZI. I did read it. It says, "Nothing in this article shall preclude authority." It doesn't give authority to do it. It just eliminates the preclusion of doing it. It does not define what major capital improvements are. All of the things that the Senator from California has in section 8 could be done in enabling legislation under a balanced budget constitutional amendment.

Mrs. FEINSTEIN. No, I disagree. Under the majority amendment it could not be done because, in the majority balanced budget amendment expenditures must equal outlays in every year. Therefore, you could not provide multi-year financing of major capital projects by floating debt. You have to meet the expenditures. Every opinion we have had says that the development of a capital budget would be prohibited.

Mr. ENZI. Does this mean under this that if education is more than a $5 billion expenditure, that education would be a capital expenditure?

Mrs. FEINSTEIN. No. As I understand it, for example, title I would not be a capital expenditure. The money that is given to poor children, which is I think the largest expenditure, would not be a capital expenditure. Capital expenditure would be reserved for infrastructure.

Mr. ENZI. In the President's budget I notice that he listed social investment as a capital expenditure. That is why I was asking the question about education. I am concerned that the capital budget procedure is just an attempt to be able to move everything outside of the normal budgeting procedure so, in fact, we do not have to balance the budget. That is why I want more definition on what is meant by "capital budget."

Mrs. FEINSTEIN. Mr. President, I appreciate that very much. Perhaps one way of answering this would be to place in the RECORD a letter sent to Senator DASCHLE by the Secretary of the Treasury on February 3. Let me simply read one sentence. Referring to the majority amendment, the Secretary writes:

> The amendment as drafted does not distinguish between capital investment and current spending. Outlays are defined as "all outlays in the United States except for those for repayment of debt principal." Even if Congress were to create a separate capital budget by statute, outlays from that budget would still be "outlays of the United States." Under the majority amendment, a capital budget would be prohibited.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

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

DEPARTMENT OF THE TREASURY,
Washington, DC, February 3, 1997.

Hon. THOMAS A. DASCHLE,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: You asked for our views on whether the Balanced Budget Amendment (the Amendment), as currently proposed, would allow Congress to establish a separate capital budget unconstrained by the Amendment. We discussed this with counsel and, in our view, the present language of the Balanced Budget Amendment would not allow for statutorily exempting capital expenditures from the Amendment's requirement that "total outlays for the year shall not exceed total receipts for that fiscal year." Your inquiry illustrates the inflexibility of the Amendment.

The Amendment as drafted does not distinguish between capital investment and current spending. Outlays are defined as "all outlays of the United States except for those for repayment of debt principal." Even if Congress were to create a separate capital budget by statute, outlays from that budget would still be "outlays of the United States." Indeed, a provision in such a statute that capital expenditures were not "outlays of the United States" for purposes of the Balanced Budget Amendment would be unconstitutional because, under fundamental principles of statutory construction, it would be at odds with the express language and intent of the Amendment.

Proponents of the Balanced Budget Amendment cite the state experience with balanced budget requirements as precedent for a federal Constitution amendment. In relation to your specific question regarding capital budgets, most state requirements are not analogous because spending for capital investments does not have to be offset. States with balanced budget provisions generally have separate operating and capital budgets. Many states require only the operating budget to balance—a situation prohibited by the Amendment. Although the remaining states with balanced budget provisions also require the capital budget to balance, they include bond financing for capital expenditures as a receipt. In other words, in these states, capital funds may use borrowed funds to balance—a solution expressly barred by the definition of receipts in the present Balanced Budget Amendment.

Proponents of a capital budget argue that the absence of a capital budget has reduced investments in infrastructure and other capital improvements that would add to future growth. I do not believe we should move to a capital budget, but under different circumstances in the future, others might want to do so. The Balanced Budget Amendment before you now would prevent us from moving to a separate capital budget, even if we wanted to.

I hope this answers your question. We would be happy to respond to any further inquiries you may have.

Sincerely,

ROBERT E. RUBIN.

Mr. ENZI. Mr. President, does the amendment of the Senator from California create kind of a loophole, though, by not defining what "capital expenditure" is even in the slightest way?

Mrs. FEINSTEIN. It does permit a separate capital budget for major capital improvements. I believe it would be foolish to put strictures in the Constitution of the United States. It seems to me that the Constitution of the United States should provide general concepts, and the specifics of those concepts should be worked out by the Congress of the United States.

Mr. ENZI. So the Senator is suggesting, then, that there would have to be a much greater detail on the enabling legislation?

Mrs. FEINSTEIN. Absolutely, as there is with every amendment to the Constitution. Implementing legislation carries with it court tests and standards regarding how the legislation is to be carried out.

The PRESIDING OFFICER (Mr. SANTORUM). Who yields time?

Mrs. FEINSTEIN. Mr. President, may I ask the distinguished Senator from Illinois how much time he would require? Ten minutes?

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from California has 31 minutes.

Mrs. FEINSTEIN. I am happy to have the Senator use as much time as he wishes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from California for yielding time.

I rise in support of the Feinstein substitute. I think that we ought to reflect for a moment what we are about. This is not the passage of a congratulatory resolution, nor is it enactment of a law which can be reconsidered at a later date. We are talking about amending the Constitution of the United States. In the last 205 years of our history we have done that 17 times. We should pause and reflect, and I think reflect on what the Senator from California has noted as the obvious flaws and weaknesses in the balanced budget amendment that is being brought to us today.

Last night, many Members of the Senate were given the opportunity to visit the National Archives. I have to tell you quite honestly that in all the years I have lived in Washington I have not done that. I did last night, and saw the original of our Constitution. Just stopping for a moment, pausing, and looking at this great document in its original form humbles anyone who would call himself a modern day legislator. If we are to change the words of that great document, let us take care to do it rationally, calmly, and in a way that can be defended for decades to come.

I am concerned that this whole debate over the balanced budget amendment has taken on a different style, a different life of its own, a different velocity than most political issues.

We have over the last 10 or 15 years in Washington come to believe that this balanced budget amendment is the answer to America's prayers. Those who support it would suggest if we could just pass the balanced budget amendment, then things will be better—our debt lessened; interest rates will come down; the economy will forge forward helping everyone: businesses, working families alike.

I do not doubt that some of those suggestions are true, but I think we should pause for a moment and really reflect on whether or not we are exaggerating the impact of this amendment, whether we are overstating the case. We in America have done that many times in our history. We have found what we considered to be those silver bullets, those big fixes that this Congress, many of its supporters, came forward with and said this is what we will do to change America and its future.

For a moment, as we reflect about the historical impact of this debate, let us consider some of the big fixes in American history. Consider, for example, the battle for free silver. The free silver movement in the late 19th century called for unlimited free coinage of silver at a time when unstable economic factors were causing devastating economic depressions. Proponents of free silver, including the People's or Populist Party, agrarian interests, and silver miners, thought that free coinage of silver would increase the money supply, drive up the prices of agricultural products and help struggling farmers and working families.

In the famous speech of William Jennings Bryan, of Illinois, "Thou shalt not crucify mankind on a cross of gold" was his basic plea for free silver. He believed, as did many in his time, if we just had free silver, that would be what America's economy needed to prosper.

We hear echoes of William Jennings Bryan in the Chamber in this debate: if we just have a balanced budget amendment, then our Nation's problems will be solved. But some of us reflect on the fact that without a balanced budget constitutional amendment we are making real progress. We are, in fact, moving toward a balanced budget. We have seen more deficit reduction in the last 4 years than any time in this century. Our economy is moving forward, creating millions of jobs and opportunities for family farmers, for small businesses, for working families. And so as to the big fix of the balanced budget amendment, one has to question whether or not it is truly necessary to put this in our Constitution.

Of course, after the free silver movement came another solution, the gold standard. This was an idea that had been kicking around for a long time. Unfortunately, it was too simplistic. Changes in the supply of gold were tied to mining discoveries rather than economic progress and caused shifts in commodity prices unrelated to the economy. The Gold Standard Act of 1900 reaffirmed the gold standard of the

time, but by limiting the amount of base money in the economy the gold standard failed to allow the contraction and expansion of America's money supply. As the efforts to maintain the gold standard helped deepen the Depression, our Nation was forced to shift away from that gold standard. By 1971, dollars could no longer be exchanged for gold at an official rate. In 1976, the statutory link between the dollar and gold was officially severed.

I can tell you, after 14 years of service in the House, there were many of my colleagues during that period of time who still believed passionately in the gold standard. They felt that if we returned to a gold standard, America's economy would spring forward—echoes again of debate we hear on the balanced budget amendment: if we can just pass this amendment, this will certainly solve America's economic problems.

We went through an era of protective tariffs in America's history, too. This was another big fix. There were people who pushed for these tariffs, saying they would generate revenue for the Federal Government at the same time as protecting American manufacture and American agricultural production. The worst of these, the Smoot-Hawley tariff of 1930, which occurred right after the Depression started, is credited, if you can use the term, with driving the American economy even deeper into a depression.

In the early part of our Nation's history, the second half of the 19th century, the national banking issue was always on the forefront. It was one that was debated long and hard in this Chamber and by many others in terms of whether or not it would be the answer to America's problems. It was unable to fully address the problems of our Nation. Cooler heads prevailed. The idea of a national bank was amended.

The point of these stories is to show you that in a quick survey of our Nation's history the silver bullets do not always hit their intended targets. Big fixes, like this balanced budget amendment, do not always have the intended effects.

There is a critical difference between the suggestions of those in the past and what we are dealing with today. These were legislative proposals. If there was a mistake made on free silver or a national bank or the gold standard or a protective tariff, the next Congress could address it, change the law. But in this case, we are enshrining in our Constitution words that we believe will be the big fix. But what if we are wrong?

And the Senator from California raises questions about the inherent wisdom of the balanced budget amendment before us: Do we really want to put in our Constitution for all times language that threatens the future of the Social Security trust fund?

I think it has been clearly demonstrated with reports from the Congressional Research Service, with the statement of the Senator from California this morning, that we put our Social Security trust fund at risk with the balanced budget amendment that is before us.

We also know that this balanced budget amendment does not give Congress or the Federal Government the flexibility to respond to a national economic emergency or a natural disaster.

Over 1,000 economists have come forward in a rare show of unanimity and said this balanced budget amendment is bad economic policy for America. And yet when I offered an amendment to give more flexibility to respond to an emergency, it was rejected. I hope the Senator from California has better luck today. But her substitute will take care of that problem.

There is also a concern about gridlock. What the Senator from California is proposing is that an extension of the debt limit be approved by a majority vote and not three-fifths. Those of us who have even a short memory can recall that within the last 24 months we had the two longest shutdowns in Federal Government history because of the failure of Congress to rally a majority to extend the debt limit. This constitutional amendment will up the ante, will increase the responsibility, raise the bar—a three-fifths vote. I think the Senator from California is right in saying that when it comes to extending the debt limit, it should be done by majority vote.

I also applaud her comments on a capital budget. I would ask my colleagues to reflect on the fact that every business and virtually every State government has a capital and operating budget. At my town meetings people would come in and say: "Congressman, you just don't get it. I balance my checkbook every month. Why can't you balance the books out in Washington?" A good point.

But I always ask them a question: "Do you have a mortgage on your home?"

"Oh, sure."

"Do you pay it off at the end of every month?"

"Oh, no. It's a 25- or 30-year mortgage."

"What's the difference?"

"Well, this is a home that we are going to have for a long time. This is an investment, Congressman. This isn't the annual operating costs of our family. This is the annual investment of our family."

Families understand that. Americans understand that. The question is whether Members of the Senate understand it because this balanced budget amendment makes no distinction between capital investments for the future of our Nation and the operating expenses.

And if we should decide, as part of the telecommunications revolution or for some other reason, to make a massive American investment in our future, in economic progress, this balanced budget amendment will tie our hands. It treats the interstate highway system the same way it treats the purchase of paper clips. That is wrong.

The Senator from California addresses that and gives to Congress, even with the balanced budget amendment, the authority to establish a capital budget.

Congress can and should balance the budget. I do not believe we need a constitutional amendment to do it. But if we are going to pass a balanced budget amendment, we must do it right. That is why I support the Feinstein substitute.

I cannot support a balanced budget amendment that jeopardizes Social Security, prohibits prudent capital planning, risks even deeper recessions and unemployment, and invites gridlock and danger of default on Capitol Hill. The Feinstein substitute protects Social Security; it allows a capital budget; it allows a way to provide for economic recessions and avoid the threat of gridlock and default.

The choice is clear. The Feinstein substitute is clearly the better choice, and I urge my colleagues to support it.

Let me say in closing, those who are resisting any amendment to this underlying resolution, to the balanced budget amendment, I think are unfortunately taking the wrong approach. There are possibilities that those who support this amendment are just wrong. And if they are wrong, there is a lot at stake.

Would it not be better if we could come together with a bipartisan consensus to address the serious flaws in this bill? Would it not be better if there were a little humility on the floor of the Senate and the House, and an understanding that perhaps these words, although politically right, may not be right for America's future? Would it not be better if the Members of the House and Senate could take a little walk down through the National Archives, take a look at that Constitution, and realize the gravity of the decision we are about to make?

The PRESIDING OFFICER (Mr. BURNS). The Senator from Wyoming.

Mr. ENZI. Mr. President, I appreciate all the words that have been said here this morning, particularly those that call for us to do a bipartisan consensus.

I am a big believer in the U.S. Constitution. I carry my own copy of the U.S. Constitution. In article V it tells us how to amend this Constitution, and it says that it is going to have to be a bipartisan effort if it is going to take two-thirds when the majority party has 55. This is going to be a bipartisan effort, but it has to be an effort that winds up with a constitutional amendment that will do what the American

public is demanding. They are demanding that we come up with a balanced budget.

I get to stand next to these unbalanced budgets, the last 28 years of work in this body, and I know that, individually, the people in this body have said we have to balance the budget. And I am willing to do it. It is collectively that we have had a little trouble getting it done. It is in that bipartisan manner that we have had trouble getting it done. It is in that situation when we are having to tell the people back home "no" for any particular issue. Somebody told me it takes political will to balance a budget. I really contend it takes political "won't" to balance a budget.

We are talking today about an amendment that will deal with capital budgeting. As the only accountant in the Senate, I am fascinated by some of the definitions of capital budgeting that I am hearing here and reading about in the paper, that the President has said. It looks to me like the Federal idea of capital budgeting is not only a risky gimmick, it is also a loophole so big that you could drive an interstate through it, or an aircraft carrier, or planes and buses, or buildings. Anything can be driven through the loophole that will be created by this nice term "capital budgeting."

I, too, have run into the people at home who say, "Wait a minute, I have a mortgage on my house. How is that different from the United States?" And I say, "Are you paying off the mortgage, or are you just paying the interest? And can you buy two or three or five houses and only pay the interest?" That is what we are trying to do with capital budgeting with the Federal Government. We are saying we don't have to pay the principal back; interest is the only thing that is important.

You and I know if you borrow enough, pretty quick the interest equals all of your revenue. We are a little ways away from that yet in the United States, but it is a distinct possibility. We are talking about a possibility of telling our kids or our grandkids, "You have to pay 84 percent of your wages in taxes and you will get nothing for it because you are going to be paying the interest on the houses that we bought and used up."

At that point, we are going to have a revolution in this country. It is not going to be the same kind of gentle change we are used to. It is not going to be subject to the same slow processes. We are going to have a generation that is going to say, "I am paying Social Security to people I don't even know, and I am never going to get any." And they are going to take Social Security away. If we do not begin balancing budgets, there will not be Social Security.

I don't think there is a single person in this entire body who does not want to protect Social Security. But how long are we going to wait before we protect Social Security?

We keep talking about capital budgeting. I have said any kind of budgeting would be really great. What we are really talking about is cash-flow budgeting, I think, rather than capital budgeting, unless we are talking about that tremendous loophole, the one that says we can designate anything we want as capital and we can shift it off budget—I hate those words; it is not a good accounting term—but we no longer have to be responsible for anything that we can call capital budgeting, which is a very good accounting term.

The President's commission on setting up a capital budget will not be nearly as restrictive as was the question that I asked earlier. That commission will report on including physical capital and intangible or human capital. That is the social capital I was talking about, the social investment I was talking about before. This loophole would virtually allow anything to be deemed as a capital investment.

I would like to go into a little bit of what happens in some of the other entities that we do allow the right to do capital budgeting, and really what we are talking about is loans for capital. The Federal Government has such an extensive budget that we have not been forced to do any capital budgeting, nor in the foreseeable future would we have to do capital budgeting. We should do cash-flow budgeting so we can build all these capital items we are talking about in a logical progression and within budget, and pay back some of the debt that we already owe so there is less interest, so we have more money to spend.

Probably one of the toughest levels of capital budgeting or loans that we allow to be made is at the local level. I used to be the mayor of a boom town out West that more than doubled in size. We had to have sewer treatment. Yes, there was a Federal program for sewer treatment, but our community had already applied for one of those grants and gotten one and built a sewer treatment plant. Then we had all of these people move in and we exceeded the capacity and were fined for exceeding the capacity of this lifetime plant. So we had to build another sewer treatment plant, and we were last on the list for getting another grant in that area.

We had to build streets. You cannot have houses without streets that let you get to the houses. We had to increase our garbage collection. We also had our own electrical service. The first day I was in office, I got a call from one of the electrical suppliers who wanted to know what I was going to do when my substation blew up. I had to ask him what a substation was. That is a great big transformer for a town. He told me it was operating at 1.2 capacity, and any warm day it would just be eliminated and my town would be out electricity for maybe 2 weeks while we got a portable substation. I pictured myself for quite awhile being tarred and feathered and ridden out of town, as people's deep freezes thawed or they couldn't read at night or iron or any of the things that we really rely on electricity for but never think about it.

And water, that was really the biggest problem. That has to be one of the most basic things any of us is involved in, is water. We did not have enough water before the boom. We went on water rationing in May and we got off in October, and our water was color-coded. The cold water came out kind of red because there was iron in the water and it took on that color when it mixed with oxygen, and the hot water came out black because we have a lot of coal in the area I am from and the coal would settle out in the hot water tank and then come out when we used hot water. You have to have water. You can do, maybe, without electricity. You cannot do without water.

It was not an option to do without either of them, so we had to issue bonds. We had to borrow on a long-term basis. Our water project alone was 43 miles and $23 million away. Out here, that is not a microdot in the budget. It does not mean anything out here. But that was $3,000 in debt for every man, woman, and child living in that town at the time.

They don't just let municipalities print their own money. There is a process that you have to go through that has a lot of review, because you have to prove to the people who might buy the bonds that those bonds will be paid off.

I want to make a distinction again on that "paid off," something we don't even consider around here. In all of the discussion that I have heard on the balanced budget constitutional amendment, in all of the discussion that I have heard on balancing the budget, I have not heard anybody say, "Where's the number here that pays down the national debt?"

That is what we do with bonding. That is what we do with States when they bond. We have an elaborate process to do everything we can to make sure that those bonds will be valid, which means they will be paid off in a reasonable amount of time.

So what did I have to go through to get that $23 million? One of the things I had to do was go before Standard & Poor's and Moody's in New York and explain how a town of 8,000 people was going to pay off $24 million in debt. I know that is real small stuff compared to cities in California, but for a guy from rural Wyoming, that was a lot of money.

It also happened to be at the very same time that New York City was

going broke, and Standard & Poor's was having daily meetings with the city to see how they were going to pay off the debt that they already had. I didn't mention forgiving the debt. I know there was some talk about that. But what Standard & Poor's and Moody's was interested in was how it was going to be paid off. They didn't care whether it was Federal grants or how.

So they had a lot of extra special questions for us on how to do that, and as a result of the discussions, there were also criteria that were placed on the bond issues. This is normal stuff that happens with bond issues. There are covenants. That means that you have to dedicate sources of revenue. I have not heard us talk about any really special dedication of revenues to paying off any of this capital budgeting. I will tell you, they come in and they take that revenue before you get to do anything else with it if you default on the bonds. If you even miss a payment, they come in and demand the money, much the same as if you own a home.

Then they also put a restriction on, they call it coverage, and coverage is an additional amount beyond the normal payment that goes into a special fund to make sure that you will not default on the bonds. In the case of our bonds, it was 1.25 percent. That means we had to pay into another fund 25 percent more than our payment to assure that we would make future payments. Again, that is something we don't talk about with capital budgeting for the United States. We just talk about spending the money and how we can build loopholes to do more spending outside of the normal budgeting process.

We also had a requirement of a front-end sinking fund. That means before we could even start the project, we had to put money in a fund to show that we could make the first part of the payments.

And then, and here is a real divergence from what we do back here, we had to have a vote of the people to go into debt—a vote of the people. What would happen with our budgets, these 28 years of no balanced budgets? Would the people let us do that if they had to vote on what we were spending? I know from the State-level discussions on this that that would be an incredible burden and extreme expense, and we can't go to that extent. No, we can't go to that extent, and we were elected to make those kinds of decisions. But we were elected to make them within certain constraints. The people back home tell me that they expect that constraint to be paying things off. They expect us not only to balance the budget, but to get to a situation, to plan for a situation where we pay down the national debt. That is good budgeting; that is good accounting.

There was a happy side to this story. We did do capital budgeting. We did cash flow budgeting. We built the things that I talked about, and I want to tell you that today, not because of my efforts, but because of the people who followed me, who followed the cash flow budgeting, that those projects are not only in place, but they are paid for. Gillette, WY, is one of the few places in the United States that is debt free. That is how you run a city. That is how you should run a State, and most States do. Most States are required to, because they have a balanced budget constitutional amendment that forces them to live within their means. And that is how the United States ought to work.

Capital budgeting could be a great idea, but not if the purpose of capital budgeting is to build loopholes so that we can spend whatever we want to by merely designating it as capital budget.

We also ought to have performance budgets. There are a whole bunch of things that the private sector is doing that would be very adaptable to the Federal Government, and some States have already done them and some States have found them to be very successful.

How do you balance a budget? You do it by strategic planning. You have every single person in the Government, down to the very smallest agency, talk about what their mission is, who their customer is, what they are trying to achieve, and how they will get it done. You get them to focus on the real problem of what they are trying to achieve and how they can most efficiently do it. Focus saves money.

In Wyoming, we talked a long time about strategic planning for the State. We have a thing we call management audits. I am not familiar enough to know if we do that here, but we had a special committee that looked at State agencies. And the purpose of that look was to see if State agencies were doing what the State legislature and the Governor said they were supposed to be doing, if they were following the statutes. I am pleased to say, in most instances, they were doing exactly what we had told them. However, it was in pretty broad terms.

It wasn't good enough to be a mission statement. It wasn't good enough to give them the finite direction they needed to have the best performance possible. So we instituted strategic planning. We forced all of the agencies to come up with a strategic plan, and most of them did. The ones that were most reluctant today are the biggest supporters of strategic planning. Once they tried it, they couldn't believe how it worked.

The way that it works is the agencies for the budget process, actually the individuals in the agencies actually wind up saying, "These are the things that we shouldn't be doing in our agency." I can tell you that the general public said, "Wow, I didn't even know they were doing that stuff."

If we had decisions to make here that were based on the employees of the Federal Government saying these are things we shouldn't be doing and the American public telling us, "Why were you doing those things," we would cut them and nobody would complain.

That is not how it works, though, in Government. If you allow it to happen, what gets cut in Government are the things that are the most visible. Call it the "athletic team syndrome." If you want to really make an impact, you threaten to cut the athletic team in a small school, and that will get a furor bigger than anything you ever imagined, and it will be reinstituted. Not only will it be reinstituted, but I have this principle of government that if it is worth reacting to, it is worth overreacting to. So you not only reinstitute into the budget what happened, you put a little bit more money into that.

We had that example in Yellowstone Park where they were $80,000 short on a $19 million budget, and they asked for extra money and threatened to close down our park early. Now, that is a major economic, as well as recreation, benefit to the entire United States, and particularly to those of us in Montana and Wyoming.

If we had a manager who was short a few dollars who said they needed more money or had to close down early, we would probably fire the manager. We need strategic planning so that we can make the decisions and be sure that the things that should not be done are not being done.

We talk about capital budgeting. We have to be sure that capital budgeting is not just building another loophole into the system, that it is good accounting. We need to have good accounting. We need to have good accounting to protect Social Security.

Social Security right now is being called a trust fund. But it is not the fund with money stuck out there being invested on behalf of the person who paid it in so that when they retire there will be a guarantee of that money being there. It is money that is flowing through the system. It is money that is being paid out as it comes in with some small amounts being left over. Now, $80 billion this year sounds like a lot of money to me. And it is a lot of money. But it is a title in the budget for what needs to be put in if we are going to have an actuarially sound Social Security System.

Not only should we be capital budgeting, not only should we be paying off the national debt, we should be making our trust funds into true trust funds. That is good Government. That is what I am interested in. If we are going to save Social Security, we are going to have to do adequate budgeting to build

it up to some point in time where it is actuarially sound.

Mr. President, the Feinstein amendment creates a loophole to the balanced budget constitutional amendment. As I mentioned when I started this speech, you can drive an interstate through it. The Feinstein amendment actually harms the balanced budget amendment because it ultimately will increase debt. It is a license to increase debt.

Congress has been borrowing dollars to no end in order to deficit spend. And that is the problem. The Feinstein amendment does not tell us how we will pay back the bonds for capital spending. It puts no limitation on the bonds for Federal spending. It has no oversight for the bonds for capital spending. It is more and more debt. I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. May I ask, how much of my time is remaining?

The PRESIDING OFFICER. You have 18 minutes remaining.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, let me try and sum up what I have presented here, and then speak specifically in answer to some of the concerns of the opposition.

Essentially, the amendment that I have on the floor differs from the majority amendment in four ways.

The first and most important way this amendment differs is that it continues to use Social Security trust funds as part of the unified budget up to the point where we reach balance. According to Social Security Administration data, that represents about $570 billion, cumulatively, of Social Security trust funds that would be used to offset other spending by 2002. For 1996, we used about $77 billion of the surplus.

Once Congress balances the budget, we would remove Social Security trust funds from the unified budget. That would essentially save for Social Security recipients a cumulative total of about $1.8 trillion and, therefore, maintain the integrity of the Social Security system.

Additionally, unlike the majority amendment, it would not enshrine in the Constitution that Social Security is part of the unified budget forever, which, reneges on a major commitment to senior citizens in our country.

As I pointed out earlier, Social Security is not funded from the income tax. Its revenue is not supposed to go into general operations of the Government. Social Security is funded from a specific FICA payroll tax. A worker pays 6.2 percent, matched by the employer who pays 6.2 percent. The 12.4 percent is supposed to go into a separate trust fund held for the retirement of workers. Social Security taxes have one purpose and one purpose only. That purpose is to provide a safety net for our Nation's seniors with supplemental income when they retire.

Social Security deserves its unique treatment. Social Security is our largest single Federal program. It has more than 43 million beneficiaries, with 1996 spending of $350 billion. Additionally, Social Security plays a critical role in reducing poverty among seniors. Without Social Security, the poverty rate of the elderly would be 53 percent rather than the current 14 percent. For 38 percent of all retirees, Social Security is the difference between poverty and no poverty. If those statistics do not speak eloquently for the need to keep Social Security intact, I do not know what does.

So this amendment, with regard to the point of Social Security, is a compromise. We meet the majority's concern that if we take Social Security trust funds out of the unified budget right now, it is too difficult to balance the budget. My amendment would continue to use the trust funds up to the point of balance and then separate them out after that. The practice of using Social Security trust funds to offset other spending is not enshrined in the Constitution forever and ever as a way of doing business.

Second, we provide in this amendment for a serious economic emergency and for major natural disasters. I can tell this body that the probability of a major earthquake in Southern California, according to seismic experts, has gone up. If that should happen—I should say when that happens—the State's disaster needs are going to be tremendous. Passing the majority's balanced budget amendment tells California that the Federal Government will have no way of meeting these disaster needs. This is a critical difference.

Let me speak about other economic emergencies. Earlier, I mentioned the savings and loan bailout. I was not here for the savings and loan bailout. I do not know how many Members of this body or the other body actually predicted it, but I never would have thought it would have happened. The total costs were $135 billion of taxpayer's moneys to maintain the full faith and credit of the Federal Government's guarantee to depositors. In 1 year alone, 1991, the cost to the Treasury was $66 billion.

I would really be concerned about providing for an economic emergency. Last month, the Congressional Budget Office issued a report, citing the sensitivity of the budget deficit to the economy. They indicated this:

> If economic growth was one-half percent lower, it would increase the deficit by $50 billion in FY 2002. And these effects would continue to grow over time.

So you see, this kind of even economic change impacts the deficit tremendously.

If the economy fell into recession and growth were five-tenths of a percent below its forecast, a budget thought to be in balance, would develop a $50 billion deficit or higher. Under Senate Joint Resolution 1, the budget deficit would need to be eliminated in that fiscal year.

As you can see, even a drop of five-tenths of a percent in the economy would create an additional $50 billion shortfall in the estimates of that fiscal year which Congress would have to eliminate. To close a $50 billion budget deficit, Congress would have to eliminate the equivalent of nearly the entire defense procurement budget in that year.

Let me give you another example as to why providing for economic emergencies would be necessary.

Economists estimate that a ticket shock triggered by higher oil prices similar to those of 1973 and 1974 and 1979 and 1980 could trigger a 1- to 2-percent drop in our economy. That would necessitate budget cuts of $100 to $150 billion that year. It would be devastating to an economy. I do not know if anyone here remembers what it was like when those prices of oil rose. Economists state it was the major reason for the economic downturn. No one can guarantee that such a situation would not happen in the future.

So the majority's balanced budget amendment does not address economic risks that face the Nation. I think that is a major weakness in the amendment. Our amendment would suspend the amendment in the event of a serious economic emergency or major natural disaster. This would have to be enacted by a constitutional majority of both bodies.

We also permit a capital budget. My thinking is that when Social Security is withdrawn from the unified budget, we will need to be able to review our budget structure and proceed in a way that does not have a dramatic impact. One way is through the enactment of a capital budget.

Now, the Constitution is not a document that should carry enabling legislation. The Constitution should be worded in general words subject to interpretation and also subject to enabling action by the Congress.

Our amendment reads: "Nothing in this article shall preclude," which means prevent, "the authority to enact and implement"—that would have to be done by congressional enactment and implementation—"a separate capital budget."

The amendment defines a capital budget: "Those major capital improvements." Congress would have to determine what is a major capital improvement, which would require multiyear Federal funding. Those would be excluded from the provisions of this constitutional amendment that requires the strict expenditures must meet outlays.

This means that for, say, Federal office buildings that would maybe run $40, $50, $80, $100 million or more, or a major transportation system which could run $200 or $300 million, a multiyear financing program could be established. The interest on those programs would be paid out of operating capital, and the amount of interest would probably be limited every year.

The amount of debt would be strictly limited. Perhaps the Congress would limit debt by using a percent of gross domestic product, of GDP. As I said, 2 percent would be about $160 billion. If you had 3 percent, it would be more, and still more at 4 or 5 percent. An effective limit would probably be somewhere between the 2 percent and, say, 6 percent, 7 percent, or 8 percent of GDP.

Now, is this necessary to do? Even without a balanced budget amendment, spending for infrastructure since the 1960's has dramatically dropped. It was 6 percent in the 1960's. It is 3 percent today, 3 percent of the budget.

We have 250,000 miles of Federal highways that are in disrepair. We have more than 100,000 bridges in disrepair, unable to be repaired in the present day situation. I think at some point the Congress may wish to look at a capital budget. All this amendment does is enable that review to take place.

We mentioned what it means to be controlled by a minority. The fourth area where this amendment differs from the majority is with respect to the debt limit. I have tried to show this body how difficult it is to even raise a majority vote.

Since 1990, no budget resolution or conference report has received a three-fifths vote of this body.

Since 1990, no vote to raise the debt limit has received a three-fifths majority.

The 1985 Gramm-Rudman-Hollings bill, was passed by 51 to 37.

The 1990 budget reconciliation bill was passed by 54 to 45.

The 1993 Omnibus Budget Reconciliation Act was passed by a vote of 51 to 50, just one vote.

The 1995 budget reconciliation was passed by 52 to 47.

The 1995 temporary debt limit increase was passed by 49 to 47. Consequently, last year, we reached our apex of minority rule when the Government was shut down not once, but twice while trying unsuccessfully to prove a point.

Allowing a minority to block an effort to extend the debt limit essentially jeopardizes the full faith and credit of this country, something that those of us who have held executive office know is the true measure of the financial acumen of your city or your State. If you get a bad bond rating by Moody's and Standard & Poor's, the full faith and credit of the bonds you float is dramatically affected.

But a minority in pique, pouting, desirous of showing their enormous clout, can effectively jeopardize the full faith and credit of this Government and put this Government into default. I must tell you, I think that is absolutely dreadful as a matter of public policy.

Those are the four issues in this amendment.

Social Security: Congress can use it up to 2002 to reach balance, but afterward, we must separate it out. This step will preserve $1.8 trillion in the trust funds for retirees.

Economic emergency: Congress should treat spending for serious economic emergency or major national disasters just like it treats military emergencies.

Capital budget: Congress should at least enable it, rather than prohibit it, which the majority amendment does.

Debt limit: Please, have some sense and address it with a majority vote.

These four issues are the only way this amendment differs from the majority amendment.

Perhaps the majority has their votes. Perhaps they know they have 67 votes. If they do not, I respectfully submit to them, maybe this is worth looking at and reviewing.

Maybe it solves a major problem.

Maybe it provides some kind of constitutional flexibility to meet what might develop in the future. We could face another savings and loan crisis, or another shock from oil prices. We could face a major earthquake in southern California, the probability of which has been increased, or a major flood in the Mississippi River basin, a major earthquake rift zone in the center part of our country.

We could face a range of emergencies and people will need Federal help. That is what we are here to do. We are here to protect the welfare and well-being of our citizens, and not the least among them are seniors. For many seniors, Social Security is the difference between a life of poverty and a life of being able to eat and pay the rent.

I think this is a worthy amendment. I have given it a lot of thought.

My distinguished chairman of the Judiciary Committee is present on the floor. I have listened to the hearings, heard the testimony of Secretary Rubin and really thought about whether your amendment could be improved. I decided that it could, but for some reason the balanced budget amendment is frozen in stone. I do not know who drafted the majority amendment. It was drafted, I assume, by the majority, but it has become the be-all and end-all: "If you do not support us, you cannot be for a balanced budget amendment." I cannot accept that.

I represent a big and deeply troubled State. I hazard a guess that the State of California will never ratify this balanced budget amendment. I cannot speak for any other State, but I think I can for California. And they will not do it because they know about serious economic emergencies. They know about a capital budget. We have 40 million people currently on Social Security, and it's going up every day. The people want this protected.

So this is a compromise with Social Security, economic emergency, capital budget permitted, debt limit by a majority. I would hazard a guess that if this became the amendment of the majority, not only would it pass both bodies, it would be ratified by three-quarters of the States.

I thank the Chair and yield the floor.

Mr. HATCH. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Utah has 29 minutes remaining, and the Senator from California has 17 seconds.

Mr. HATCH. Well, I will try to save some time for the distinguished Senator from California so she can make her wrap-up remarks out of our time.

Mrs. FEINSTEIN. I thank the Senator. I think that was my wrap-up.

Mr. HATCH. If you desire to say anything else, I will certainly extend that courtesy to you.

Mr. President, the balanced budget amendment was written by both sides of the floor. This amendment has been developed over a period of almost 40 years. It has taken both Republicans and Democrats to do it. It is a bipartisan amendment. Even though some in this body might try to see some flaw in it, it is the only balanced budget amendment that has a chance of passage. It is well thought through, it makes sense, and it's the only one that can end having unbalanced budgets year after year, like this stack represents the last 28 years of our budgetary life in this country. I might add that for 58 of the last 66 years we have had similar unbalanced budgets. These stacks are obscene; we know that. I think it tells the story better than anything else I can do. These folks just want to continue the status quo.

Now, the distinguished Senator from California is very sincere, and I admire her for it. She is on our committee. I care for her and I care for her ideas. But in all honesty, I have to rise in opposition to the substitute offered by my colleague from California. With the various escape clauses she has built into her amendment, it would be too easily gamed, and I believe it would be ineffective in stopping Washington's debt addiction. As we have debated the balanced budget amendment here on the Senate floor for the past several weeks, we have seen amendment after amendment that seeks to gut the substance of the proposed constitutional amendment.

What we have here is yet another attempt to make the balanced budget amendment ineffectual by carving out ways to deficit spend. How does this

amendment of the distinguished Senator from California, as sincere as she is, make it easier to deficit spend? "Let me count the ways," to paraphrase Elizabeth Barrett Browning.

No. 1, it scales back the number of votes necessary to raise the debt limit. We know how easy it is to raise the debt limit around here, when that is the only methodology you have. So it scales that back from a three-fifths vote to a constitutional majority.

No. 2, it provides a waiver for undefined economic emergencies. These people are really clever in the Congress. They can define anything as an economic emergency. All they have to do is pass a statute saying it is an economic emergency.

No. 3, it provides yet another waiver for undefined natural disasters.

No. 4, it exempts Social Security from the balanced budget calculation beginning in the year 2003.

No. 5, it carves out a separate exemption for items designated as capital investment.

Can you imagine what these intelligent, ingenious, and, in some ways, devious people in the Congress who have done this to us over the last 28 years could do with capital investments?

Now, Mr. President, I wonder what is left. The reason we are here on the floor debating a balanced budget amendment to the Constitution is not to make it easier to deficit spend. We are here to constrain that sort of runaway spending that has produced unbalanced budgets in every one of the last 28 years. The Feinstein amendment does not do that.

Let me take a few minutes to address the substance of each of the changes proposed by the Feinstein amendment individually. The Feinstein amendment would alter section 5 of the bipartisan balanced budget amendment to allow for a waiver of the balanced budget rule by a constitutional majority in any year "in which the United States is experiencing a national economic emergency or major natural disaster."

As an initial matter, the undefined terms "economic emergency" and "natural disaster" are malleable terms and could be abused by any future Congress bent on deficit spending. What constitutes an economic emergency? We have already resoundingly rejected an amendment on this issue because it is a broad loophole.

Now, what about natural disasters? Does this amendment mean to say that the balanced budget amendment can be waived by 51 votes in the Senate in any year in which there is a natural disaster in some region of the United States? There is hardly any year when we don't have something somebody claims is a natural disaster. If that is the case, and given the fact that natural disaster is not defined, isn't it plausible, or even likely, that Congress will routinely find something to classify as a natural disaster, thereby providing an excuse to waive the requirements of the balanced budget amendment. Twenty-eight years of unbalanced budgets would suggest that this is the case. Congress will find a way if you give them these kinds of generic terms that are not defined and really can't be defined.

What's more, nothing in this amendment of the distinguished Senator from California would require the additional spending to be directed to the communities affected by a natural disaster or to be used to get us out of a recession. "Natural disasters" or "economic emergencies" are only the triggers that let us spend whatever we want for whatever purpose. Because these terms are so malleable and subject to abuse, we need a supermajority provision to guarantee fidelity to the balanced budget rule.

The general three-fifths waiver contained in section 1 of Senate Joint Resolution 1 is both sufficient to answer the concerns raised by this amendment and strong enough to keep the balanced budget amendment meaningful. The Feinstein amendment would exclude Social Security outlays and receipts from unified budget calculations until 1 year after the effective date of Senate Joint Resolution 1, the balanced budget amendment.

In essence, the Feinstein amendment is nothing more than the Reid amendment we debated yesterday to exclude Social Security from Senate Joint Resolution 1 and unified budgets, with one wrinkle—the exemption will not go into effect until 1 year after the date that the balanced budget amendment becomes effective. This would allow, of course, President Clinton to include the current Social Security surpluses in his budget calculations but would leave future Presidents and Congresses holding the bag when they are forced to unnecessarily slash programs like Medicare because the budget deficit appears larger without Social Security surpluses than it really is.

Moreover, the explanation of the distinguished Senator from California of her provision, and the charts that illustrate it, contemplate implementing this change by a one-time massive cut in a single year. Opponents of the balanced budget amendment have regularly argued that such an abrupt change would cause serious economic distortions in our country. The Feinstein amendment suffers from the same disease as the Reid amendment. It is not a workable compromise because, for the most part, Social Security surpluses will be excluded from the protections provided by the balanced budget amendment.

As King Solomon wisely knew, there is no practical way to split the baby without destroying life. If you split the baby and put Social Security exposed out there without any balanced budget protections and everything else is in the budget and protected, Social Security will become a political football to be used by those who want to get around the balanced budget. And everybody here knows that. Everybody knows what a phony issue that is.

So, too, the Feinstein amendment will destroy the viability of the balanced budget amendment.

First, as I discussed during the debate on the Reid amendment, it is necessary to include Social Security in any balanced budget plan. Obviously, without including Social Security, the largest single item in the Federal budget, other programs must be cut far more than they really need to be. I have the belief that the distinguished Senator from California would be among the first to want to oppose those cuts. Certainly I wouldn't feel good about cutting things beyond where they should be cut. But that is what inevitably would happen if the Reid amendment had passed yesterday, or the Feinstein amendment is passed today.

The proponents of this amendment have not told us which programs they will cut in order to come up with approximately $100 billion per year that the total exclusion of Social Security surpluses will cost us. Astoundingly, this figure is greater than our combined annual expenditure on education, the environment, and transportation and infrastructure. In fact, between 2003 and 2019, when the Social Security outlays will exceed receipts, the trust fund is expected to earn more than $1.8 trillion. Where do the supporters of the Feinstein amendment propose to come up with the money necessary to cover this self-imposed shortfall? It is no secret around here that many on the other side support this amendment because they want to kill the balanced budget amendment. That is the whole game here. I do not believe that is the motive of the distinguished Senator from California. At least I hope it isn't. But that is the only reason why this amendment will be supported by our friends on the other side, if you really analyze it.

Let's put it in perspective. Discretionary savings from last year's budget resolution, which were described as draconian, were only $291 billion. The Feinstein amendment would require that Congress cut spending or raise taxes more than six times that amount.

Similarly, the projected revenues from the 1993 Clinton tax increase—the largest tax increase in history, many assert—were only $241 billion. The Feinstein amendment would require that Congress cut spending or increase taxes over six times this largest tax increase in history. These levels of spending cuts and tax increases are clearly

unworkable. And the adoption of the Feinstein amendment would kill any chance the balanced budget amendment has of being ratified. That is really in the eyes of many who hate this balanced budget amendment, who do not want fiscal restraint, and who really want to continue their taxing and spending ways. That is really why they support the Feinstein amendment.

One person who testified against the balanced budget amendment said—if you are going to have a balanced budget amendment you should not exclude anything from the budget.

Second, exempting Social Security from the mandates of the balanced budget amendment for any considerable period of time will probably result in the demise of the Social Security program years earlier. Such an exemption will create a powerful incentive to redefine taxing and spending programs as Social Security, and to pay for them through what could become a giant loophole in any attempt to balance the budget.

Opponents of the balanced budget amendment incorrectly contend that including present-day Social Security surpluses in a unified budget would raid the trust funds. Give me a break. This is a complete misnomer because the surpluses are nothing more than an accounting record. Social Security FICA taxes are deposited with other revenues. Interest-bearing securities are purchased equal to the amounts of Social Security receipts. And those are Federal Government U.S. interest-bearing securities. These securities provide safe investments as long as we are financially solvent in this country, as long as we don't go broke, as long as our economy is going ahead, and the only thing that is going to keep us doing that for sure will be if we pass the balanced budget amendment.

The fact is that these securities provide a safe investment, the safest in the world, I have to say, as long as this country is safe. This safety, however, would be wrecked if Social Security were removed from the protection of Senate Joint Resolution 1's balancing requirements. In fact, the very fears of the advocates of the Feinstein amendment will be realized. Their exemption of Social Security will really cause the trust fund to be raided. That is the ironic situation here. Why? Because under the Feinstein amendment trust fund receipts would be used to finance other costly programs that they would simply call Social Security.

I heard the distinguished Senator from Nevada, Senator REID, 2 days ago say that Social Security is defined by statute. If it is defined by statute, it can be redefined by statute. There is no argument against that. It is ridiculous to sit here and argue that it will not be used as a loophole to spend anything they want to spend by calling it Social Security. Trust fund receipts really could be used to finance other costly programs by simply relabeling them "Social Security."

With the loophole proposed by this exemption in place there will be an irresistible impulse in future Congresses to redefine unrelated programs as Social Security. This in turn will create an incentive for Congress to include costly programs as part of Social Security. Congress has not been able to restrain itself.

Look at these. There is just no answer to this by those who oppose the balanced budget amendment. Anything they try to say just comes out when you look at 28 years of unbalanced budgets, and 58 of them over the last 66 years. This is not rocket science. It doesn't take any brains to understand that Congress is incapable of living within its means unless we put in some sort of restraint within the Constitution that requires them to live within their means.

So I am saying that if you carve out Social Security that in turn would create an incentive for Congress to include costly programs as part of Social Security. Like I say, Congress can't restrain itself from either wasteful spending or increasing this web of services provided by Social Security. What is going to prevent them from doing that in the future if you have all of the loopholes that the Feinstein amendment provides for? Are we willing to let future Congresses roll the dice with the financial security of America's seniors? That is what is going to happen if we do not have a balanced budget amendment. Mark my word, it certainly is going to happen if we pass the Feinstein amendment and put Social Security out there exposed all by itself and not subject to balanced budget protections. Frankly, if the Feinstein amendment passes the balanced budget amendment is dead. There is no use kidding about it. It would be killed, and for good reason because it wouldn't work anyway. So that is what we are talking about.

Passing an exemption loophole would essentially create two Federal budgets. One would be based on sound principles of solvency, and the other, the Social Security budget, which would not be based on sound principles of solvency. One budget would be required to be in balance unless a supermajority voted to allow a deficit. The other the Social Security budget would be raided and bloated with unrelated spending programs and projects.

Taking Social Security off budget will subject the funds to Washington's special interest scavengers. As I have said before, when you have rats in your house, you need to plug up the holes. If you do not, they are going to find a way in. If we leave Social Security off budget all of the special interest spending initiatives, which cannot survive or make their way in under a balanced budget plan, will smell out the scent of Social Security and devour it.

This loophole would not only blow a hole in the balanced budget amendment but it would also seriously harm Social Security. This in turn could mean—and I think would mean—the end of Social Security as we know it, transforming it into the least secure of all Federal Government programs. I do not see how anybody can argue with that.

Third, let's not forget about the troubling future for Social Security. The Feinstein amendment does absolutely nothing to protect Social Security, and, in fact, it will make it extremely difficult, if not impossible, to achieve balanced budgets. The Social Security Board of Trustees estimates that by the year 2070, if we keep going the way we currently are, Social Security is expected to run an annual $7 trillion deficit. If we include Social Security in our balanced budget calculations we will be able to prepare for and budget for these massive shortfalls. Under the Feinstein proposal we will not be including this deficit in our budgetary planning.

As a result, under the Feinstein amendment, in order to raise revenue and increase the debt ceiling sufficient to cover the expected Social Security shortfalls of the next century, we will have to dramatically increase taxes or cut spending on other important programs or face an annual three-fifths-vote fiscal crisis to avoid financial default by raising the already staggering $5.3 trillion national debt ceiling. The way to protect Social Security benefits is to pass the balanced budget amendment, Senate Joint Resolution 1.

The proposal to exempt Social Security will not only destroy the balanced budget amendment but in all probability will cause the Social Security trust funds to run out of money sooner than they would have without an exemption.

The final change in the amendment of the distinguished Senator would permit the creation of capital budgets for those major capital improvements which require multiyear Federal funding. Most programs are funded for more than 1 year. Exempting capital budgets from the balanced budget amendment is bad policy because it creates a powerful incentive for Congress and the President to balance the budget by redefining more programs as capital expenditures. This is just another loophole. A gimmick capital budget exemption could actually endanger capital investments as fake investments crowd out real investment.

For these reasons, budget experts, including the President's Office of Management and Budget, the General Accounting Office, and the Congressional Budget Office, have suggested that capital budgets are inappropriate at the Federal level and certainly do not justify increasing debt to finance them.

The amendment of the distinguished Senator from California would enshrine that into the Constitution.

The most basic problem with the separate capital budget as envisioned by the Feinstein amendment is that there is no clear standard definition of a capital budget. So no one knows what expenditures will fall within that definition. For example, in President Clinton's proposed fiscal year 1998 budget, the Office of Management and Budget lists four broad categories of programs that may or may not be considered capital expenditures, ranging from physical assets owned by the Federal Government to social investment, including nutrition programs, health care and drug rehabilitation, all under the idea of a capital budget.

Mr. President, perhaps the point was best made in a Washington Post editorial criticizing the Reagan administration for floating the idea of a capital budget. In that editorial, the Post wrote that "The concept of the capital budget applied to the Federal Government is pure fakery. It is the resort of an administration that, finding the realities of the budget intractable, wants to fuzz up the numbers." Pretty hard to argue with that. Pretty hard to argue with that.

Finally, Mr. President, given all these holes in the balanced budget rule proposal offered by the distinguished Senator from California, it is no wonder the proponents of this substitute have concluded that they need to reduce the supermajority requirement to raise the debt ceiling in their substitute. Given the high likelihood of substantial borrowing under this substitute for undefined capital spending, undefined economic emergencies and natural disasters and the possible loophole for the abuse of Social Security, no wonder the proponents of this substitute do not want to have the three-fifths vote to raise the debt ceiling. Instead, they reduce the antidebt protections of Senate Joint Resolution 1 to a constitutional majority.

Now, Mr. President, I hope we will reject this substitute, which is essentially a hit parade of loopholes repeatedly offered over the years by opponents of the bipartisan consensus balanced budget amendment and which could literally endanger Social Security.

The Feinstein amendment is a hit parade of loopholes offered in past debates. How can we keep borrowing? How can we keep doing this to ourselves, doing this to future generations, doing this to our children and our grandchildren? These volumes, this picture speaks a thousand words, a million words, maybe I should say trillions of words, as to why we have to get strong about doing something about these unbalanced budgets.

Let me count the ways why this amendment is wrong.

No. 1, it exempts an undefined capital budget, allowing any level of borrowing for capital as defined by future Congresses. They could do anything they want to under this amendment. Just define them—any statute, any simple majority.

No. 2, it allows for a waiver of the balanced budget rule in times of economic emergency or natural disaster, however interpreted by any future Congress. They could do anything they want to if we adopt the Feinstein amendment. The balanced budget amendment would be a thing of the past. There would be no hope to have any fiscal mechanism at all. In fact, it would be the biggest joke you could possibly have.

No. 3, it exempts whatever a future Congress calls "Social Security." They could define anything as Social Security. This endangers the retirement security of current and future American seniors.

And No. 4, because of all these loopholes for deficit spending, it reduces the supermajority requirement to raise the debt ceiling from a three-fifths majority to a constitutional majority or 51 percent.

The substitute offered by the Senator from California should be rejected. It would allow continued deficit spending and borrowing, as has happened in the past 28 years, or should I say in 58 of the last 66 years. It would just continue the process, only make it easier to do it under the guise that we are somehow or other living within a balanced budget amendment constraint as defined by this amendment.

Mr. President, look, we are talking about the future of our country. We are talking about our children. We are talking about our grandchildren. We are talking about our seniors. We are talking about a country that is going to be swallowed up in debt if we do not pass a balanced budget amendment.

I had one of the leading liberals from the Democratic side tell me yesterday in no uncertain terms that—in fact, more than one—I have had at least three or four just flat out admit that if it had not been for these fights for the balanced budget—and these people, all but one of these people are against the balanced budget amendment—if it had not been for these fights over the balanced budget amendment, if we had not waged this battle, we would not even be talking about balanced budgets.

All you have to do is look at this year's balanced budget submitted by President Clinton, and he is not alone. I saw budgets by several Presidents that also were smoke and mirrors because they have to; there is no restraint; there is nothing that forces them to do right. But you look at the budget that President Clinton called a balanced budget this year, that he just submitted. According to the Congressional Budget Office, which has been pretty accurate on some of these matters, that budget by the year 2002 will not be balanced; it will be at least $49 billion in deficit, and that is assuming that all these rosy scenarios the President has plugged into it are coming to pass. That is assuming that. The fact is, it will not be balanced.

Second, even if it was true that it would be balanced, everybody knows the only way we can reach balance is to attack the deficits each and every year up to the year 2002. President Clinton's budget goes up for the next 4 years, and then he calls for a 75-percent reduction in the 2 years after he leaves office. It does not take a rocket scientist to realize that is a phony budget, that they have tried to get around the requisite of bringing up here a balanced budget. He said he would. But it clearly is not a balanced budget. And it clearly could not be balanced. Even if you assume that it is—and the Congressional Budget Office says it is not—the fact is, it could not be balanced by a 75-percent reduction in the 2 years after the President leaves office. It is as phony a budget as you can have from that standpoint. But we are going to work from it because we are going to have to.

Let me just say this. If we pass the substitute amendment of the Senator from California today, those games will become even more pronounced. No, what we have to do is, we have to realize that over the last 20 years—frankly, longer than that—good Democrats and good Republicans have fought together to work this out. We have worked it out. This is the only amendment that has a chance of passage. It has to pass unamended.

Frankly, I hope that our colleagues will vote down the Feinstein amendment and support the balanced budget amendment in the end. If this goes down, it is going to be because of one vote. No matter what the final vote is, it is going to be because of one vote. I can tell you that right now. I do not believe it is going to go down. I believe we will pass this amendment in the Senate, and I am hopeful that this will be an incentive to go to the House.

Mr. President, do I have any time remaining?

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator has 15 seconds.

Mr. HATCH. Then I yield back the remainder of my time, and I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The Senator from California has 17 seconds.

Mr. HATCH. I am sorry.

Mrs. FEINSTEIN. I would add very quickly, Mr. President, that there is one, deep, soft underbelly in the majority balanced budget amendment. You cannot use Social Security trust funds

and spend the money on operating expenditures, whether it be for a battleship or a satellite, and save those moneys for someone's retirement.

I rest my case. I thank the Chair. I yield the floor and the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to table amendment No. 11, offered by the Senator from California [Mrs. FEINSTEIN].

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced, yeas 67, nays 33, as follows:

The result was announced—yeas 67, nays 33, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—67

Abraham	Frist	Murkowski
Allard	Gorton	Murray
Ashcroft	Graham	Nickles
Baucus	Gramm	Reid
Bennett	Grams	Robb
Bond	Grassley	Roberts
Brownback	Gregg	Rockefeller
Bryan	Hagel	Roth
Burns	Hatch	Santorum
Byrd	Helms	Sessions
Campbell	Hutchinson	Shelby
Chafee	Hutchison	Smith (NH)
Coats	Inhofe	Smith (OR)
Cochran	Jeffords	Snowe
Collins	Kempthorne	Specter
Coverdell	Kerrey	Stevens
Craig	Kyl	Thomas
D'Amato	Lott	Thompson
DeWine	Lugar	Thurmond
Dodd	Mack	Warner
Domenici	McCain	Wyden
Enzi	McConnell	
Faircloth	Moseley-Braun	

NAYS—33

Akaka	Feingold	Landrieu
Biden	Feinstein	Lautenberg
Bingaman	Ford	Leahy
Boxer	Glenn	Levin
Breaux	Harkin	Lieberman
Bumpers	Hollings	Mikulski
Cleland	Inouye	Moynihan
Conrad	Johnson	Reed
Daschle	Kennedy	Sarbanes
Dorgan	Kerry	Torricelli
Durbin	Kohl	Wellstone

The motion to lay on the table the amendment (No. 11) was agreed to.

Mr. HATCH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I know there are a couple of Senators who want to qualify their amendments.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that immediately following the vote on Senator TORRICELLI's amendment, Senator DORGAN be recognized to offer his substitute amendment. I further ask unanimous consent that there be 2 hours of debate equally divided in the usual form, and following the expiration or yielding back of time, the Senate proceed to a vote on or in relation to the Dorgan amendment.

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

Mr. HATCH. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey [Mr. TORRICELLI] is recognized to offer an amendment on which there shall be 3 hours of debate equally divided in the usual form.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to address a question to the distinguished Senator from New Jersey. Would he be willing to yield me 30 seconds in order for me to offer an amendment?

Mr. TORRICELLI. I am pleased to yield to the Senator from Arkansas.

MOTION TO REFER WITH INSTRUCTIONS

Mr. BUMPERS. Mr. President, on behalf of Senator FEINGOLD and myself, we move to refer Senate Joint Resolution 1 to the Budget Committee with instructions to report back forthwith with an amendment. That is essentially the amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself and Mr. FEINGOLD, moves to refer Senate Joint Resolution 1 to the Budget Committee with instructions to report back forthwith with an amendment.

The motion with instructions follows:

Strike all after the resolving clause and insert the following:

"SECTION 1. POINT OF ORDER AGAINST BUDGET RESOLUTIONS THAT FAIL TO SET FORTH A GLIDE PATH TO A BALANCED BUDGET.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

"(j) It shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that fails to set forth appropriate levels for all items described in subsection (a)(1) through (7) for all fiscal years through 2002."

"SECTION 2. PROHIBITION ON BUDGET RESOLUTIONS THAT FAIL TO SET FORTH A BALANCED BUDGET.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

"(k) CONGRESSIONAL ENFORCEMENT OF A BALANCED BUDGET.—

"(1) Beginning in 2001, it shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that sets forth a level of outlays for fiscal year 2002 or any subsequent fiscal year that exceeds the level of receipts for that fiscal year.

"(2) The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this subsection."

"SECTION 3. POINT OF ORDER AGAINST BUDGET RESOLUTIONS THAT FAIL TO ESTABLISH A GLIDE PATH FOR A BALANCED BUDGET BY 2002 AND SET FORTH A BALANCED BUDGET IN 2002 AND BEYOND.—

(a) Section 904 of the Congressional Budget Act of 1974 is amended by inserting "301(j)," after "301(I)," in both places it appears.

(b) Add the following new section immediately following Section 904 of the Congressional Budget Act of 1974:

"SEC. —. Section 301(k) may be waived (A) in any fiscal year by an affirmative vote of three-fifths of the whole number of each House; (B) in any fiscal year in which a declaration of war is in effect; or (C) in any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 4. TECHNICAL CHANGES.—Section 306 of the Congressional Budget Act of 1974 is amended as follows:

(a) Immediately following "Sec. 306." insert the following:

"(a) Except for bills, resolutions, amendments, motions or conference reports, which would amend the congressional budget process,".

(b) Add the following at the end of subparagraph (a):

"(b) No bill, resolution, amendment, motion, or conference report, which would amend the congressional budget process shall be considered by either House."

Mr. BUMPERS. Mr. President, I now ask unanimous consent that the amendment be laid aside subject to further consideration.

The PRESIDING OFFICER. Is there objection to consider the motion at this time? If not, without objection, it is so ordered. Without objection, the motion to set aside is granted.

Mr. FEINGOLD. Mr. President, I would also like to ask the Senator from New Jersey if he would yield.

Mr. TORRICELLI. I will be happy to yield.

Mr. FEINGOLD. I thank the Senator from New Jersey.

Mr. President, I ask unanimous consent that the pending business be set aside.

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

AMENDMENTS NOS. 13 AND 14

Mr. FEINGOLD. Mr. President, I have two amendments to Senate Joint Resolution 1 that I would like to offer. I ask unanimous consent that it be in order to send both of them to the desk at this time. I understand they will be set aside until a later point when they can be debated and voted upon, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes amendments numbered 13 and 14.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments (Nos. 13 and 14) are as follows:

AMENDMENT NO. 13

(Purpose: To require approval of the amendment in 3 years)

On page 2, line 7, strike "seven" and insert "3".

AMENDMENT NO. 14

(Purpose: To permit the use of an accumulated surplus to balance the budget during any fiscal year)

On page 2, line 15, after "vote" insert "or unless Congress shall provide by law that an accumulated budget surplus shall be available to offset outlays to the extent necessary to provide that outlays for that fiscal year do not exceed total receipts for that fiscal year".

AMENDMENT NO. 15

(Purpose: To permit limited waiver during economic emergencies and allow a capital budget)

Mr. TORRICELLI. Mr. President, I have an amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. TORRICELLI] for himself, Mr. LAUTENBERG, Ms. LANDRIEU, Mr. KOHL and Mrs. BOXER, proposes an amendment numbered 15.

Mr. TORRICELLI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 3, strike lines 4 through 11, and insert the following:

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"The provisions of this article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, which becomes law.

"The provisions of this article may be waived for any fiscal year in which the United States is in a period of economic recession or significant economic hardship and is so declared by a joint resolution, which becomes law.

On page 3, strike lines 15 through 19, and insert the following:

"SECTION 7. Total receipts shall exclude those derived from net borrowing and the disposition of major public physical capital assets. Total outlays shall include all outlays of the United States Government except those for repayment of debt principal and those dedicated to a capital budget. The capital budget shall include only investments in major public physical capital that provides long-term economic benefits.

Mr. TORRICELLI. Mr. President, I offer my amendment recognizing that the context of this debate is fundamentally different because of over 20 years of effort by the Senator from Utah, Mr. HATCH, and a Member in the House from Texas, Mr. STENHOLM, who have worked diligently to bring before this institution of the Congress an amendment to require a balanced budget.

While their efforts to date have not succeeded, the fact that we meet with a Federal deficit which has been reduced by over 60 percent in annual terms in the last 3 years is no small testament to their efforts.

The national debate has been fundamentally changed. It is no longer a question of if there is going to be an operating balanced budget in the U.S. Government, but when and how it is going to be achieved.

I take great pride in that, through the years, on three occasions I joined with them to do so, because, in my judgment, 15 years ago this country began a radical and even dangerous experimentation with changing the finances of the U.S. Government. There had been for some 200 years an unspoken compact among the generations—the Nation would borrow for its national defense or to provide for its domestic economy in times of danger or severe deprivation, but quickly return to an operating surplus and to pay those debts when the situation allowed.

So from the War of 1812, and the Civil War, through the Second World War and the time of the Great Depression, succeeding giants of American history borrowed so much as was necessary to ensure the survival of the Republic, but almost immediately in each and every circumstance returned to an operating surplus and dealt with the principal of the debt in fairness to future generations and to assure the financial health of the U.S. Government.

Our generation has the unfortunate distinction of being the first to break that compact. During the 1980's, the Federal deficit, from less than $1 trillion, grew to in excess of $4 trillion. Indeed, during the Reagan Presidency alone, the annual Federal debt grew at a rate in excess of 13 percent, reaching the extraordinary drain on the Federal Treasury for interest alone of 20 percent of all revenues.

When the Clinton administration assumed office 4 years ago, President Clinton inherited an operating deficit of $290 billion. In 4 years we have experienced an extraordinary change, a 63-percent reduction in the annual debt of the U.S. Government as a result of the deficit reduction initiative of 1993. So at this point the United States has the lowest operating annual debt of any industrialized nation in the world with 1.4 percent.

The question, therefore, is whether the United States has learned a valuable lesson from the excesses that began in 1981 and began to abate in 1993, or whether, indeed, this change of fortunes in the last 4 years is itself an aberration, and a permanent amendment to the Constitution is required.

There have been few instances in the life of this Republic when any Congress has found it necessary to change the Constitution by which we govern ourselves. We recognize that the U.S. Constitution is a precious document in its balances, its allocation of powers. It is, I think, important to note, and no small achievement, that when the 20th century ends in but a few brief years there will be only two governments on this globe who will end the century with the same basic form of government, under the same Constitution, with the same allotment of powers with which they began the century. The United States of America is one. The certain genius of our Constitution, both how it was written and how it distributed powers, is certainly a reason.

I rise, therefore, Mr. President, recognizing that any decision to amend the Constitution of the United States is extraordinarily serious and, indeed, sobering for every Member of the institution. I, therefore, believe if it is to be amended, it is to be done so carefully, and in every respect, ensuring that we understand the consequences.

The amendment that I bring before the body today deals with three central elements of the resolution. First, whether or not the U.S. Government should continue to both have its current accounts and its capital budget reflected in a single accounting; second, how, indeed, under this amendment the Government will respond to times of economic recession; and third, how the U.S. Government would respond to threats to our national security under the provisions of the resolution.

I begin, Mr. President, with a question of a capital budget. Throughout these last 20 years, much has been spoken about the mounting deficit of the U.S. Government. We have convinced the American people, I believe, of two conclusions that bear further scrutiny. First, that the principal and only debt of the United States that bears witness is the debt operational of the U.S. Government; and second, that the appropriate level of debt of the U.S. Government is zero. Neither conclusion, Mr. President, bears scrutiny.

No institution which plans for its future, is properly taking advantage of its ability to borrow, has no operating deficit. Indeed, Mr. President, 43 States in this Union by calculation set the proper and appropriate level of deficit borrowing. The States do so through capital borrowing commissions. They evaluate the transportation, the infrastructure needs, the investment needs

of their States and carefully calculate their ability to pay back those loans and what they will contribute to the economic performance of their States.

Indeed, this has been so successful that for the last 50 years not only has no State defaulted, but, indeed, I know in no instance when there has been a serious issue of a Governor of either party or their respective legislatures engaging in inappropriate or excessive borrowing, or any borrowing, other than what was required for the economic future of their State.

Unique in our society is the U.S. Government. Unlike all major businesses in each of these States, and all of our economic competitors, the U.S. Government has no capital budget. In our planning, we regard the construction of a road or a railroad or a school which may last for 20, 50, or 100 years the same way we regard the hiring of a new employee, the buying of a piece of paper, paying for the lights. The fact is that by any standard accounting—one is the exchange of financial resources for a lasting and productive resource, and the other is an immediate consumption—this has not been addressed and has never been changed.

My fear, Mr. President, is that if we adopt the balanced budget amendment as now offered by the Senator from Utah without a capital budgeting provision, the thirsts of the U.S. Government for consumption will certainly begin to exclude what remains of long-term investments in this country. Because, indeed, over these years, we have seen a serious deterioration in the amount of investment by the United States. In 1960, 25 percent of the Federal budget was dedicated to long-term capital investments. The United States constructed a highway system that was the envy of the world. Our mass transit systems for railroads were still on the cutting edge. We built a university system that was without peer. By the time the 1960's concluded, no nation on Earth would want to be in a position to not be able to trade the American transportation or infrastructure or research base with their own.

I doubt, Mr. President, few nations would make that trade today. The United States is now last in all developed nations in the world in our level of infrastructure investment in capital planning. Today, our Government invests only 7 percent of our revenues in capital expenditures, the Japanese having a rate of nearly 6 percent, as indicated on this graph, the Germans having a rate half again as great as our own. Our percentage of GDP dedicated to infrastructure investment is now barely 1.7 percent.

The question, therefore, is if today we proceed to a balanced budget amendment without this exemption for capital expenditures, will this 1.7 percent rate of GDP, this 7 percent rate of all Government spending, deteriorate further? The irony, Mr. President, of this situation is the exact opposite of what has happened with American business. American business today operates a $4.5 trillion deficit. American businesses learned that deficit spending, if it involves productivity, new plant and equipment, and operating efficiency, is not only necessary, it is required for future economic growth.

Mr. President, I attempt to bring that same lesson to the floor of this Senate. We are potentially putting a straitjacket financially on this Government and our ability to be competitive.

In the United States today, there are a quarter of a million miles of roads that are substandard and in need of immediate repair. They will not serve us another century of efficient business performance. Twenty-five percent of all the bridges in America that are handling the cargo of our industry, servicing our towns, leading to the productivity of our businesses, are in need of immediate repair. The great ports of America, which once rivaled any in the world—and now, indeed, the port of New York, once the most efficient and busiest port in the world, now offloads cargo in the outer harbor because it is too shallow to take modern ships like Japan and Europe. We are disinvesting in America, transforming places in this country into the efficiency of Third World nations. This disinvestment in the American future cannot continue.

The Senator from Utah, in previous discussions in the Judiciary Committee, makes a worthwhile point: Who is to ensure that worthwhile capital projects are not placed in the general operating budgets of the U.S. Government, or vice versa? Who is to draw the line? Well, Mr. President, in our corporations, in our homes, and indeed in our States, we have learned to draw that line. States have capital planning commissions. Every homeowner has learned the difference between a home mortgage and buying a new suit or paying for the evening meal. Indeed, every corporation in America has learned in the marketplace to distinguish. So can this Government, and so it must.

Mr. President, I believe that, more perhaps than any other provision I offer in my amendment today, this call for capital planning in the U.S. Government will reflect how serious we are at long last about rearranging the spending powers of the U.S. Government and making them responsible again. And so the first of three provisions in my amendment to the balanced budget amendment is for dealing with capital spending.

Mr. President, my second provision deals with the ability of the U.S. Government to respond to another set of contingencies, just as important as dealing with the long-term financial planning of this Government and its investments. I mentioned the question of dealing with national military emergencies. The Senator from Utah appropriately has placed in his balanced budget amendment a provision that, if the United States engages in a war, through a declaration of war, three-fifths of the Congress can waive the provision of a balanced budget. He is right to do so. But it is also inadequate.

Mr. President, in the experiences of the 20th century, the most important military expenditures to defend this Union have not always been made solely after a declaration of war. Given the enormity of preparing for armed conflict, the complexity of technology and the time necessary to construct the implements of war, the most important expenditures have often been made in the months or years preceding armed conflict. Indeed, the principal battles of the Second World War, when the implements of war were considerably less costly or complex than those that we will meet in the 21st century, the principal investments for that conflict were made not only in the months, but in the years preceding the Second World War.

President Roosevelt's decision to rebuild the U.S. Navy and double its size was made not after Pearl Harbor, but in the years before. The question, therefore, with this amendment, that we are to waive these provisions only after a declaration of war—what does that do to an American President and the American military that recognizes an imminent threat, can discern an almost certain conflict, and needs desperately to prepare the Union to defend itself?

Indeed, Mr. President, in our own time, in the Persian Gulf war, on a far smaller scale, we recognized exactly these circumstances. It was 5 months from the time that Saddam Hussein invaded Kuwait to the beginning of hostilities on the Kuwaiti-Iraqi border. In those 5 months, the U.S. Government was operating at a $220 billion deficit. President Bush consumed an additional $10 billion in deficit spending to prepare for the almost certain conflict with Iraqi Armed Forces. There was no declaration of war, but there was no mistaking what was going to happen. It was as certain as Franklin Delano Roosevelt saw an imminent conflict with Germany and Japan, and as certain as President Wilson knew there would be a conflict in Europe, and indeed as certain as in the opening weeks of his administration, President Lincoln knew the inevitability of a war between the States. Each began to plan for conflict. Each began to borrow. And when the conflict began, this country at least approached being prepared.

And so, Mr. President, the second principal change that I offer to the balanced budget amendment—the first was to allow for a separate capital planning expenditure budget to deal

with long-term economic investments. My second is to allow, by a joint resolution, the declaration of a national military emergency so that the country can properly plan.

I do so in fairness to the Senator from Utah. I also want to mention that I do so without there being a declaration of war, but also changing to a majority vote, in recognition that I do not want any foreign adversary to ever miscalculate that because we are unable to reach a three-fifths vote, we will also be unable to defend the United States.

It is worth noting that, at no point in the years preceding the Second World War, at no point preceding the First World War, and it was demonstrated at no point before the Persian Gulf war, did three-fifths of this institution stand for the proper preparations for war. Indeed, as a Democratic author of the Persian Gulf war measure in the House of Representatives, we never did get a three-fifths vote. With Germany having overrun half of Europe, these institutions of the Congress passed the Selective Service Act to prepare the United States for a war, which was almost certain, by a single vote. Therefore, not only do I provide for a joint resolution so the United States can prepare for imminent hostilities, but I do so by a majority vote.

Third, Mr. President, I have an additional change which deals with an equally important matter of economic recession. There are those who come to the floor of the Senate and argue that deficit spending is necessary to maintain the economic performance of the United States, and they provide evidence that, indeed, the rapid growth of this economy in the latter half of the 20th century and the extraordinary standard of living that we have achieved is due in no small part to the ability of the United States to borrow. Others argue that that right has been abused. Indeed, we have drawn upon our credit to such an extent that we have placed a burden on the future which is unsustainable, and, with 20 percent of our tax dollars going not to build new roads, not to educate another generation, but to only pay interest on the debt, they are right. Indeed, Mr. President, both are right on the question of achieving a balance between the two.

There has been in this latter half of the 20th century a notable and even extraordinary change in the business cycle of growth and recession. Indeed, between 1900 and 1950 there were 33 quarters of real negative economic growth. Through the experience of the Great Depression the U.S. Government learned, and then admittedly abused, the ability to adjust the business cycle through borrowing in times of recession to compensate for declining private investment and expenditures. The result is that in these last 47 years compared with the 33 quarters of negative economic growth in the first half of the century, we have experienced only four quarters of negative economic growth since 1950.

The question then is, How do we achieve a balance? The Senator from Utah appropriately noted that the power to borrow has been abused with a mounting deficit which is unsustainable on its face versus losing this ability to deal with real economic downturns and provide adjustments. Indeed, Secretary Rubin in his testimony provided a warning that without some ability to stabilize we could "turn slowdowns into recessions and recessions into more severe recessions or even depressions."

The Treasury Department has estimated that during the 1992 recession, without the ability to engage in some deficit spending, the recession that lasted from 1990 to 1992 would have had in excess of 9 percent unemployment instead of 7.7 percent with an additional 1 million jobs being lost.

Mr. President, I have attempted in my amendment in its final provision to strike a balance. That is where the institutions of the Congress could by joint resolution declare an economic emergency and allow it, only for so long as it believes that emergency exists, to engage in deficit spending to ensure that the public works programs and job creation ability of the Government is not lost.

Mr. President, we will never know what would have happened in the Great Depression had there not been a Second World War or a New Deal and the massive deficit spending of that period to end the economic debt into which this country had gone. It was by any measure a real threat to American democracy. In the Second World War this country approached 60 percent of GDP in deficit spending. It is a debt burden which the Nation must bear. It also provided a foundation for a standard of living and an economic performance which in all of human history has never been equaled.

My amendment seeks to use the creditworthiness powers of this Government to deal with those economic contingencies but making certain that they are used only in periods of economic emergency.

In short, Mr. President, in each of these provisions I have attempted to do by constitutional amendment what common sense provided that we do through 200 years of American history. I do so with considerable regret. Succeeding generations in this country provided for capital spending because they cared about the future. The Constitution didn't require that they do it. They did it because it made sense for the American future. Succeeding generations borrowed to defend the Nation when it was threatened because they cared about the defense of the Republic, not because the Constitution required that they only borrow to provide for the national defense and not exceed that authority when the Nation was not threatened. Succeeding generations borrowed to deal with economic recessions and depressions because they cared about the economic future of the country and our people and did not abuse it.

No Member of the Senate should take pride in the fact that in our generation it might be necessary to amend the United States Constitution to provide for these capital expenditures in dealing with military threats and economic emergencies, to assure that our country is responsible in dealing with that borrowing, and that the borrowing is done only to the extent and to the degree that it is appropriate. We should do so because we care about our people and the future of the Republic. Yet, like the Senator from Utah, I rise because there is the unmistakable fact that in our own time that power has been abused.

Therefore, I rise with amendments to the resolution recognizing that amending the Constitution is unlike any other action taken by the Congress of the United States. We legislate not for our time; we write for all time. These are words that will govern contingencies that we cannot imagine, circumstances that we cannot foresee. If it is necessary to amend the Constitution of the United States, it is necessary to do so to the fullest extent possible with all the wisdom that we can muster. I believe the amendment of the Senator from Utah would be improved and enhanced by these changes. Indeed, I believe these changes are necessary to responsibly add to the work of our ancestors who wrote this great document and provided for the political stability of this Nation through these two centuries and allowed it to become the unique society and the extraordinary Nation that we have become.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). Who yields time?

Mr. HATCH. Mr. President, I yield 3 minutes to the distinguished Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise today as a strong supporter of the balanced budget amendment and a strong supporter of the Torricelli amendment. I do not believe that the two are inconsistent

Those of us who support amending the Constitution to balance the budget have an obligation to make sure that we are supporting the best possible balanced budget amendment. I listened carefully to Senator BYRD earlier this week when he talked about the sanctity of the Constitution. He argued, and I agree, that we ought to amend this most basic and important document of our Government with only our best ideas, principles and language.

The balanced budget amendment does, in my opinion, embody a principle simple and vital enough to deserve inclusion in the Constitution. It says that we ought to spend no more than we take in. It says that this generation has no right to finance its own consumption with money borrowed from the next generation. It asks the Federal Government to run its finances in a manner that both provides for a strong America in the present and builds a stronger America in the future.

The Torricelli amendment would improve the balanced budget amendment by bringing it closer to this fundamental principle. The Torricelli amendment would exclude investments in physical infrastructure that provide long-term economic benefits from the definition of Federal outlays. In other words, it would put into the balanced budget amendment the requirement that we balance our operating budget but would allow debt financing of long-term public investments.

To me this makes eminently good sense. It is how everyone else keeps their books, from State governments, to businesses, to families. You pay now for things that are going to benefit you now, and you pay over time for investments, the value of which accrues over time. A State government issues bonds to finance major highway projects and new construction of public buildings. A business goes to the bank for a loan to upgrade its machinery. A family takes out a mortgage to buy a house.

When we say on the Senate floor that the Government ought to balance its books just like an American family has to, we mean that the Government ought to balance its operating budget just like an American family has to. No one is suggesting that a family wait until they save up enough money to pay cash for a home. If we operated that way, there would be very few homes bought in this country.

If the Federal Government must balance its budget without separating out its capital expenditures, there will be very few public investments made in this country, and that would be very wrong. Already, the Federal Government woefully underinvests in the capital that will grow our economy—in our roads, in our schools, in our cities. The Torricelli amendment will ensure that in pursuing a balanced budget we do not have a perverse incentive to avoid those public expenditures that would most benefit future generations.

State governments understand this. Forty-three of them have balanced budget requirements that separate out the capital budget. In my State of Wisconsin, the constitution requires that taxes cover expenses. But it also states that debt may be incurred "to acquire, construct, develop, extend, enlarge or improve land, waters, property, highways, railways, buildings, equipment, or facilities for public purposes."

That is a simple, straightforward and correct approach that we ought to take in the Federal balanced budget amendment, and I hope my fellow supporters of the balanced budget amendment will agree. This debate has always been about stopping the practice of robbing Peter and Paul, Jr. to pay for Peter and Paul, Sr. Supporters of a balanced budget amendment want to look beyond our needs today and toward our hopes for the future.

That means not spending more than we take in. And that means making wise, long-term investments in the economy that will sustain future generations. We can do both with a balanced budget amendment to the Constitution if we also pass the Torricelli amendment, and so I urge my colleagues to do so.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 15 minutes to the distinguished Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. I thank the Chair. I thank the Senator from Utah for his strong leadership on this issue. It is not easy carrying the ball for so long and so well. He has done such an admirable job of that. I am sure our colleagues on both sides of the aisle admire him for what he has done.

I want to talk for a few minutes on the broader question of the need for the constitutional amendment to balance the budget. It seems to me that among all of the things we address in this body, there are some basic considerations that should underlie it all, and we should focus from time to time on what we really should be about, what we should do as those who govern.

I think it comes down to two basic categories, that is, trying to institute policies that make for the long-term strength of this country, and to try to do things that will encourage people to have more confidence and faith in their system of government.

I believe those are the two basic things we ought always keep in mind as we go about our structured existence around here, the hurly-burly that we all have to contend with in passing thousands of pieces of legislation. Does it contribute to the long-term strength and viability of this country and does it contribute to people's confidence in their form of Government. I feel that is what we are dealing with here. I feel that every once in a while something comes up that really is important with regard to one or the other of those considerations, and I think the constitutional amendment to balance the budget has to do with both of those considerations, because I fear for the economic future of this country if we do not pass such an amendment.

I feel that when the results of our economic policies today are felt a little bit further down the road and we see that once again the so-called balanced budget agreements that we may reach around here do not, in fact, balance the budget, we are going to increase the cynicism that the American people already have toward this Government. That is why I think a constitutional amendment to balance the budget is so important.

There has been a lot of discussion as to whether or not there really is a need. I think most all of us take seriously the proposition of amending the Constitution, even though our forefathers certainly contemplated it. Thomas Jefferson is often quoted. Certainly they felt that from time to time we need to reexamine our basic institutions and not be afraid after due deliberation to make changes that in the course of history are proven necessary to improve our system of government. But it is not something to be taken lightly, and I do not think any of us do take it lightly.

It is clear that from time to time we must sit down and see whether or not we are functioning as we should, whether we are getting the job done for this country and, if not, what should we do about it. We can go down the same old road or we can try to do something about it.

This constitutional amendment constitutes doing something about it because it is clear that we will go down in history under present circumstances as the first generation to leave their children in worse shape than they found their country when they took positions of leadership. It is true, without question, that we are leaving the next generation with astronomical tax rates to face, astronomical interest rates to face, a slower economy. We certainly are on the road, the path that most and great civilizations have followed through history. Some historians say you can calculate it almost to the year. Some say they survive for 250 years. A case can be made that we are on the downside of that mountain, that we are certainly going in the same direction of other great powers—the Turks or Ottoman Empire or Spanish Empire, ones that ruled the world once upon a time but proved they could slide off into second-rate powers and nations that were much less than what they aspired to be or were in prior times.

A good case can be made that we are on track for that. We know, our own entitlement commission tells us that by the year 2012 we will be paying out all of the tax collections we receive in entitlement and interest rates and have nothing for national defense, have nothing for infrastructure, have nothing for education. That is the road we are going down.

Some say, no, we are making progress; all we need to do is get about the business of balancing the budget, that we are really making progress. If

history is to be any indication of that, though, I hope that plea falls on deaf ears, as it should.

The President's budget is used as an example of the fact that we are making progress, we might even have a so-called balanced budget amendment agreement. However, upon examination, we see readily that the President's budget or anything that might come from the President's budget that we might agree to is not going to solve the problem. It will not balance the budget. It adds over $1 trillion to the debt. It is based on assumptions that in all likelihood will not play out. It is based on assumptions having to do with current economic expansion which is now in the sixth year, making it the third longest on record. The likelihood is that will not continue indefinitely. It is based upon high projections of corporate profits that the CBO says are unrealistic. It is based upon the proposition that we will continue to have medical savings, and many, many experts, including the Budget Committee, think we have got most of those savings on the front end, that they will not be occurring year after year after year, and that will impact our tax revenues.

The President's budget is based upon extremely optimistic projections for long-term interest rates. And last but not least, of course, three-quarters of the cuts in the President's budget come after the President is no longer in office, the last 2 years.

In other words, it is based on the proposition that a future Congress will have more courage than this one does and we will be making cuts in discretionary programs, things that most all of us agree we need to be more attentive to, things like infrastructure and research and development and things of that nature that provide for the long-term viability of this Nation. But the proposition is that we will continue to squeeze that 17 percent of nonentitlement, nondefense, noninterest portion of the budget, that narrow 17 percent, for those infrastructure items and parks and that sort of thing, and get astronomical savings from cutting those areas in the last 2 years.

We know that will not happen. We know that will never take place. So that is why David Broder referred to the budget as one of "no hard choices." But, as we know, the time is past for no hard choices. We cannot get by with that any longer. We cannot get by with that indefinitely.

Last Saturday I was watching on television, on C–SPAN, a former colleague of ours, Senator Packwood. He was speaking to a group out in Oregon about things that he knows a lot about, about our tax structure, about budgetary matters. As chairman of the Finance Committee, of course, he was deeply involved in those matters. He had some charts.

I called and asked for those tables with regard to percentages of taxing and spending as a percentage of gross domestic product with regard to this country and other countries. There are some very interesting things in there in terms of where we are today and where we are likely to be tomorrow.

Mr. President, I ask unanimous consent that those tables be printed in the RECORD.

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

[United States only; in percent]

Year	Federal		State/Local*		Total	
	Tax	Spend	Tax	Spend	Tax	Spend
1950	14.8	16.0	6.6	7.1	21.4	23.1
1955	17.0	17.8	6.9	7.3	23.9	25.1
1960	18.3	18.3	7.9	7.8	26.2	26.1
1965	17.4	17.6	8.7	8.6	26.1	26.2
1970	19.6	19.9	10.2	9.8	29.7	29.7
1975	18.5	22.0	10.8	10.4	29.3	32.4
1980	19.6	22.3	10.1	9.2	29.6	31.5
1985	18.5	23.9	10.6	9.2	29.1	33.0
1990	18.8	22.8	10.7	10.2	29.5	33.0
1991	18.6	23.3	10.9	10.7	29.5	34.0
1992	18.4	23.3	11.1	10.8	29.5	34.1
1993	18.4	22.5	11.2	10.7	29.6	33.3
1994	19.0	22.0	11.1	10.7	30.0	32.7
1995	19.3	21.7	11.0	10.7	30.4	32.4

*Does not include the receipt or spending of grants-in-aid from the federal government, which are counted as federal expenditures.

Note: Totals may not add due to rounding.

Source: Budget of the United States Government, Historical Tables, Office of Management and Budget, March, 1996.

TOTAL GOVERNMENT TAXES AND SPENDING FOR SELECTED ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD) COUNTRIES AS A PERCENTAGE OF GROSS DOMESTIC PRODUCT, 1970–95

[In percent]

Country	1970		1980		1985		1990		1995*	
	Tax	Spend	Tax	Spend	Tax	Spend	Tax	Spend	Tax	Spend
United States	29	32	31	32	30	33	31	33	32	34
Japan	21	19	28	32	31	32	35	32	34	38
United Kingdom	40	39	40	43	41	44	39	40	37	42
Canada	34	35	36	39	39	45	42	46	42	46
Germany	38	39	45	48	46	47	43	45	46	50
Netherlands	42	44	51	55	54	57	49	54	48	51
France	39	39	46	46	49	52	48	50	49	54
Italy	30	34	33	42	38	51	42	53	45	52
Norway	44	41	48	43	50	41	52	49	47	46
Denmark	42	40	53	56	57	59	57	59	60	62
Sweden	47	43	56	60	60	63	63	59	59	67

*Projected.

Note: All figures rounded. The percentages in this chart are compiled by the OECD, an association of the major industrialized countries of the world. The OECD uses a different method of calculating government expenditures and revenues than the standard budget accounting method the U.S. government uses. Therefore, while the figures in this table give an accurate comparison of the spending and revenue trends of our major competitors, these figures should not be compared directly to other data.

Source: Organization for Economic Cooperation and Development Outlook, December 1995.

TOTAL GOVERNMENT TAXES AND SPENDING FOR SELECTED INDUSTRIALIZING COUNTRIES AS A PERCENTAGE OF GROSS DOMESTIC PRODUCT, 1998–94

[Pacific rim countries; in percent]

Country	1998		1990		1991		1992		1993		1994	
	Tax	Spend	Tax	Spend	Tax	Spend	Tax	Spend	Tax	Spend	Tax	Spend
Thailand	18	14	19	14	18	14	18	16	18	16	19	15
Taiwan	15	14	17	15	14	16	14	20	14	18	14	16
Korea	17	16	18	16	17	16	18	17	19	18	20	18
Bangladesh	9	17	9	17	10	16	11	16	12	17	12	19
Hong Kong	16	14	15	15	17	14	17	14	19	15	17	16
India	18	20	18	20	17	18	16	17	17	18	16	17
Indonesia	17	19	20	19	18	19	19	19	18	17	17	17
Philippines	16	18	17	20	18	19	18	19	18	19	20	19
China	20	23	20	22	18	21	16	19	15	18	15	18
Chile	21	27	21	20	22	21	22	20	23	21	22	20
Malaysia	25	28	26	30	26	28	27	28	31	25	31	24

Note: All figures rounded. Many nations use different methods of calculating government expenditures and revenues than the standard budget accounting method the U.S. government uses. These series can, however, give an approximate comparison of these spending and revenue trends of these countries.

Source: Government Finance Statistics Yearbook, International Monetary Fund, 1995. Asia Development Outlook, 1995–1996, Asian Development Bank.

Mr. THOMPSON. What road are we on? If we do not need a constitutional amendment to balance the budget and if we do not have that, what is likely to happen based on history and based on reasonable projections?

First of all, he gave me a chart that had to do with United States, State/local, and total government taxes and

spending as a percentage of GNP. It showed a couple of different things.

In 1950, the tax take was 21.4 percent. In 1950, 21.4 percent of GDP. In 1995 it was 30.4 percent. But, spending went from 23.1 percent to 32.4 percent.

So the point that he made, which I think is a valid one, is you cannot tax your way out of this problem. We are increasing taxes both in real terms and in terms of percentage of GDP, but of course, spending continues to increase right along with it. So, today, we are taxing a little over 30 percent and spending a little over 32 percent.

Then he made some comparisons with some other countries. I think it is some indication of our future, and some indication of maybe our past in a way. As far as our future is concerned, the direction it looks like we are likely to go is the same direction that many of our friends in Europe and Scandinavian countries went. Figures with regard to Germany, France, Norway, Denmark, and Sweden—there, interestingly enough, they, too, are spending a greater percentage of their GDP than their taxing reflects.

In Germany they are taxing 46 percent, spending 50; France, 49 percent, spending 54; Norway and Denmark and Sweden—Denmark, of course, taxing 60 percent of GDP and spending 62 percent.

What is in common among all of these countries is they all have economic problems. They are all having problems with unemployment. They are all having the problems with the demographics that we will soon be facing, problems of a growing elderly population. They are all economies that, I think it would be fair to be say, generally are stagnating and having great problems. They are all economies that historically, just like us, always spend a little more than they tax. They continue to raise taxes, but always spend a little more than they tax. That seems to be our future on the present course.

On the other hand, if you look at some countries around the Pacific rim—Taiwan, Hong Kong, Indonesia, countries of that nature, you see they are taxing in the neighborhood of between 14 and 17 percent of GDP and spending in the neighborhood of 16 and 17 percent of GDP. So, not only do they have very low rates of taxation and low rates of spending, but their spending is not outstripping their taxes.

What do we have there that is common among those countries? High rates of growth, high employment rates, economic prosperity. They are behind us right now in many respects. They are on the move. They are catching up with these policies, and we are looking to a future with these other policies.

There is no reason to believe we will not go down that same road that our European neighbors and our Scandinavian neighbors have gone. That, of course, will put us in an extremely vulnerable position when the baby boomers start retiring and all of our social services are flooded with those numbers. We are not going to be able to make it. It is going to take all of our revenues. We all know that. We all dance around and make sounds about a balanced budget because we are putting the numbers down on the back of an envelope. You could put numbers on the back of an envelope, saying that future Congresses will cut when the time comes so, therefore, we have a balanced budget. It is the easiest thing in the world to do on paper but everybody knows it is not going to happen. And when it does not happen, once again we will wonder why only 48 percent of the people in this Nation are even bothering to vote. It is because they feel there is a kind of joint, tacit understanding we will say whatever is necessary and do whatever is necessary for temporary political advantage, telling people we are going to have something that we are not really going to have, while continuing to spend because spending garners political support, political votes, and political contributions, and hoping that the hatchet will fall on somebody else's watch, years down the road.

That is what this is all about. We can make arguments about various amendments to this constitutional amendment. Some of them are well thought out, well reasoned and so forth. But they avoid the hard question. Are we going to limit ourselves?

Again, people say we do not need to mess with the Constitution in order to do that because we have it within our means to do the right thing. By that logic, we should not have to have the first amendment. We have it in our means not to pass a law abridging freedom of speech. All we have to do is not do it. Yet, we decided that we ought to have a constitutional amendment because we know historically, and our Founding Fathers certainly knew, that there seemed to be a tendency—I ask unanimous consent for another 3 minutes.

Mr. TORRICELLI. I yield 3 more minutes.

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

Mr. THOMPSON. Our Founding Fathers knew historically governments like to pass laws abridging freedom of speech. They knew historically that governments like to pass laws or carry out activities that constitute illegal searches and seizures, and that is why we came up with the fourth amendment. Governments historically like to do things that we decided a long time ago that we don't want them to do.

What has history shown with regard to our ability to pass a balanced budget, or our ability to restrain spending? If we have any track record at all, it is one that is clear as can possibly be and that is we do not have that ability, we do not have that will in order to do that.

Interestingly and parenthetically, after it was over with, in Q and A, Senator Packwood was asked, "Senator Packwood, where do we get that will?"

He thought for a minute and said, "I am reluctantly coming to the conclusion that the only thing that will cause it will be term limits."

But that is a debate for another day.

I yield the floor.

Mr. TORRICELLI. 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. HATCH. 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. HATCH. Mr. President, we have before us an amendment that contains three separate changes to the balanced budget amendment. I do not believe that any of these three changes would be appropriate. I don't think they are wise or necessary, and so I have to oppose Senator TORRICELLI's amendment.

Let me add that all of these things, at least in concept, have already been rejected by the Senate. There is no reason to adopt them now.

The first change in the amendment would allow for a waiver of the balanced budget rule by a majority vote in any year where the United States is in a period of economic recession or significant economic hardship.

Mr. President, this portion of the Torricelli amendment is similar to the Durbin amendment that the Senate defeated by an overwhelming 64 to 35 vote just 2 weeks ago. The reasons it was rejected apply to the Torricelli amendment as well. In fact, they may apply with greater force, as this language is more permissive and less clear than was the Durbin amendment.

The terms used in this amendment are undefined. The determination of "an economic recession," or "significant economic hardship," could easily be manipulated by a spendthrift Congress as a way to avoid the discipline of the balanced budget amendment. Nearly anything could be seen as a significant economic hardship if considered from a certain point of view. It is important to note that even during times of national economic prosperity, some regions may experience localized downturns. This proposal could allow such regional hardships to justify waiving the balanced budget amendment and giving the country deficits at the exact time it should be running surpluses.

Thus, the amendment, I am sorry to say, would create a huge loophole, a giant loophole, that would swallow the balanced budget rule. It is also important to note that if the balanced budget amendment is waived for a session,

it is waived for all spending in that year. In other words, the amendment would permit deficit spending for any number of projects that are in no way related to the so-called significant economic hardship.

Just remember President Clinton's 1993 attempt to push through a multi-billion-dollar emergency stimulus boondoggle under the guise of trying to end a recession which had, in fact, already ended. Mr. President, if you take your finger out of the hole in the dike, then the whole town can be flooded.

One of the arguments made in favor of this proposal is that without it, the balanced budget amendment will somehow inhibit the functions of the so-called automatic stabilizers. I have spoken extensively on this issue, and I think it is clear that the importance of automatic stabilizers has been overstated and, in any case, the balanced budget amendment will not inhibit their functioning.

Moreover, this amendment does not respond to the concerns raised about the automatic stabilizers. It simply allows Congress to avoid the balanced budget by a lower threshold. Put simply, this proposal is a loophole and should be rejected, as I hope it will be, just as a similar proposal was overwhelmingly rejected a couple of weeks ago.

The next change this amendment would make to the balanced budget amendment would be to permit a waiver by a simple majority when the United States "faces an imminent and serious military threat to national security." If this proposal sounds familiar to my colleagues, it is because it is the same amendment that Senator DODD proposed about 2 weeks ago. That amendment was discussed thoroughly and soundly defeated by a vote of 64 to 36.

This provision would permit a waiver if the United States merely faces a threat. I understand what military conflict is. It involves shooting. But the notion of a mere threat is far more pliable. Indeed, ever since the advent and proliferation of nuclear weapons, it could be cogently argued that the United States "faces an imminent and serious military threat to national security" every minute of every day. Thus, anyone who seeks refuge from the tough choices necessary to balance the budget could invoke this threat and waive the balanced budget rule if this provision is incorporated into this balanced budget amendment.

In short, Mr. President, this proposal is another huge loophole, or would create a potentially huge loophole. Its effect is to weaken and confuse the standard by which the balanced budget amendment may be waived and, thus, it would weaken the balanced budget amendment. It should be rejected, as it was before.

The third change that the amendment of my friend from New Jersey would make would be to exempt spending on capital items from the balanced budget rule. Similar proposals were contained in the Feinstein amendment that the Senate just rejected only a few moments ago.

One part of this proposal is that the definition of receipts, instead of excluding all funds derived from borrowing, would now exclude only those derived from "net borrowing and the disposition of major public physical capital assets." Outlays still include repayment of debt principal, but also would exclude "those dedicated to a capital budget."

While I am not entirely clear on the purpose or full ramifications of the net borrowing provision from its placement, it appears to take account of depreciation of the current year's capital or economic income of an item in the capital budget. It might perhaps have other effects. In any event, it might artificially make receipts seem higher, as a matter of accounting, than they really are. That, in turn, could allow future Congresses to avoid a three-fifths vote in some years where there is a deficit by manipulation of the net borrowing provision of this amendment. I expressed concerns about this language when my colleague from New Jersey proposed it in the Judiciary Committee. Those concerns have increased now that he has expanded the exception from what it was in his committee amendment. Depreciation is a highly malleable concept which could allow substantial gaming of this provision. Additionally, this proposal would not count the proceeds from the sale of capital assets. I do not understand why we would limit commonsense flexibility in this way.

The next change this amendment would make would be to exclude "investments in major public physical capital that provides long-term benefits" from the definition of outlays. Mr. President, what does this mean? How big must an investment be to be considered major? How far into the future must benefits be realized for the investment to be considered long term? Is a health program for children physical because children are an asset?

I could go on for hours on the interpretation, or the potential interpretations, this huge loophole would make and allow. Exempting capital budgets from the balanced budget amendment opens up a tremendous loophole in the amendment. There would be powerful incentives for Congress and the President to balance the budget by redefining more programs as capital expenditures.

A gimmick capital budget exemption could actually endanger capital investments, as fake investments crowd out real capital investments. The most basic problem with that is that all discussions of capital accounts are that there is no clear standard definition of a capital budget. So no one knows what expenditures will fall within that definition. Attempts to limit the reach of the capital budget definition are largely exercises in futility, because the terms are inherently malleable.

Creative budgeters can find a way to get more spending into that capital category.

Just yesterday the President recognized these activities and created a Capital Budget Commission to study whether the Federal Government should implement a capital budgeting procedure, since many in his administration, including the Secretary of Treasury, think it would be horrible to implement a capital budget procedure from the Federal standpoint.

One of the primary duties of this Commission will be to report on the appropriate definition of capital budgets including "use of capital for the Federal Government itself or the economy at large; ownership by the Federal Government or some other entity; defense and nondefense capital; physical capital and intangible or human capital; distinctions among investments in and for current, future, and retired workers, capital to increase productivity and capital to enhance the quality of life; and existing definitions of capital for budgeting."

Gee, that covers everything. It just means that the balanced budget amendment would be a worthless piece of paper—with this amendment, it would become a worthless piece of the Constitution.

This list of possible items to be included certainly suggests the difficulties in defining capital budgets and limiting the exceptions to the balanced budget amendment. Yet, today we are asked to enshrine some form of capital budgets in the Constitution before this Commission has even started its work.

To be honest with you, nobody should be deceived. I think we are going through what we went through before when they needed a vote and formed a Commission to get that vote, and then totally ignored the findings of the Commission afterward. There is nobody in this administration that really believes in capital budgets for the Federal Government, or at least I do not know of anybody. And I have seen plenty of evidence that they do not believe in the use of capital budgets and that it is inappropriate to use them for the Federal Government. So it is just another attempt to try to defeat the balanced budget amendment by the White House. And I do not think anybody fails to understand that who has been around here for any period of time.

The definitional problems inherent in capital budgeting are made clear in President Clinton's proposed fiscal year 1998 budget. In it, the OMB, that is, the Office of Management and Budget, lists four broad categories of programs that may or may not be considered capital expenditures, ranging from

physical assets owned by the Federal Government to social investment including nutrition programs, health care, and drug rehabilitation, among other social welfare spending. That is taken from the "Office of Management and Budget, Analytical Perspectives, Proposed FY 1998 Budget," at page 101. Even within those four broad categories, there are questions about which programs should be included. It is particularly inappropriate to place capital budgeting in the Constitution when there is no agreement on what constitutes a capital budget. Nor is there likely to be agreement after the so-called suddenly created Commission does its work.

This concern has been echoed by the Congressional Budget Office in the testimony of Robert Hartman before the House Subcommittee on Economic Development in 1993. He stated the following:

Establishing a capital budget imposes a significant risk of increasing Government consumption by reducing budget discipline and encouraging the reclassification of operating expenditures as investment.

Now, put another way, capital budgets are a loophole which could reduce budgetary discipline. The very last thing our children need is for us to have less budgetary discipline.

Mr. Hartman continued his criticism of capital budgeting by noting that the Federal Government is not constrained by the normal disciplinary factors that face most potential borrowers. Most people who want to borrow must demonstrate to the bank a reasonable likelihood that the investment will pay off, so that the bank can judge the risk of the investment.

[T]he Federal Government—with the sovereign power to tax and create money—faces little discipline from lenders, who are assured of being repaid independent of the productivity of the Government's investment. The restraint that does exist is almost entirely internal and must be self-imposed. That was Robert Hartman.

You know, we have seen, Mr. President, what happens when Congress tries to discipline itself. I think the best illustration I could give is standing right here, 28 straight undisciplined, unbalanced budgets.

The fact is, these two stacks represent 28 solid straight years of unbalanced budgets. Yeah, we have people coming in here and saying, we can just do this. All we have to do is vote. This is the kind of discipline that we have without the balanced budget amendment. I tell you this. If we do not pass a balanced budget amendment, these two stacks are going to go to the ceiling of this Chamber and beyond because there is no way that there is going to be the fiscal discipline that really is needed. We have 28 straight years of unbalanced budgets.

In the absence of external discipline, borrowing choices may not be made on economic grounds. Borrowing can instead become a source of seemingly unlimited money from which Congress could fund any special interest with sufficient political clout. It is exactly these types of perverse incentives that have gotten us into $5.3 trillion of debt.

Building on the testimony of Robert Hartman, CBO has noted that:

[The Federal Government] Unlike private investment that is guided by market considerations, political factors may dominate the choice of public investment projects.

That is a nice way of saying what financial markets expert David Malpass stated as part of his testimony before the Judiciary Committee last month, regarding a Federal capital budget exemption:

One person's capital investment is another person's pork-barreling.

The Washington Post was even less diplomatic in an editorial that was highly critical of capital budgeting when the idea was floated during the Reagan administration. This is what the Washington Post said about capital budgets:

The concept of a capital budget, applied to the Federal Government, is pure fakery. It is the resort of an administration that, finding the realities of the budget intractable, wants to fuzz up the numbers. . . . To introduce capital budgeting into the Federal accounts would create such wide realms of discretion, and such sponginess of the figures, that a diligent budget director could bring the deficit out at any number he chose.

Well, as you can see, the Clinton administration joined the consensus against debt-financed capital budgeting when it stated in the President's 1998 budget document:

. . . the rationale for borrowing to finance . . . investment is not persuasive. . . . A capital budget is not a justification to relax current and proposed budget constraints.

The proposed budget constraints in the balanced budget amendment most certainly should not be relaxed.

They further suggested that the Government borrowing crowds out private use of that capital which has offsetting negative effects on the overall economy and the return of the Government's investment.

Let me add, that the Capital Budget Commission that the President announced yesterday specifically did not authorize the consideration of deficit-funded capital budgets. The administration clearly appears to be opposed to such proposals. But that is exactly what my friend from New Jersey's amendment encourages. I may not object to having a capital budget that is funded out of annual tax receipts, but it would be a risky gimmick to have debt-funded capital budgets which nearly everybody agrees should not be enshrined into our beloved Constitution.

Mr. President, the nonpartisan General Accounting Office has also found fault with the notion of debt financing of capital budgeting. In a 1992 study by the GAO, entitled "Prompt Action Necessary to Prevent Long-term Damage to the Economy," the GAO on capital budgets said:

The creation of explicit categories for governmental capital and developmental investment expenditures should not be viewed as a license to run deficits to finance these categories. In the short run, both consumption and investment goods use economic resources, and deficit financing for either will absorb resources that would otherwise be available for private investment. Deficits also raise Federal interest costs, regardless of the source of the deficit . . . the choice between spending for investment and spending for consumption should be seen as the setting of priorities within an overall fiscal constraint, not as a reason for relaxing that constraint and permitting a larger deficit.

In other words, capital expenditures should be kept inside the balanced budget role of the amendment, something that my friend's amendment would not do.

Now, Mr. President, OMB, GAO, and CBO have all expressed serious reservations about implementing a debt-financed capital budget in even a statutory manner. Yet this amendment would enshrine it in the Constitution. Proponents of capital budgets have suggested that because States rely on capital budgets to finance depreciable investment expenditures, the Federal Government should likewise be able to account for such expenditures separately from its main operating budget.

The simple fact is, Mr. President, that the Federal budget, unlike State budgets, is sufficiently large to handle capital expenditures. The Federal budget for fiscal year 1997 is projected to exceed $1.6 trillion. Of that we will spend approximately $21 billion in direct Federal outlays for what the President's budget defines as nondefense, physical capital investment, the category most analogous to State government or private capital budgets. That is a mere 1.3 percent of the total Federal budget for that year. There is no reason why these relatively small investment expenditures cannot compete with other budget priorities under the stricture of the balanced budget amendment.

The fact is that the Federal Government does not need capital budgeting as much as smaller entities because it commands such a large budget. The analogy to capital budgeting by businesses or States is inept because the Federal Government is not subject to the same checks as either private businesses or State and local institutions or governments.

Private businesses are disciplined by markets. State and local government capital budgeting is subject to bond ratings. These checks on the abuse of capital budgets will not exist under a Federal capital budget, making it far more likely that a Federal capital budget would be abused. CBO has observed, and let me just quote them,

The main difficulty with relying on Government investment spending is that unlike

private investment that is guided by market considerations, political factors may dominate the choice of the public investment projects.

Now, Mr. President, all three proposals in the amendment of my friend from New Jersey have already been debated, all have been rejected during this debate, two of them in stand-alone amendments. The last thing we need to do is weaken the rules requiring a balanced budget. We have 28 years of unbalanced budgets here to show that.

Under the Torricelli amendment, we would absolutely be expecting more of the same. There is no question about it. I know the distinguished Senator from New Jersey, and I know that he wants to get spending under control. I know that he is sincere in bringing this amendment forth. Literally, it would open up so many doors to violating the balanced budget rule that I have to oppose it, I reluctantly have to oppose it.

What we need is a straightforward amendment like we have, like Senate Joint Resolution 1, the amendment that most of us are fighting for so hard, an amendment without risky gimmicks and without loopholes. Senate Joint Resolution 1 is such an amendment. It has been carefully drafted over many years and represents a balanced, bipartisan, bicameral approach, and it is the only way that we can return fiscal responsibility and sanity to this Government. I am convinced of that, and I think there is no question the vast majority of our Senators are convinced of it. The question is, can we get 67 votes in order to pass? I believe we can. I have faith that we can. I think this is the last chance. This is the only amendment that has any chance of passage for the Congress. It is the last chance to do it, and it really is coming down to just one vote.

Now, I pray with all my heart that we will be able to pass it here. I do not know what they will do in the House. I suspect if we pass it here, it will have momentum going to the House, and I expect it to be passed there. I expect to pass it here.

I do not want to spend any more time on this amendment. I have done the best I can to explain why I cannot support it and why I am asking my colleagues not to support it. Yet I understand that it is a serious amendment, and I appreciate the seriousness of my colleague from New Jersey. He is on our committee. He played a significant role during the debate of this matter in the committee, and I respect him.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, would the distinguished Senator from New Jersey yield me 5 minutes of his time?

Mr. TORRICELLI. Mr. President, I am happy to yield to the Senator from West Virginia 10 minutes.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I have sat on this floor today and listened carefully to the distinguished Senator from New Jersey as he explained his amendment and as he has recounted the reasons for his having offered the amendment. I see no other Senator on the floor other than perhaps Mr. HATCH, the distinguished manager of the amendment, who sat through the entirety of Mr. TORRICELLI's speech.

Mr. President, I say that to say this: The speech by the distinguished Senator from New Jersey was one of the most thoughtful, most thought provoking, most reasonable speeches that I have heard on any subject, and particularly on the subject matter of the resolution that is before the Senate. One could not listen to Mr. TORRICELLI without immediately knowing that a great deal of work and thought and agonizing went into that speech.

The Senator from New Jersey is the one Senator whose vote has not yet been announced. We do not know how the Senator from New Jersey is going to vote, and that realization in itself would be indicative that he must have spent some tormenting, agonizing moments in the preparation of that speech. I am going to vote for the amendment that has been offered by Mr. TORRICELLI because I think it is a needed amendment. Whether the Senator, in the final analysis, casts his vote for the constitutional amendment or against the constitutional amendment is beside the point here at the moment. I respect the Senator for the thought that he has invested in this speech, and I admire him for that.

I would have understood Henry Clay, who was a proponent of the great American system, to have made the kind of speech that has been made by the Senator from New Jersey. I would have understood Webster, in his debate with Hayne, on January 26 and 27, 1830—he spoke along the same line, saying that the people of New England did not recognize boundaries of rivers or lines of latitude, or mountains, as boundaries to their political patriotism. He thought that if an investment in infrastructure in South Carolina, for example, would benefit the Nation, it was a matter great enough for him as a Senator from New England to support. The Old Cumberland Road was a project that was supported by Henry Clay. They recognized the necessity for building up the Nation's infrastructure. They were looking not just at the present, but they were also looking at the future.

Now, when they propose investments in infrastructure, investments in railroads, investments in canals, investments in bridges and highways, it seems to me that our friends on the other side cannot have it both ways. I have listened to their speeches, and they support, they say, doing the same thing that the States do—having a balanced budget amendment to the Constitution. We have heard them say over and over again, "Let's do what the States do. The Federal Government should do what the States do. We need a constitutional amendment to the Constitution that will force us to do what the States do, and the States have a constitutional amendment." They have amendments in their constitution or they have it written into the constitution that they have to balance their budgets.

The proponents don't bother to explain that States have both a capital budget and an operating budget. They don't bother to explain that. The people who listen to this debate are to take it on faith that we are not talking about apples and oranges, but we are talking about apples and apples.

Mr. LEAHY. Will the Senator yield on that one point?

Mr. BYRD. If I may, I want to ask the Senator from Utah a question. They say, "Let's do like the States do. They have constitutions that require them to balance their budgets." But the proponents of this constitutional amendment don't bother to enlighten their listeners and readers to the fact that the States have capital budgets which they don't balance every year.

So now the distinguished Senator from New Jersey [Mr. TORRICELLI], seeks to meet that argument and put, indeed, into the Constitution language that will allow the Federal Government to operate on two budgets—an operating budget and a capital budget—so that the Federal Government will be, indeed, operating like the State governments, it will have a Constitution insofar as capital budgeting is concerned, like the State governments. It will continue to have an operating budget, and it will also have a capital budget. But it cannot have a capital budget, under the language of the proposed constitutional amendment. Section 1 provides against that. Section 1 says: "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year."

So, right there, in section 1, as plain as the nose on your face, we would be precluded from passing a law once this constitutional amendment is adopted here and ratified by the States—the Federal Government would be precluded from having a capital budget. Well, the Senator from New Jersey seeks to remedy that. He seeks to provide that the Federal Government will have two budgets, so that indeed the Federal Government would be on a par with the States.

Mr. President, I ask unanimous consent that I may ask a question of another Senator without losing the floor.

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

Mr. BYRD. Mr. President, I ask the distinguished Senator from Utah, how is it that the proponents are able to

talk out of both sides of their mouths? They say, on the one hand, that the Federal Government should be like the States; it should have in its Constitution a provision for a balanced budget; the Federal Government should operate on a balanced budget. Now, the States all have operating budgets and capital budgets——

The PRESIDING OFFICER. The 10 minutes allotted to the Senator from West Virginia have expired.

Mr. TORRICELLI. I yield 5 more minutes to the Senator from West Virginia.

Mr. BYRD. I thank my friend. How can my friends on the Republican side—and let me say that I have great admiration for the Senator from Utah. He has stood here day after day and labored in the vineyard and carried the burden of the arguments. I marvel at his equanimity, his patience, and his characteristic courtesy. But how can the Senator argue, on the one hand, that the Federal Government should be like the States, that it should be constitutionally required to balance its budget, but he opposes letting the Federal Government be like the States when he opposes having the Federal Government operate not only on an operating budget but also with a capital budget?

Mr. HATCH. Well, I think the Senator raises a very good point, which is that there are some who say that we ought to balance the budget like the States. Well, there are 44 States that have balanced budget amendments. First, that is a difference there. We don't have a balanced budget amendment in the Constitution; they do in theirs. Second, some States do have capital budgets and, therefore, are different. But the reason they are different is because States don't print the money. We print the money. We have a huge budget. They have to live within certain constraints. So it isn't exactly alike, there is no question. What we are requiring here is the Federal Government—I mentioned in my remarks that in the fiscal 1998 budget are some $20 billion-plus, less than 1.6 percent of the total budget, that would be used for capital budgets.

The Federal Government has such a massive budget that it doesn't need capital budgets. Most budgeteers will say don't do it to the Federal Government, for a wide variety of reasons. Let me read from this because I think it applies directly to what my friend has raised. He always raises good questions, and this is certainly a good one. This book is entitled "Analytical Perspectives: Budget of the United States Government, Fiscal Year 1998," prepared by the administration.

In one section here, it says:

State borrowing to finance investment, like business borrowing, is subject to limitations that do not apply to Federal borrowing. Like business borrowing, it is constrained by the credit market's assessment of the State's capacity to repay. Furthermore, it is usually designated for specified investments, and it is almost always subject to constitutional limits or referendum requirements.

We are not subject to referendum requirements. We are not subject to constitutional limits. If we had the amendment of the Senator from New Jersey and that became part of this constitutional amendment, we would not have the same designated, specified investment routine. You could do almost anything you wanted to do with the language in that amendment. Of course, there is no bond rating that can rate the Federal Government. I think that is why we don't have the same free market or even economic marketplace ideas that literally would constrain the Federal Government.

I have to also say that the amendment of the distinguished Senator from New Jersey literally opens up the door to anything. You could call anything capital budgeting, including perhaps even physical welfare matters which, of course, when you think of capital budgeting you think of roads and bridges. Frankly, you could just put anything in there. That is why this language is so broad that it can't be put into the Constitution because there is no definition. It could be used in any way that the proponents of more spending want to use it. There would be no limitation of restraint. There are no referendums that you could use to stop impropriety and excessive spending and vesting, if you will.

The PRESIDING OFFICER. The 5 minutes allotted to the Senator has expired.

Mr. LEAHY. Mr. President, will the Senator yield for a question from the Senator from West Virginia and for a question from the Democratic floor manager?

The PRESIDING OFFICER. The Chair observes that the time is under the control of the Senator from New Jersey.

Mr. BYRD. Mr. President, I hope the distinguished Senator from Utah will exercise his usual fairness and charge a little of the time to himself.

Mr. HATCH. I would be glad to do that. If my colleague gets short on time, I will try to accommodate him.

Mr. TORRICELLI. I am happy to yield to the Senator from West Virginia. I enjoyed listening to the Senator from Utah. But I would enjoy it much more if I was listening to him on my own time.

Mr. LEAHY. How much time is available to this side, Mr. President, of the argument, and how much time to that side of the argument?

The PRESIDING OFFICER. The Senator from New Jersey has 41 minutes and 2 seconds, and the Senator from Utah has 44 minutes and 34 seconds.

Mr. LEAHY. Mr. President, I wonder if the Democratic floor manager could have 5 minutes?

Mr. TORRICELLI. I am happy to yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, as I listened to the question of the Senator from West Virginia and the response, I do not believe that the question was fully answered. I say to my good friend from Utah that he and I have debated this matter in committee now for several years. We have debated it on the floor of the Senate for the past couple of weeks, which also feels like several years. We have gone back and forth.

Mr. HATCH. Indeed, it does.

Mr. LEAHY. I ask us to think back to 1804 when Thomas Jefferson financed the Louisiana Purchase. He spent, I believe, $15 million at that time, which he had to borrow. Put that $15 million, I say to my friend from New Jersey, in today's dollars and it would amount to $225 billion. He had to borrow the equivalent of $225 billion in 1 year for that transaction. We have not had a deficit as high as $225 billion, I do not think since the last deficit during the Bush administration. In fact, $225 billion exceeds all annual Federal deficits except for those in the last 2 years of the Bush administration.

I think that we ought to commend Senator TORRICELLI for the constructive way in which he has acted in this debate. I agree with what the preeminent historian of the Senate, the Senator from West Virginia, said when he spoke of the debates of Clay and others.

I also agree that this amendment and this debate shows a great deal of thought from the Senator from New Jersey. He was thoughtful and serious during our committee proceedings and debate, as well. He has consistently shown that he has thought hard about and wrestled with this matter. I hope everyone, whether they are for or against his amendment, will listen to his speech. Whether they are for or against this constitutional amendment, I hope everyone will seriously consider the amendment offered by the Senator from New Jersey. The Nation's leading economists all agree that a capital budget is an essential part of the State experience with balanced budget requirements, and that the omission of a capital budget in this proposed constitutional amendment is a major flaw. Over 1,000 economists, including 11 Nobel laureates, noted in a statement of opposition announced by the Senator from West Virginia that you should have this. It is a major flaw in this whole poorly written Senate Joint Resolution 1. Unfortunately, as I have said before, this resolution is one that is written more for a bumper sticker than it is for the Constitution of the United States of America, the greatest Constitution ever.

I wish the manager, my good friend from Utah, and his cosponsors would

abandon their blood oath of not allowing amendments and consider the merits of this suggested amendment.

All Senators should consider favorably Senator TORRICELLI's effort to correct dangerous aspects of the underlying proposed constitutional amendment.

CAPITAL BUDGETING

Senator TORRICELLI forcefully pointed out during the Judiciary Committee deliberations on the underlying measure that we as a nation are suffering from a capital investment crisis. In 1965, more than 6 percent of Federal expenditures were invested in infrastructure such as roads, bridges, ports, and mass transit systems. By 1992, that share of capital investment had fallen by more than half to about 3 percent of our Federal budget and this year it will approach barely 2 percent.

At the same time as our infrastructure funding has been shrinking, our Nation's needs have continued to grow. The result is that we are becoming a nation in disrepair. For instance, more than a quarter of a million miles of roads need repair and more than 25 percent of our bridges have exceeded their life span.

This failure to maintain adequate infrastructure is hurting our competitiveness in the global economy. We are competing against other countries with the foresight to repair their roads and bridges, modernize their transit systems, maintain their ports, build new schools and make the investments in telecommunications infrastructure that are the keys to success in today's global competition. The United States is dead last among the G–7 nations in public infrastructure investment as a percentage of gross domestic product.

Senator TORRICELLI is correct that we must reverse this trend and make the long-term investments needed to support a strong economy. I am glad to see President Clinton calling for study and action on capital budgeting. We must be able to invest in capital improvements—and, in my view, in education—if we are to give our children their best chance to compete and win in the coming century.

The underlying proposed constitutional amendment prohibits budgeting for capital expenditures. Instead it would include all expenditures on an annual basis for purposes of calculating balance. All expenditures, whether the equivalent of operating expenses or capital investments, are tallied the same for purposes of the underlying proposed constitutional amendment.

The sponsors and proponents of this measure refuse to permit any exception and future Congresses will be forever barred from solving our infrastructure crisis by creating a capital budget for long-term investments.

The majority report is silent on this important subject. The Committee's past hearings, however, establish an extensive record in support of maintaining a separate capital budget. Herbert Stein, of the American Enterprise Institute and former economic adviser to President Nixon; Edward V. Regan, of the Jerome Levy Economics Institute and former New York State Controller; and Dr. Fred Bergsten, on behalf of the bipartisan Competitiveness Policy Council and former Assistant Secretary of the Treasury during the Carter administration; differed on the wisdom of enacting a constitutional amendment on the budget but all agreed on one thing: If such an amendment were to be considered it should separate capital investments for any annual balance requirement.

Nonetheless, when the Judiciary Committee had the opportunity last month to consider amendments that would have allowed for a separate budget for capital investments, it rejected them. Senator TORRICELLI offered a substitute amendment to establish a Federal capital budget but the committee rejected the Torricelli amendment by an 8 to 9 vote with all Republican members who voted, voting against capital budgeting.

This inflexibility is one of the principal reasons that President Clinton opposes this constitutional amendment on budgeting. The President stated:

> We must give future generations the freedom to formulate the Federal budget in ways they deem most appropriate. For example, some believe that the Federal Government should do what many State governments do: adopt a balanced operating budget and a separate capital budget. Under this constitutional balanced budget proposal, the government would be precluded from doing so.

During the committee's January 17 hearing, Robert Greenstein of the Center on Budget and Policy Priorities explained:

> What families do when they balance their budget is families say that all of their income, including money they borrow, equals all the cash they pay out. Families borrow money when they purchase a house through a mortgage, whey they buy a car, and especially when they send a child to college. If families had to operate on the basis that this amendment does, they would have to pay for all of college education out of the current year's income, all of the entire cost of a home, not the down payment, the whole thing, out of the current year's income. Nobody operates that way.

The actions of Thomas Jefferson as President, as opposed to his oft-quoted ruminations about the evils of public debt, are also instructive but ignored by the proponents of the underlying measure. In 1804, President Jefferson had the United States borrow $15 million, in 1804 dollars, by selling bonds to finance the Louisiana Purchase. That amount approximates more than $225 billion in 1993 dollars and exceeds every Federal budget deficit except for the final 2 years of the Bush administration.

Was President Jefferson wrong to invest in the Louisiana Territory that provided this country with 15 States? Of course not. But had the provisions of Senate Joint Resolution 1 been included in the Constitution in the early 1800's, our Nation's westward expansion might well have ended at the Mississippi River.

Under this proposed constitutional amendment, the failure to permit a capital budget would have severe consequences by discouraging long-term investment and ignoring our infrastructure crisis. Just as a budget deficit unfairly harms future generations so, too, does the failure to differentiate capital investments from operating and consumption expenditures. The inevitable result will be less investment in our country's future, pressure to operate through inefficient leasing practices and gimmickry.

The Torricelli amendment should reduce the pressure to engage in some of the gimmickry otherwise likely to be occasioned by this proposed constitutional amendment. It may also result in more accurate disclosure to Americans about how their money is being spent and how the budget is being balanced.

Not many of us could afford homes if we could not borrow and get a mortgage on our home. When we talk about balancing our family budgets, we do not normally mean that we should not invest in a house or a car. We mean that we should not spend more every week or every month than we can afford. We mean to include our mortgage and car payments but not the full extent of the 5-, 15- or 30-year liability.

Likewise, small businesses and large corporations could not do business if they could not borrow to meet their capital budget needs.

Most States with balanced budget amendments have separate capital budgets, as well. I am told that number is 42 States. Indeed, I believe that most States with balanced budget requirements obtain capital funds that finance major capital projects by issuing long-term debt.

The Nation's leading economists agree that a capital budget is an essential part of the State experience with balanced-budget requirements and that the omission of a capital budget in this proposed constitutional amendment is a major flaw. Over 1,000 economists, including 11 Nobel laureates, noted in their January 30, 1997 statement:

> Unlike many State constitutions, which permit borrowing to finance capital expenditures, the proposed Federal amendment makes no distinction between capital investments and current outlays. . . . The amendment would prevent Federal borrowing to finance expenditures for infrastructure, education, research and development, environmental protection, and other investments vital to the Nation's future well-being.

The Torricelli amendment to allow capital budgeting is in keeping with traditional notions of balancing our budgets.

MILITARY THREATS

I further commend Senator TORRICELLI for including within his amendment language to correct a dangerous flaw in the proposed constitutional amendment. The underlying proposed constitutional amendment requires the United States to be engaged in military conflict before a waiver may be obtained. Moreover, the Senate report's section-by-section on this language compounds the problem by indicating that only military conflict that involve the actual use of military force may serve as a basis for this waiver.

I hope that this is not what the authors, sponsors and proponents of the underlying constitutional proposal truly intend, although their votes to table the Dodd amendment seem to indicate that they mean what they say. They are creating constitutional circumstances that make military spending and preparations easier only when military force is actually used and military conflict ensures. Arming to deter aggression would no longer be the preferred course, aiding allies in a conflict rather than dispatching U.S. military forces would no longer be as viable an alternative and rebuilding our military capabilities after a conflict would no longer be possible without a supermajority vote of three-fifths of the Congress.

I cannot support such restrictive measures. I have spent much of my time in the Senate working with Republican and Democratic administrations to avoid the actual use of military force. This amendment is written in such a way that it serves to encourage such use. Nothing that would serve to place our men and women in harm's way more quickly or would leave them less well equipped or prepared should garner the support of this Senate.

I hope that all Senators will consider favorably Senator TORRICELLI's effort to correct this dangerous aspect of the underlying proposed constitutional amendment and render it more consistent with the foreign policy objectives and vision outlined last night by Senator TORRICELLI.

I urge the manager and the sponsors of the resolution to abandon their "no amendments" strategy and consider the merits of this suggested amendment. Balancing the budget is important. But their underlying proposal turns the world topsy-turvy by making that goal the be-all and end-all of national policy without considering what a supermajority requirement can mean to our Nation's security and defense, to our foreign policy and our military preparedness.

As Senator SARBANES has so eloquently reminded us, one historic example points out the folly of such a supermajority requirements. In the summer of 1941, Congress was confronted with extending the time of service of those members of the armed services who had been drafted the year before. With the prospect of war increasing, President Roosevelt, in a special message to Capitol Hill, asked Congress to declare a national emergency that would allow the Army to extend the service of draftees. Speaker Sam Rayburn had to twist arms in the well of the House of Representative to get the House to pass the measure regarding the draft for World War II by just one vote, 203 to 202. It then passed the Senate by a vote of 45 to 30.

The Nation was literally a few months away from the outbreak of World War II. But neither the House nor the Senate vote would have met the supermajority requirement in the underlying proposal. Even after the President had declared a national emergency, Congress could not muster a supermajority vote in either body.

ECONOMIC RECESSION

The third prong of the Torricelli amendment would allow the proposed constitutional restrictions for end of the year balance to be waived in the event of an economic recession or serious economic emergency. He is right on point. More than 1,000 of the Nation's most respected economists, including 11 Nobel laureates, as well as the former chair of President Nixon's Council of Economic Advisors, the current and former Federal Reserve Board Chairmen, and former Democrat and Republican Directors of the Congressional Budget Office all agree that the underlying proposal is unsound economic policy. They all agree that the underlying proposal would hamper the Government's ability to cope with economic downturns.

Economists and financial experts agree that the underlying proposal will straitjacket the economy in hard times. It will hamstring the adjustment mechanisms that have been developed since the Great Depression to preserve jobs and restore the economy after a downturn. The 1,060 economists and 11 Nobel laureates who are opposing the underlying proposed constitutional amendment condemn it because it mandates perverse actions in the face of recessions.

If the economy takes a downturn and Americans are losing their jobs—as happened in the early 1990's—the underlying proposal makes it more difficult for our Government to respond to the needs of working families. As Treasury Secretary Rubin testified before the Judiciary Committee:

> A balanced budget amendment would subject the Nation to unacceptable economic risks in perpetuity. . . . A balanced budget amendment could turn slowdowns into recessions, and recessions into more severe recessions or even depressions.

I am deeply concerned about the impact that the underlying proposal might have on jobs for working families in Vermont and across the country during times of recession. As Secretary Rubin explained, the so-called automatic stabilizers in our economy would be ineffective under the underlying proposal. These are mechanisms that have been developed over the last 50 years to reduce the extremes of the "boom-and-bust" cycles. They are intended to prevent another Great Depression and have proven effective over time.

Secretary Rubin testified:

> [W]ithout automatic stabilizers, the Treasury Department has estimated that unemployment in 1992 that resulted from the 1990 recession might have hit 9 percent instead of 7.7 percent, which would have been in excess of 1 million jobs lost.

Federal Reserve Chairman Alan Greenspan recently reiterated his opposition to the proposed constitutional amendment during questioning by Senator LAUTENBERG during his testimony before the Senate Budget Committee. He urged the Senate Budget Committee to continue to eliminate the deficit, but he joined Secretary Rubin and our Nation's leading economists in the conclusion that the underlying proposed constitutional amendment places too many constraints on our economy.

Although the sponsors of the underlying measure repeatedly outline the dangers of a budget deficit, they fail to address how the proposed constitutional amendment will provide for the flexibility needed in economic downturns without holding working families and hard hit regions hostage to a supermajority vote. This aspect of the Torricelli amendment restores that flexibility by requiring a simple majority vote to respond to economic recessions and emergencies.

When he spoke last night in this historic Chamber, Senator TORRICELLI spoke about the proper role of Government and redefining its role without sacrificing our ability and ignoring our responsibilities to help our neighbors when they need help. He is right to offer this essential change in the underlying proposal to amend the Constitution.

A waiver of these provisions by a supermajority vote of three-fifths of both Houses of Congress is small comfort to America's working families. Many national recessions start out in different regions of the country. For example, the most recent recession hit New England first. What if citizens of New England, who have fewer Members of the House of Representatives than other regions of the country, needed help? Could they get Senators and Representatives from other States, which were still experiencing good times, to waive a constitutional balanced budget requirement to help protect their livelihoods?

Prof. Robert Eisner of Northwestern University and past president of the American Economic Association understood the economic problems under the underlying proposed constitutional amendment when he recently wrote:

One need only recall the near-collapses, in recent years, of the economies in New England, California and Texas. Who would bail them out if their own tax revenues again declined and there were surges of claims for unemployment benefits, food stamps and general assistance?

Relief for economic recessions and emergencies must be flexible. Usually, a swift response from the Federal Government is needed to aid State and local relief efforts. Economic emergency relief by constitutional supermajority mandate is a prescription for gridlock, not swift action. When your State or region is hit by recession or economic emergency, do you want critical Federal assistance to hang on the whims of 41 Senators or 175 Representatives from other regions?

I find it ironic that the supporters of the underlying constitutional amendment, who do not trust Congress to continue to reduce the deficit, argue that we should trust future Congresses to muster supermajority votes in both bodies.

Our Founders rejected requirements of supermajorities. We should look to their sound reasons for rejecting supermajority requirements before we impose on our most vulnerable citizens a three-fifths supermajority requirement to provide them Federal relief from recessions and serious economic emergencies. I believe this supermajority requirement would recklessly endanger our economy and our democracy.

We do not need to theorize or speculate about the costs and risks. The Nation got a taste of it just 2 years ago with the longest Government shutdown in history and a debt limit crisis that when on for months. In 1995, 165 Republican Members of the House of Representatives pledged to refuse to vote for raising the debt limit, unless President Clinton accepted their balanced budget plan. The Speaker of the House, NEWT GINGRICH, went along with this ultimatum, by declaring "I am with them * * * I do not care what the price is." As a result of this blackmail politics, the American people suffered through two Government shutdowns for a total of 27 days. In the 22 years I have served in the Senate, I have not seen an action more irresponsible by either Democrats or Republicans.

Fortunately, the President stood up to this blackmail and the American public convinced a majority in Congress to act responsibly. Who knows what would have happened under the supermajority votes required in the underlying proposal.

The supermajority requirement lowers the blackmail threshold, in the words of some of its House sponsors. This three-fifths supermajority requirement invites political blackmail and rewards extremism. If both the House and Senate require three-fifths of their Members to agree to waive the end of the year balance requirement or raise the debt limit, then 40 percent plus one in either the House or the Senate could hold the country hostage to their demands.

The House sponsors of this proposed constitutional amendment have acknowledged this folly. In a November 1996 paper on the underlying proposal, Representatives DAN SCHAEFER and CHARLES STENHOLM wrote that their proposal would have the effect of "lowering the 'blackmail threshold' * * * from 50 percent plus one in either body to 40 percent plus one * * *." These are the words of the House sponsors of the underlying proposal, not mine.

As Robert Greenstein of the Center on Budget and Policy Priorities, a distinguished expert on Congress' ways, testified before the Judiciary Committee, the underlying proposal's supermajority requirements would permit minority factions to extort pork barrel projects or extreme legislation as their price.

Coming from a State with a congressional delegation of three Members, I know something about the rights of small States. Supermajority vote requirements trample on the rights of small States and reward large ones. In the House, a combination of Representatives from six large States could hold a waiver hostage to their demands, even if the vast majority of Representatives from 44 States were in agreement that a waiver was justified.

Our Founders rejected such supermajority voting requirements on matters within Congress' purview. Alexander Hamilton described supermajority requirements as a poison that serves to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junta to the regular deliberations and decisions of a respectable majority. Such supermajority requirements reflect a basic distrust not just of Congress, but of the electorate itself. I reject that notion and am prepared to keep faith with and in the American people. We should honor the fundamental principle of majority rule, a principle that has been enshrined in our Constitution for more than 200 years, and a principle embodied in the Torricelli amendment.

Senator TORRICELLI has approached this matter with seriousness and sincerity. He is attempting to perfect the underlying proposal for a constitutional amendment and cure several of its flaws.

When the Judiciary Committee considered this proposed constitutional amendment last month, we did so on an expedited basis. Nonetheless, Senator TORRICELLI was a full participant at our hearings. He examined former Acting Attorney General Stuart Gerson and Mr. Gerson conceded to him that the underlying amendment presents the most likely situation in which congressional standing, which has never been recognized, might be recognized and Mr. Gerson described to him the unfortunate Federal precedent in which a Federal court ordered local taxes to be raised. I recall his exchange with Senator Simon regarding the relationship of our national debt to our gross domestic product and how we compare favorably with the other industrialized countries of Europe and the world.

He continued his thoughtful approach to the proposed constitutional amendment during our committee markup when he offered an amendment that Chairman HATCH first praised, then defeated by casting a final and deciding vote against it. At least at the committee we afforded members an opportunity to offer amendments and to obtain votes on those amendments.

This is one of the most important legislative matters we will consider this Congress. It is a proposed amendment to our fundamental charter, the United States Constitution. In my view, allowing amendments, debating amendments and voting on amendments is an essential aspect of developing any legislation and, in particular, a proposed constitutional amendment.

Early in this debate the distinguished minority leader made the point that we do not have the luxury of reexamining constitutional amendments as we would a statute. Once a constitutional amendment is passed, it is almost impossible to revisit. Accordingly, it is essential that Senators have the opportunity to seek to improve the text of the proposed amendment. Even the witnesses called by the proponents of the underlying measure acknowledged that it is not perfect, that it has shortcomings, and that its text could be improved. To do otherwise is to disregard our obligations to our constituents, the Constitution and the future.

Senator TORRICELLI has come forward with a very important amendment. He is most sincere and serious in this effort and he deserves the courtesy and opportunity to have the Senate vote on the merits of his amendment. Respected economists, the current Chairman and past Chairman of the Federal Reserve, the Secretary of the Treasury, numerous witnesses and the President of the United States have all noted that the underlying proposal for a constitutional amendment runs the risk of strait-jacketing the future, of creating military difficulties and reducing our ability to respond to international crises and of making economic downturns deeper and turning recessions into depressions.

Here is a Senator who has come to this floor willing to put himself on the line and debate, honestly debate, the critical issues affected by this amendment. In matters that affect our Nation's supreme law, we need to vote consistent with our best judgment and our conscience as we represent those who elected us and entrusted us to

make these votes. Senator TORRICELLI has offered this Senate, the people of New Jersey and this country his best judgment regarding how to improve this constitutional proposal. Before we return to the economic and fiscal policies of the Hoover era that led to the Great Depression, I urge the Senate be given an opportunity to vote on the Torricelli amendment on its merits.

I hope that the other side, which has rejected every amendment on Social Security, on protecting working families or protecting children's programs from disproportionate cuts and on everything else—no matter how good the amendment might be—would not require their followers to leap blindly off the cliff of tabling motions but would allow them to listen to this debate and vote honestly on it.

The Senator from New Jersey has raised a very clear issue. Let me tell you right now, anybody who thinks the Louisiana Purchase was a good idea ought to be listening to the Senator from New Jersey and supporting him.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, there may be some responsible economists who are for putting capital budgets into the Federal Government's budget process. I personally do not know of any. If there are, I do not think that their arguments would stand up. To compare the State and the Federal Government, the distinguished Senator from West Virginia raises a good issue. You can't fully compare State budgeting with Federal budgeting. I agree with him. On the other hand, you can't say we should have a capital budget in the Federal budget because it is clear that the Federal Government doesn't operate like the States. We print the money. We don't have a referendum nor do we have a balanced budget amendment that would restrain the spending. If you have these huge loopholes, whether you have a balanced budget amendment or not, it just wouldn't work. Plus you have 50 States where it is pretty tough for State legislators in an individual State with a balanced budget amendment to fudge and fuzz up the language. In the Federal Government it is a lot easier. We just can't put this kind of language in there. It is just that simple. And if you do that, then you have made a loophole, an undefined loophole that would allow any subsequent Congress that is irresponsible—and we have had 28 years of irresponsibility. I mean all you have to do is look at this stack of unbalanced budgets for the last 28 years, and headed higher. I have to tell you. Here is one which I am just now discussing which is certainly going higher, this 1998 budget. Without the balanced budget amendment we are just lost. We are going to have more and more of this and less and less responsibility.

I yield the floor.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. I am happy to yield.

Mr. BYRD. Mr. President, I want to take 2 or 3 minutes.

I want to close by again thanking the distinguished Senator from New Jersey. I wish to compliment him. I think he has exposed a major flaw in the argument of the proponents. He has made it indubitably clear that the proponents meet themselves in their arguments coming back. They argue both ways, as I have already indicated, that the Federal Government should operate like the States on a balanced budget. Now, when the Senator from New Jersey seeks to put the Federal Government on a par with the States and have a capital budget, on which almost all of the States operate, then the proponents say, oh, no. My friend, Mr. HATCH, says, oh, no, we do not want to do that. We do not want to put that kind of thing in the Constitution. This is the glittering gewgaw——

Mr. HATCH. Now, be nice. Be nice.

Mr. BYRD. The glittering gewgaw of glorified garbage that the proponents are seeking to nail into the Constitution.

But, Mr. President, my friend, Mr. HATCH, says, oh, we do not print the money.

Well, that is true but that is not an answer to what we have been talking about here and the need for a capital budget.

Let me just close by saying to my friend from Utah, who continues to go over to his props, the books, I hope he will pause to explain that beginning with Mr. Reagan, Mr. Reagan's administration, the total debt of the United States at that time was $997 billion. Going right down to the close of September 30, 1981, which was the end of the last fiscal year for which Mr. Carter was responsible, the total Federal debt was just under $1 trillion. But going right down to the end of the last fiscal year for which Mr. Bush was responsible, September 30, 1993, the Federal debt was $4.316 trillion.

Now, that will help to explain what is inside those budgets that are stacked on the Senator's desk. That would help to explain the great difference between the debt as it stood accumulated after the first 192 years of its existence under 39 administrations, 38 Presidents—one of them, Grover Cleveland, served two terms which were separated—which was slightly under $1 trillion——

Mr. HATCH. And $4.3 trillion.

Mr. BYRD. Slightly under $1 trillion for all of the administrations down to the last minute of the fiscal year for which Mr. Carter was responsible, and then comparing that figure, which was under $1 trillion, with the massive debt of $4.316 trillion, down to the last minute of the last fiscal year for which Mr. Bush was responsible. I am talking about the Reagan-Bush budgets. They are the largest part of that massive pile of books there.

Mr. HATCH. That is true.

Mr. BYRD. It might be well to consider how much of that massive pile of books was debt that was encountered under the Reagan-Bush administrations.

I thank the Senator for yielding.

Mr. HATCH. Mr. President, if I could answer that, I would be more than happy to. First of all, these are not props. These are real books. These are real unbalanced budgets, 28 of them.

Mr. BYRD. That is real debt.

Mr. HATCH. That is real debt. And let us just understand the basic principle of government. The President proposes, whoever that President may be, but the Congress disposes.

To be honest with you, Reagan's tax cuts involved 40 percent growth in revenues more than they had predicted. But he had to deal primarily with the House of Representatives where all money bills must originate, controlled by those who did not agree with him, who kept spending. And that is Congress. And even those in the 1980's who did not agree with President Reagan and wanted to spend more in Congress, even they should not be totally blamed for this because this all began basically with the Great Society programs that have been going out of control ever since. We now have almost two-thirds of the budget in entitlement spending. I know President Reagan did not ask for that. Neither did President Bush, and neither, I guess you can say, has President Clinton. I do not even think President Carter asked for that. We did that.

Mr. BYRD. Will the Senator yield on that point?

Mr. HATCH. If I could finish. I would like to finish. I want to make this point because the Senator has raised this.

We did that. Congress did that. Congress is responsible primarily for this. I admit it could take some Presidential leadership from time to time, too.

Mr. BYRD. And some Presidential vetoes.

Mr. HATCH. As well as some Presidential vetoes. That is true. I remember when President Ford used the veto some 60 times. He was vastly criticized by his political opponents for what he did. Now, I think there is plenty of blame for everybody involved—Presidents, but mostly Congress.

See, I am not particularly picking on Presidents today. I am picking on us. The President can propose but we dispose. We are the ones who create these appropriations bills and these budget bills. We are the ones who have done the spending. We are the ones who have failed to get entitlement spending under control. We are the ones who have failed to reform Medicaid and

Medicare that are going into bankruptcy. All money bills have to originate in the House of Representatives, and during all of the Reagan years the House of Representatives was controlled primarily by those of the liberal persuasion, in both parties I might add. I suspect you could say the Senate was, also, if you added up the liberals versus moderates and conservatives. I think there were more liberals in almost every year of the Reagan administration in both Houses of Congress.

Frankly, I am not going to blame President Reagan. I am not going to blame President Bush. I am not going to blame President Clinton or President Carter. I might go back to President Johnson and say there were some problems there. That is when all these Great Society programs, all well-intentioned, many of which do good but many of which are out of control today, that is when they originated. I believe the distinguished Senator from West Virginia was here at that time

Mr. BYRD. Mr. President, will the Senator yield? He mentioned me.

Mr. HATCH. What is the time for both sides?

The PRESIDING OFFICER. The Senator from Utah has 34 minutes remaining on his time; the Senator from New Jersey has 36 minutes.

Mr. HATCH. I will be glad to yield.

Mr. BYRD. Only to say that I was a part of the problem.

Mr. HATCH. Not really.

Mr. BYRD. No, no.

Mr. HATCH. The Senator was a part of the Congress.

Mr. BYRD. I was a part of the problem when I voted for the Reagan tax cut, and I have kicked myself in the seat of the pants ever since. That was——

Mr. HATCH. I kind of admired the Senator for it.

Mr. BYRD. I did not hear the Senator.

Mr. HATCH. I said I admired the Senator for that.

Mr. BYRD. Well, I thank the Senator.

Mr. HATCH. That the Senator came across the line and actually produced 40 percent more revenues than they thought. The problem is we kept spending.

Mr. BYRD. May I finish.

Mr. HATCH. Sure.

Mr. BYRD. I was rolling along pretty well.

Mr. HATCH. I am still proud.

Mr. BYRD. Mr. President, I sought to get Mr. Reagan to postpone the third year of his proposed 3-year tax cut until such time as we could see what the budget deficit was, until such time as we could see what was happening to the economy. No, he wouldn't do that. So I offered legislation here, as minority leader, at that time, to require that that third year of the tax cut be delayed. But my amendment was rejected, just like all amendments that we are offering now to the constitutional amendment are being rejected summarily. My amendment was rejected. And then I voted for the Reagan tax cut.

My people said, "Go along with this new President. Give him a chance. Give him what he wants." And so I did, and I have been sorry of it ever since.

I voted for that Reagan tax cut. I also voted for his massive military buildup. And, so, I am that much to blame. But let it not be said that the President should escape the charge of having overblown spending, and the debt, by saying, "We are the Congress. The President proposes, the Congress disposes." Mr. Reagan had a veto pen. Why didn't he veto some of the appropriations bills? He didn't. He didn't use the veto pen, perhaps, enough.

Mr. HATCH. If I could——

Mr. BYRD. But, Mr. President, I was guilty. I supported Mr. Reagan on his tax cut, and to that extent I am sorry.

Mr. HATCH. I understand.

Mr. BYRD. Because that represents the major portion of the Federal debt that we owe today, the massive tax cut, the massive military buildup, and there you have it. I will repeat the figures once more and then I will take my chair.

When Mr. Reagan became responsible for his first fiscal year budget—the total debt was $999 billion, total debt over the period of all the years and all the administrations since the Republic began. And when the last fiscal year for which he was responsible had ended, the debt was $2,830,000,000,000. And then when the last moment of the last fiscal year for which Mr. Bush was responsible had ended, the debt was $4,316,000,000,000. So much for the pile of books.

Mr. HATCH. Let me just say this in response. The fact of the matter is, I do not think anybody escapes responsibility. But I know one thing, the Reagan tax cuts resulted in an increase of revenues because there was more opportunity, more investment, more creation of jobs, more people paying taxes. And we actually had more tax revenues come in by 40 percent over what was estimated.

Where Reagan got into trouble—and I was here—was in the 1981 or 1982 tax bill. In order to get the marginal tax rate reductions that all of us knew would work—and they did, and this administration is benefiting from that to this day because the tax rates were 70 percent at that time. I have to admit they are outrageously high today, but they are not 70 percent. But, in order to get that, they had to agree, the President had to agree to all kinds of congressional spending programs. He wanted the marginal tax rate so bad because he knew that would create a good economy. And it did for 8 solid years, some say longer. And it is really one of the things that is benefiting this economy today, because the tax rates are so much lower than they were before Reagan took office. But then, in the 1986 tax bill, which I voted against, he wanted marginal rates reduced again, and to get that he had to give all kinds of concessions that I think helped trigger the S&L crisis. And it was Congress that did it. It was Members of both parties in Congress that did it.

I do not think we can avoid the responsibility by just saying, well, the debt went up during the Reagan and Bush years, and now, with the biggest tax increase, it has come down as a total number. But it is still a $107 billion deficit this year, and next year it will be more. It is going up every year for the next 4 years until we are supposed to somehow conjure up 75-percent savings to bring it down in the 2 years after President Clinton leaves office, according to his budget.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. If I can just finish? These books were created by us, these 28 years of deficits. I am saying we have to do something to help us to be responsible. If we do that, the President, whoever that President may be—whether that President is a supply-sider like Reagan, or not—will have to be more responsible. If we do not do it, we are going to have more of the same.

I have to say it was triggered long before the Great Society programs, because we have had 58 years of unbalanced budgets in the last 66 years. So it happened even before the Great Society. But once the Great Society programs started and this move toward entitlement spending—I know my dear colleague knows that. He has to deal with it every day on the Appropriations Committee, and he deals with it very intelligently. But he is stuck because almost two-thirds of the budget is entitlements. It was not the Presidents who did that; it is us. I have to tell you, the only hope for this country to get these things under control—and I have to say I don't want my dear friend to make another mistake. He is repentant for having voted for the Reagan tax cuts. I don't think he should make another mistake that he is going to have to repent for by not voting for the balanced budget amendment.

I really am still hoping I can get him to change his ways and to come across here and help get this thing done. Because he, above all people in both bodies, knows how really irresponsible the Congress has been through these years.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. On Mr. TORRICELLI's time.

Mr. BYRD. Oh, no.

Mr. HATCH. I will, because I know how much time—how much time do I have left?

The PRESIDING OFFICER. The Senator from Utah has 26 minutes remaining; the Senator from New Jersey has 36.

Mr. HATCH. Will you mind if we do it for just a limited period of time?

Mr. BYRD. Make it 2 minutes.

Mr. HATCH. I yield 2 minutes.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Utah. Let me remind the listeners as to who was in charge in the Senate during the first 6 years of the Reagan administration. I say this because my friend has just said, well, after all, Congress has——

Mr. HATCH. Will the Senator yield on that point?

Mr. BYRD. Yes.

Mr. HATCH. Where do all money bills have to originate under the Constitution?

Mr. BYRD. In the House.

Mr. HATCH. Who was in charge during those years?

Mr. BYRD. Over here?

Mr. HATCH. No, in the House I'm talking about, where all money bills originate.

Mr. BYRD. Listen——

Mr. HATCH. Wait, it wasn't Republicans in charge. We didn't originate those money bills. Or did we?

Mr. BYRD. Listen, the Senator is trying to obfuscate something. I am not going to let him do that.

Mr. HATCH. All right.

Mr. BYRD. Those bills come to this Senate and, under the Constitution, the Senate may amend revenue-raising bills, as in all other bills, and appropriations bills. So, let us not say that the Senate escapes its responsibility.

Mr. HATCH. I am not saying that.

Mr. BYRD. But my friend, his party was in charge during those first 6 years of the Reagan administration, in charge of the Senate. That is when I made—that is when I committed my almost unpardonable sin, by voting for that Reagan tax cut.

I do not want to chew up the remainder of the manager's 2 minutes but——

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

Mr. BYRD. May we proceed 1 more minute?

Mr. HATCH. Mr. President, 1 more minute.

Mr. BYRD. The distinguished Senator from Utah says under that tax cut, under that tax cut about which I have just now begged for forgiveness for the umpteenth time——

Mr. HATCH. I forgive you.

Mr. BYRD. I have been begging forgiveness for that mistake for years. But he said, as I recall, under that tax cut the revenues were increased. I hope I didn't misstate it.

Mr. HATCH. No. They were.

Mr. BYRD. Is that what the Senator said?

Mr. HATCH. That's what I said.

Mr. BYRD. Let us take a look at what the facts show. I have a chart in my hand, which is titled "Major Causes of Increased Federal Debt, Fiscal Years 1981 to 1991."

The bar right here is the bar showing the costs of the 1981 tax cuts. They did not bring in revenues——

The PRESIDING OFFICER (Mr. STEVENS). The Senator's additional 1 minute's time has expired.

Mr. HATCH. Could the Senator from New Jersey yield additional time, because I have some other speakers coming.

Mr. TORRICELLI. I yield 2 minutes.

Mr. BYRD. The tax cuts were responsible for $2.1 trillion in losses, the tax cut for which I voted. And other causes of increased Federal debt are likewise shown: Entitlements, defense, interest, and so on—failed S&L's.

But the Senator was wrong in saying that the tax cut increased the revenues. The tax cuts were responsible for losses to the Treasury of $2.1 trillion over the fiscal years 1981 to 1991.

I thank the Senator for having yielded. I hope that he will allow a vote up or down on the Torricelli amendment.

Mr. HATCH. Let me just say this, I will allow a vote up or down on the Torricelli amendment. It is the only exception I am going to make. I hope my colleagues on my side will——

Mr. BYRD. Mr. President, I thank the Senator.

Mr. HATCH. I will do it at your request. But let me just say this, the Senator is talking about overall spending. I am talking about revenues that came from the tax cut. We actually had revenues increase 40 percent during that period of time.

Be that as it may, whether I am wrong and you are right, the fact of the matter is that the Congress, during all of those Reagan years, was controlled by the more liberal persuasion, and all money bills originated in the House, which was controlled by the Democratic Party. Now, allegedly we did have Republican control in the Senate, but if you look at the total number of liberals versus moderate conservatives, the Senate was still liberal during those years, and we were the ones primarily responsible for these 28 years of unbalanced budgets. To lay it at the feet of Reagan, Bush, or Clinton is not right.

I yield the floor. I reserve the remainder of my time.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Thank you, Mr. President. While it is my hope to return the debate to the amendment at hand—it is my intention to yield to my colleague, the senior Senator from New Jersey—nevertheless, since our debate is in the RECORD, it should at least be accurate in this respect: I notice the Senator from Utah has the last 28 years of budgets of the U.S. Government. That means his books start in the fiscal year 1969.

Debate between the Senator from West Virginia and the Senator from Utah seemed to be on the relative merits between the Reagan and the Johnson administrations and their responsibilities for the Federal deficit. It is extraordinary that the Senator from Utah stopped there before 1969, the last year of the Great Society, the last budget written by Lyndon Johnson and the last year the U.S. Government had a surplus.

It is, I think, instructive, Mr. President, that as we assign responsibility, which is no doubt, at least as an aside, a useful exercise on this day, as someone who served in the House of Representatives during some of those years, I want the RECORD to clearly reflect one element of that responsibility. In 8 years of the Reagan administration, in all the appropriations bills passed, Mr. Reagan vetoed one. He vetoed one appropriations bill in 8 years, while the Federal deficit soared from less than $1 trillion to $4 trillion. And if you look at his veto message, it is because, in his judgment, spending was inadequate in that year.

We will leave it for historians to gauge whether it was the Great Society that produced this deficit problem, in spite of the fact that he left office with a surplus, or it was the Reagan administration, which talked about fiscal austerity but left the Nation with a $4 trillion accumulated deficit and never exercised a veto of any appropriation.

But perhaps the comments of my colleagues should be punctuated simply with this: The genuine level of debt that should be of concern to every American is the debt as a proportion of our national economy. Like in our households and our businesses, it is not whether you have a debt—the mortgage on your home, borrowing for expansion—it is your ability to pay it. Two Presidents in the last 40 years have administered the U.S. Government with a deficit under 2 percent of gross national product. One was named Johnson, and one is named Clinton. The others have exceeded that marker, which is now recognized by our friends in Asia and the European Community as the marker to which you do not want to pass.

So while I hope we can return to the issue of the balanced budget amendment and look prospectively and leave to others, the historians, the question of relative responsibility, I did want, along with my colleague from West Virginia, to ensure the RECORD was accurate.

At this time, I yield to the senior Senator from the State of New Jersey for 20 minutes.

Mr. LAUTENBERG. Mr. President, that is very generous of my colleague. I will not take 20.

Mr. President, I rise in support of the amendment offered by my distinguished colleague, the junior Senator from our great State of New Jersey, and I salute him for his initiative.

Mr. President, I want to make it clear that I strongly oppose the balanced budget amendment. But if we are going to pass it, the least we should do is include the Torricelli amendment. Without it, the underlying balanced budget amendment would forever preclude our Nation from adopting what I believe is the essential nature of budgeting and investing in America—capital budgeting.

As many of my colleagues know, I have long advocated dividing the Federal budget into separate capital and operating budgets.

This is not budget or fiscal heresy. Quite the contrary. Most States do it. Almost every business does it. It's sound government. It's sound business. It's common sense.

The balanced budget requirement that many States have affects only their operating budgets with capital budgets and pension funds excluded. Capital budgeting is a fundamental accounting principle employed by every major corporation in America. Fortune 500 companies use their borrowing power and creditworthiness to brag about their financial stability.

I must admit that I am somewhat perplexed by my colleagues who support a balanced budget amendment. On the one hand, they say that we should operate the Government like a business.

But on the other hand, they reject outright one of the most fundamental principles of operating a business—separate capital and operating budgets. Mr. President, you can't have it both ways.

I come to the Senate from the business world and that experience gives me an invaluable and unique perspective. The company I founded with two friends, Automatic Data Processing, is the largest computing services firm in the world, and it employs 29,000 people in a number of countries.

But it wasn't always that way. We grew that company from scratch, and we didn't do it with the type of budgeting required of the Federal Government today. We borrowed money. We took out loans. We didn't make across-the-board cuts or ask someone else to take the responsibility for making cuts.

When I was CEO, I would look over my various departments, and say, I need more in marketing or more in product development or more in production.

Mr. President, we budgeted those investments the way any business does. We didn't have a unified budget like the Federal Government. We had separate capital and operating budgets. We balanced our books in terms of day-to-day operations, and cut waste wherever we found it. But we weren't afraid to take out a loan for the long term. And those investments paid off. That's how most successful businesses do it.

This is nothing radical, and it's certainly not confined to the business world. Families take out loans to finance homes and cars. Students rely on student loans to help finance their college education. States with balanced budget requirements float bonds and take on debt for capital expenditures. There's no reason why the Federal Government shouldn't do so as well.

So if Congress wants to run the Government like a business, it will pass the Torricelli amendment.

To get on the right track—the investment track—we must distinguish between short-term consumption and long-term investment spending.

So far we have failed to recognize, let alone embrace, this elementary business practice. And as Government continues to underinvest in the long term, all Americans pay a big price.

Public investment is crucial because these are investments that the private sector will not make on their own. Only Government will. The economic benefits of a first-rate education system, or a well-functioning transportation system, are spread throughout the economy making life better for all of us. These are capital investments.

At a recent Budget Committee hearing on education, I emphasized my belief that greater public investment in education is of critical importance to our Nation's economic future.

While parents fear for their children's future, and business worries about the quality of the work force, the ratio of workers to retirees is predicted to shrink to less than 2 to 1. Improving the output of our education system is not only desirable; it has become an imperative if our future work force will be able to support the growing number of retirees.

The same is true with transportation. When we invest in roads, bridges, and transit, we lessen congestion and improve the efficiency of the economy for many years.

I believe that the solution to many of our long-term investment problems is to create a separate capital budget. I see no other way to do it.

So if my colleagues are serious about running this Government like a business—if they are serious about investing in America—they will vote for this amendment. If they don't, we will never have the chance to even consider capital budgeting and that would shortchange our great Nation.

Mr. President, I commend my new colleague from New Jersey for his work here thus far. I salute him for this initiative. I think it is a very wisely developed thesis that this Government ought to operate just like other entities across our country, like the largest of the businesses, like virtually all businesses. When we talk about a capital budget, it is done for a sensible business purpose—the Government recognizes it—the depreciation of the asset over its life, and it entitles companies to take the value of the asset each year, charge that off to its operating statement so that you get an accurate picture of what it is that is being done within the company. And so it ought to be here.

What we are talking about, almost forgotten in the recent debate, is the balanced budget amendment. I think it is fairly clear around here that this Senator stands in opposition to that balanced budget amendment. I have done whatever I could to assure that we are not going to permit the balanced budget amendment to become part of the Constitution. I think it would be poor judgment. I think it would be a poor tactic to have the Constitution amended to provide for a balanced budget when, in fact, if we look at the record—and that is one of the things, frankly, that astounds me at times—the record of the last 4 years has been quite spectacular when we examine the results of the Clinton leadership.

The reduction in annual budget deficit has been enormous, some 60 percent, down to $107 billion last year. The CBO, our auditing arm, said in May that they thought we would be some $50 billion higher. And then in February they had to change their estimate to something considerably lower in a period of 8 months, with no understanding of the fact there was a dynamic change taking place. The same thing was true in an earlier year when the misestimate was by such an enormous amount that had we had a balanced budget in place, we would have made all kinds of adjustments, and we probably could have, without meaning to, sent this country into recession.

Mr. President, the principal discussion here is how do we tell the truth to the American public about what is going on here? If we had a capital budget, I think it would be quite clear. Right now, we talk about obscure things. We talk about adjustments in the CPI. We talk about taking Social Security and other trust funds off budget.

The fact of the matter is that we would be hamstringing ourselves with a balanced budget amendment that prevented us from responding to our national needs at any given time. Whether on the brink of recession, whether on the brink of war, whether on the brink of other national catastrophes, we would be limiting our capacity to operate. And I do not understand why we insist on doing that when, in fact, the record is good.

The President has presented a budget that will be in balance in the year 2002. As a matter of fact, it is proposed there

would be a surplus of some $17 billion at that time.

But to my colleague from New Jersey, my junior colleague from New Jersey—I am not quite used to the ranks—but I want to say that this is a very thoughtful amendment that you have developed. You have not said where, when, precisely how—do not lock us out of having a capital budget as part of our accounting process in the future.

I come from the corporate world. I ran a fairly large company—today, with 29,000 employees. I never would have dreamed of agreeing to a board of directors directive that said: OK, you can run this company, but understand what the conditions are under which you can run this company, that at the end of each year you are not allowed to be borrowing, not allowed to be doing anything else unless you prevent this company from having any kind of a deficit using an operating accounting process all the way through; when, if we erected a building, if we bought computer equipment, no matter what it was, you could not write it off over the life of the assets. Some of these assets are 40-, 50-year assets. Some of the assets we acquire in the Federal Government have lifetimes going way beyond that.

If they said to me, those are the conditions, I would say this job cannot be done. You cannot restrict yourself in advance to certain conditions at the end of a year over which you have no control. If we had to cut back on expenses, I never took a wholesale approach to it and said, OK, cut marketing, cut product development, cut production, cut facilities. You could not do it that way. Each of these things requires thought.

Here we are, 100 U.S. Senators, sent by people who elect us to represent them, unable, we are saying, unable to do it by ourselves. We need the constriction of a balanced budget amendment so we will all be good boys and girls here, so that we will remove the intuition, the judgment that we bring here from any decision we make because we want to be free of that kind of restraint. I, frankly, think that it shows very poorly in the public domain.

I think we ought to do it the old-fashioned way. I think what we ought to do, as proposed by my colleague from New Jersey, is amend it if we can to be a better product, to amend that balanced budget amendment in case it does pass. And I hope it does not. In case it does pass, we ought to have conditions in there that permit us to operate in as free a condition as we can possibly do it.

So, Mr. President, I see it as a fairly simple thing. The first thing we should do, look at the record, see where we are. I started to say before, I am astonished by the unwillingness of our colleagues on the other side of the aisle to recognize what has been accomplished since President Clinton took over, whether it is the reduction in the deficit, the growth in jobs, the icons of American industry, companies with whom you could tie your future, never worry about another thing as long as they do work—gone, shrunken, dissolved, in many cases. The President found a way to replace many of those jobs by encouraging small business investment. We have over 11 million new jobs in this period of time. We have the lowest portion of deficit to GDP of any country. We are the envy of all the developed nations in the world.

I looked at the expectation for the future, as we look at the budget proposal. Mr. President, in the next 5 years our economy is expected to grow by $2 trillion—$2 trillion of GDP in the next 5 years, at the same time, expecting, based on the numbers developed thus far, that we will have a surplus in our operations for the year without a capital budget, which, again, we should have, without adjustments, in the CPI.

I think that it is imperative that we vote on the Torricelli amendment, that we give it as much support as we can.

Mr. President, I hope, perhaps contrary to the view of some very good friends here, that in the final analysis, that despite the fact that I want this amendment to pass, I hope we do not attempt to balance the budget with a constitutional amendment.

I yield the floor, and I once again commend my colleague.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I yield to the Senator from Maryland 5 minutes.

Mr. SARBANES. Three minutes.

Mr. TORRICELLI. Three minutes.

Mr. SARBANES. I will be very quick.

First of all, I commend the able Senator from New Jersey for the very thoughtful and careful analysis he made in his statement upon offering his amendment.

One of the difficulties with a balanced budget constitutional amendment generally, of course, is that it is purely symbolic. The real way to balance the budget is to do it when Congress considers and passes the budget, not by amending the Constitution.

But the Senator from New Jersey has pointed out three, I think, clear difficulties with this particular version of a balanced budget amendment to the Constitution, Senate Joint Resolution 1. One is that our current Federal process does not provide for a capital budget. Every State and locality has a capital budget. Businesses have capital budgets. Private individuals have capital budgets. People do not go out and pay for a house, or an automobile, or finance a college education with cash the same year that they make these purchases. They make prudent investments in the future, and they borrow and amortize them over a period of time. State governments do exactly the same thing. It is a prudent and sensible way to do business.

I will never forget a budget committee hearing at which we had two Governors testifying in favor of amending the Constitution to require a balanced budget. They said, well, our States require a balanced budget, and, as a consequence of our States requiring it, the Governors went on to say, our States get a better credit rating, so that when we borrow in the market we get a better interest rate.

Of course, the obvious question becomes, if States have a constitutional requirement to balance the budget, why do they need to borrow money? What does a credit rating matter to these States? So I asked them that question. Of course, their response was, well, you do not understand. We have a capital budget that is separate and apart from the operating budget. We have a capital budget that we fund by borrowing—by borrowing. So I said, well, we do not have a capital budget at the Federal level. I noted that we in the Federal Government do not make a distinction between capital and operating expenses, though it is a wise distinction because then you can fund your long-term investments through borrowing, get the full benefit of the investment, and pay back the debt over the useful life of the capital asset.

The Governors' response was that the Federal Government ought to have a capital budget. I note to my colleagues that if you are really serious about trying to write a balanced budget requirement into the Constitution of the United States, the first thing you ought to do, as a minimum, is separate out operating and capital budgets—just the way State and local governments do.

So this analogy to State and local government falls of its own weight as soon as you recognize the fact that unlike the Federal Government, State and local governments have capital budgets which they fund by borrowing. We do not have a capital budget at the Federal level, but if we have a constitutional balanced budget amendment, we should.

Second, I think the emphasis which the Senator from New Jersey has made on the necessity of being able to respond in a crisis situation involving either the national security of the country or an economic downturn is extremely important.

As regards economic conditions, we have managed to ameliorate the business cycle, not to eliminate it, but to ameliorate it. We are able to do that in

part because we are now able to conduct countercyclical fiscal policy when we have an economic downturn. The balanced budget amendment to the Constitution, without a provision such as is contained in the amendment that has been sent to the desk by the Senator from New Jersey, runs the very great risk of turning economic downturns into recessions and recessions into depressions, because it will not allow us to respond to dire economic circumstances when we are confronted with them.

The same thing is true about the national security provisions of the balanced budget amendment as it has been drawn by its sponsors. These provisions are much too restrictive, much too confined, and they run the substantial risk that we will not be able to respond in a national emergency.

Now, the response made to this argument by the supporters of Senate Joint Resolution 1 is that if we confront a national emergency we will get the supermajority vote in order to waive the balancing provisions of Senate Joint Resolution 1 and there will be no problem. Well, our own history does not sustain that contention.

In 1940, the House of Representatives instituted a 1-year draft. That came up for renewal in the autumn of 1941, literally weeks before Pearl Harbor. They took a vote in the House of Representatives on extending the draft for another year. Speaker Rayburn went into the well of the House in order to plead with his colleagues to pass this extension. It passed on a vote of 203 to 202. But that vote, which is a majority, would not have met the supermajority requirements contained in the balanced budget amendment that has been brought forth from the committee by Senator HATCH. It would have fallen short because it was not a majority of the whole membership of the body, which required 218 votes, and which under this amendment is necessary to avoid the balancing requirements in Senate Joint Resolution 1. There we have a classic example of a crisis situation, right out of our own history. This is not a hypothetical. Looking at our own history, we can see that we would not have been able to respond and meet the requirements of the time, when we were facing this crisis situation, under the provisions of the balanced budget amendment as currently drafted.

I want to strongly commend the Senator from New Jersey for the very careful analysis that has brought forth these proposals pending before us. Clearly, at a minimum, if this constitutional amendment is to move forward, it requires the adoption of the Senator's amendment. I yield the floor.

Mr. ENZI. Mr. President, before I yield some time to the Senator from North Carolina, how much time remains?

The PRESIDING OFFICER. There are almost 22 minutes for the majority and almost 14 minutes for the minority.

Mr. ENZI. I yield to the Senator from Idaho for a moment.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator from Wyoming for yielding. I stand in opposition to the Torricelli amendment. I think it is critically important we maintain a unified budget to assure fiscal solvency and responsibility in this country.

I ask unanimous consent that a fact sheet be printed in the RECORD.

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

CONGRESSIONAL LEADERS UNITED FOR A BALANCED BUDGET—A CAPITAL SPENDING EXEMPTION NOT A CAPITAL IDEA FOR THE CONSTITUTION

A special exemption for "capital" or "investment" spending does not belong in the balanced budget amendment to the Constitution

A constitution deals with the most fundamental responsibilities of the government and the broadest, timeless principles of governance. It should not set budget priorities or contain narrow policy decisions such as defining a capital budget.

Whatever the merits are of making such spending a higher or lower priority than it has been, this question is best addressed in the annual budget process.

The debt is the threat to capital investment

Escalating interest payments on the huge federal debt are crowding out all other priorities. According to the National Entitlement Commission's 1995 report: "By 2012, unless appropriate policy changes are made in the interim, projected outlays for entitlements and interest on the national debt will consume all tax revenues collected by the federal government." That means no money left for capital investment—or defense, education, the environment, law enforcement, science, or other domestic discretionary programs.

If states, businesses, and families can borrow, why shouldn't the federal government?

Everyone else repays the principal they have borrowed. Families take out a mortgage and then spend years paying it down. The same is true of capital investments by businesses and state and local governments. But the federal government just keeps borrowing more. And more.

Unlike state budgets or family finances, the federal budget is large enough to accommodate virtually all capital expenditures on a regular, ongoing basis

The justification that most businesses and state and local governments have for capital budgeting is that they occasionally need to make on-time, extraordinary expenditures that are amortized over a long period of time.

The federal budget is so huge—now more than $1.6 trillion—that almost no conceivable, one-shot project would make even a small dent in it.

Even the federal Interstate Highway System, which has been called the largest peacetime undertaking in all of human history, was financed on a pay-as-you-go basis

President Eisenhower initially proposed that the Interstate System be financed through borrowing by selling special bonds. However, Congress kept it on-budget and financed it through a gas tax at the urging of then-Senator Albert Gore, Sr.

There are protections against the abuse of capital budgets in state budgeting that do not constrain federal borrowing

State and local governments have a check on their use of capital budgets through bond ratings. If a state government were to abuse its capital budget, then its bond rating would drop and it would become difficult or impossible to continue borrowing to finance additional expenditures.

In addition, many states require that bond issues be approved by the voters.

While state capital spending is often placed off-budget, so are state trust fund surpluses

According to a Price-Waterhouse study, in recent years, state budgets would have been roughly in balance if both capital expenditures and trust funds (such as retirement funds) were included on-budget.

The process of defining "capital spending" could be abused

Even a category of "capital" or "investment" spending that appeared to be tightly defined at first could become a tempting loophole to future Congresses and Presidents. For example, New York City, prior to its financial crisis in the 1970s, amortized spending for school textbooks by declaring their "useful life" to be 30 years.

Virtually any form of "capital spending" exemption would perpetuate the crisis of deficit spending

Even an exemption from the Balanced Budget Amendment for a narrow category in the President's budget, major public physical capital investment, would have allowed a deficit larger than the one that actually occurred in FY 1996 ($116 billion vs. $107 billion). It would result in an FY 1997 deficit that would be, at most, 9 percent lower than current CBO projections ($113 billion vs. $124 billion).

Allowing deficit spending for total federal investment outlays would have allowed deficits larger than those that actually occurred in 28 of the last 35 years.

These estimates, of course, assume no manipulation of definitions or accounting that would allow still larger deficits.

The concept of a "capital budget" is too poorly defined to put in the Constitution—Estimates of "capital spending" could vary widely

There is wide disagreement among policymakers about what should be included in a federal capital budget. There is no commonly accepted federal budget concept of this term. Therefore, any capital spending exemption included in the Constitution would be left open to a wide range of interpretations.

In fact, the President's budget includes several different categories of "capital" and "investment" spending. For fiscal years 1996 and 1997, these include:

[In billions of dollars]

	FY 1996	FY 1997
Major physical capital investment	$115.9	$113.0
Net miscellaneous physical investment	3.1	3.1
Research and development	68.4	70.3
Education and training	43.6	42.5
Total federal investment outlays	230.9	228.9

The balanced budget amendment already allows for the establishment of a capital budget—within the context of regularly balanced budgets

The amendment does not prevent the creation of separate operating and capital accounts. But extraordinary expenditures which are large enough and unusual enough to require significant new borrowing should be subject to a higher threshold of approval, such as a three-fifth majority vote.

This is consistent with the recommendations of General Accounting Office, which stated in its 1992 report, Prompt Action Necessary to Avert Long-Term Damage to the Economy: "* * * the creation of explicit categories for government capital and investment expenditures should not be viewed as a license to run deficits to finance those categories * * *. The choice between spending for investment and spending for consumption should be seen as setting priorities within an overall fiscal constraint, not as a reason for relaxing that constraint and permitting a larger deficit."

Ms. LANDRIEU. Mr. President, I believe that we should adopt a capital budget and I strongly urge its incorporation into Senate Joint Resolution 1. This amendment offered by my distinguished colleague from New Jersey, Mr. TORRICELLI, establishes a capital budget and should receive the support of every Member of this Chamber who truly wants to see a balanced budget become a reality. A capital budget will help us achieve that end and will bring more financial accountability to the Federal level.

Many supporters of a balanced budget amendment to the Constitution believe that the Federal Government should manage its funds like many hard-working families across our Nation. Families must balance their checkbooks or they face serious financial consequences. Why, amendment supporters ask, should the Federal Government be any different?

The reason is clear, Mr. President. Families do not balance their budgets, they balance their checkbooks. They sit at the kitchen table once or twice a month to make sure that there is enough money to pay the bills. However, not all of their expenses are paid in full at the time they are purchased. Most Americans can only afford such items if they spread their payment obligations over a longer period of time, sometimes with the help of loans. People do not receive the benefits of such expenditures at one time, either—they drive their cars and live in their homes for years, perhaps decades.

Most States operate in the same manner. While almost every State has some type of constitutional or statutory requirement to balance their budgets, such limitations normally apply to a state's operating budget—like a family's checkbook. State expenses for constructing such items as roads and buildings or purchasing land do not fall within the balanced budget requirements.

The Federal Government, however, is being asked to balance its budget without a distinction between capital outlays and operating expenses. In fact, were the balanced budget amendment to pass without providing for the establishment of a capital budget, this country would place upon itself a restriction not followed by families, businesses or States. Furthermore, such a limitation would make the United States unique among the major economic powers in the world—not a single nation among the G–7 has such budget constraints.

Federal outlays for capital investments are significantly different from outlays for operating expenses because they represent asset exchanges. When the United States spends money to purchase a building or land, the United States receives an appreciable asset in exchange for that expense. That asset will produce future streams of revenue to the United States either through the increase in the value of the property or simply as a place to conduct the Government's business. Such expenditures do not contribute to the deficit wholly because the resulting purchase or investment leaves the Government with calculations on both sides of the ledger.

Additionally, a lack of such a distinction is an inadequate way for the Government to manage the Nation's funds. To use the example provided by Bruce Bartlett, a conservative economist who served in both the Reagan and Bush administrations, a "$10 million building that will last 30 years must be fully accounted for in a single year's budget, the same as a $10 million outlay for airplane fuel or some other operating expense." In Mr. Bartlett's view, in my own view, and in the opinion of hundreds of economists nationwide, "the lack of a [Federal] capital budget creates biases in the budget that lead to uneconomical decisions."

Mr. ENZI. Mr. President, I yield 12 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator is recognized for 12 minutes.

Mr. FAIRCLOTH. Mr. President, I rise today in strong support of the balanced budget amendment to the Constitution. Quite simply, no other legislative issue the Senate will consider is more important than this one. It was true in the last Congress. It is true in this Congress. It will be true in the next one if we do not pass it.

Now, there are more reasons than I have ever heard not to balance the budget. We have heard them day after day. We just heard them, and they keep coming. But the future of the United States and the well-being of our children, grandchildren, and children yet unborn rests entirely on whether we pass this amendment or not.

Mr. President, if we fail to enact this amendment I am concerned we will never balance a budget on any sort of a continuing basis. I have heard a lot of talk on the Senate floor about the need to balance a budget. Many have said that we can balance a budget but not necessarily on a continuing basis. Talk is cheap. The real question is, what will guarantee that we balance a budget year in, year out, and guarantee fiscal responsibility to the Federal Government, something we have not had? What guarantees will we make to our children and grandchildren and children yet unborn that we will not continue to mortgage their future with feel-good politics of the day?

There is a lot of rhetoric in this body about the need to help children—more resources for education, greater health care for children. In fact, if there is anything we really want to pass, we put children in front of it. But if we really want to help the children of this country that are here now and yet to be born we can stop piling a financial burden on them that they cannot pay. It is as simple as that.

We could give them a society, if not debt free, at least be coming out of debt, reducing it. We are already seeing the effects of the 30-year spending spree. Most two-income families have difficulty sustaining the same lifestyle as their parents and grandparents that lived on one income. Why is it that one paycheck does not go as far today? The answer is simple: Taxes and debt. The enormous tax burden that has been created because of bigger government, taxes that are everywhere, and the IRS considers taxing everything—endless taxes, Federal taxes, State, local, sales, gasoline, property, personal, estate taxes, telephone, airline, the list goes on into infinity. We are taxing ourselves to death to pay for more government that we do not need because so much of what is already collected is being spent on interest for money we have already borrowed and already spent.

Already we send $1.5 trillion to the Federal Government each year. That is not enough. Nor will any amount ever be enough. It is an all-consuming Government and no amount will ever satisfy the appetite.

Mr. President, the debt is not going away. Today, every man, woman, and child in this country owes $20,000. A family of four owes $80,000, the cost of the average home. The money will have to be paid back. It will never disappear. What we have done is extremely wrong—we have ignored the reality of our time and have put the burden of the future on our children to pay for our folly.

Mr. President, I have often thought what is it about the last 40 years that has brought us into this position? Certainly, too many people believe Government is the answer to every problem. We have spent approximately $5 trillion on Federal welfare programs since 1960, roughly the size of the debt. But we have more poverty today than

we did when we started—a total failure.

Another problem has been that an active Federal Government has regulated American business too much, stifling the productivity and unduly burdening small business.

This is another unique problem that is recent: The Congress has no boundaries. The age of instant information and Congress' driven attempt to please everyone, we are never forced to choose between programs. We can be for anything and everything and against nothing and it rolls on. We are never forced to make a choice because we do not have the requirement of a balanced budget amendment. This is a fundamental flaw of the Federal Government. We have no limit on our ability to incur debt. Thomas Jefferson noted it 200 years ago. It was true then. It is true today.

Mr. President, finally let me talk about the national debt that is consuming us. It took this country 200 years to acquire a $1 trillion debt, and we did that in 1983. Now, in just 14 additional years we have acquired an additional $4 trillion in debt. We clearly are out of control with our spending, and if we do not constrain ourselves we will destroy the fiscal integrity of this country. By the time we balance a budget, even by most conservative figures, we will have a $6.5 trillion debt. Every person who has ever had a debt knows that interest is a piranha and it will eat you alive. The same thing is happening to the Federal Government. Interest is eating us alive.

We spend $366 billion on gross interest each year—that is, to the public and the Government trust funds. To put it in more real terms, when we file our tax returns on April 15, we should know that 52 percent of all income taxes that are sent to Washington will be used for the one purpose of paying the interest on the Government's gross debt.

By the year 2000, our national debt will be equal to 52 percent of the gross domestic product. In 1980, the figure was half that. Besides interest, the only thing we spend more on is Social Security. I think it is so ironic that we have heard over and over that Social Security is being used as a block to a constitutional amendment to balance the budget. If we want to ensure the future of Social Security and Medicare for the people of this country in the future, the best thing we can do is balance the budget. It is the only way we can secure the future of Social Security—with a balanced budget. It should never be considered separately.

Mr. President, if we could just control Federal spending, we might not need this amendment. But we won't control Federal spending. For 35 years we have been unable to muster the fortitude to stop or control Federal spending. The truth is, had we frozen Federal spending in 1994, we would have balanced the budget in 1997.

Mr. President, we all know what the problem is. The question is, what are we going to do about it? The answer is that we must pass the balanced budget amendment if we are going to leave our children a clean slate, not a lifetime of debt, excessive taxes, and a contingent liability of $7 trillion.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. GREGG). Who seeks recognition?

Mr. ENZI. Mr. President, several questions have been raised through the course of this debate. I have a couple of others, as well. I appreciate the efforts that have gone into this amendment, but I am very concerned about a couple of the areas we have been talking about, the largest of which is the capital budget area in this.

When we talk about capital budget—I have read what the President had in his budget message about capital budgeting. With the definitions that I see that appear in this bill, what we are talking about is putting anything that we can call a capital investment off budget; and by putting it off budget, it removes itself from having to be a part of the formula. I would like more clarification on that term.

There is also wording on that which says that net borrowing and the disposition of major public physical capital assets would be excluded from the receipts. I am concerned about how we handle some of the disposition of major physical capital assets. One of those we are talking about is selling the spectrum. That is one-time revenue. I am very concerned that we may take one-time revenue and use it to buy recurring types of things in the budget. That is why I, too, have been asking for capital budgeting and, more important, cash flow budgeting, so that we know that when we are getting a one-time revenue, we are matching that up with a one-time expenditure.

If we have net borrowing and the disposition of major public physical capital assets excluded, what's the mechanism for handling that? What's the budget phenomenon for handling that? Everybody has to have capital budgets, as has been mentioned here today. Unfortunately, the Federal Government is the only entity that doesn't have to have oversight—unless we pass the balanced budget constitutional amendment. Then we, too, will have to have oversight.

I mentioned this morning that, as a mayor, we had capital budgeting, cash flow budgets, and performance budgets. It is very important not only to building what needed to be built, but to paying off the debt for what we built. I mentioned that the city I was mayor of is now one of the few debt-free cities in the United States. That comes from good planning.

In the debate we have had on the balanced budget constitutional amendment, we are not talking about paying off the debt that we have already incurred. We are not talking about planning to pay off what we have already incurred on behalf of the future generations—those kids and grandkids that we keep talking about, as well as the parents and grandparents that are relying on Social Security. We have to balance the budget to take care of our kids, grandkids, parents, and grandparents, as well as ourselves.

There is a lot at stake in this. Unless we build in some oversight for ourselves, something that forces us to pay back loans, then all we are doing is giving ourselves a license to spend. We are coming up with another risky gimmick that will let us slip things into a category and not have to account for them. That is not the purpose of capital budgeting. I have even heard some reference, in capital budgeting, to putting things into a capital budget that would be social investments. I don't know how you pay off the social investments any different way than you pay for any other expenditure under the budget. That, in my opinion, is not a capital budgeting thing. That is an expense budgeting item. I think there has to be a distinction made there.

I am really worried that section 7 of this bill will give us a license to move things from the normal budgeting process to a capital budgeting process and kind of forget about how we handle the payback on that. Somebody mentioned earlier that if you buy a home, you are doing capital budgeting. You are, but you have oversight. The banker sets up specific parameters for you to be able to get the loan. If you don't meet those parameters, he is not going to be a happy fellow. What we are trying to do here is set up some parameters for ourselves. Capital budgeting, cash flow budgeting, and performance budgeting need to be done. Those are part of an enabling act of a clean balanced budget amendment.

One of the problems that we have in this body, I think, is that we think of things more as a Christmas list, and I know that at Christmas time I delight in going through the catalogs that come in and seeing what things I like. There has never been a limit to the number of things that a person could pick—particularly when they are children. We talk about balancing budgets, and every one of us wants to balance the budget. Individually, we say that. It is collectively that we seem to run into the problem. The balanced budget constitutional amendment will take care of that. It will force us to uphold the Constitution of the United States. It will force us to put parameters on ourselves.

Everybody wants to buy everything, and they want to buy it right now. Good budgeting will set up some parameters that will help us with that. I am glad we are thinking about good

budgeting, good accounting techniques, because we need to start setting up our Social Security trust fund under some better accounting techniques, so that we are recognizing some of the actuarial differences that are there. It is good to be thinking about that. It is a must that we do that. Right now, we are building up some incredible actuarial debts that we are not recognizing at all. We owe about $9.3 trillion to the Social Security fund. If we put the same kind of parameters on ourselves that we put on business—we tell business they have to set up a trust fund, and it has to have the amount of money necessary to pay for the people who are retiring at the time they retire. But we don't put that parameter on ourselves. The balanced budget constitutional amendment will put those kinds of things on the line to be done. We will have to follow the promises we made in the campaign.

When I campaigned, we talked a lot about balancing the budget. When the President talked, he talked a lot about balancing the budget. In his State of the Union speech, he said, "We need to balance the budget, but we don't need a balanced budget amendment. All we need is action." Then we got a budget that was not in balance. We did not get the action to go with the words. I made a promise during my campaign that I would vote for the balanced budget constitutional amendment. I knew what that was at the time, and I am here to do that.

The people of America want us to protect the future for our kids and our grandkids. Our kids want us to end the child abuse of taxation without representation, cosigning on notes for them without their permission. That is what we are doing by balancing the budget. I want to say that we either balance the budget—and I think we need the discipline based on these two stacks of 28 years of unbalanced budgets. We need the discipline of a balanced budget constitutional amendment. If we do not balance that budget we will be the longest running game show, and we will wind up with the lowest possible ratings.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ENZI. I retain the remainder of my time.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, may I have a counting of the time, respectfully, please?

The PRESIDING OFFICER. The Senator has 13 minutes and 40 seconds. The Senator from Wyoming has 3 minutes and 4 seconds.

Mr. TORRICELLI. Mr. President, I have listened patiently to the analysis of my amendment by Members of the minority and by Members of the majority for some time. I am also aware of the uniqueness of the moment. We are debating an amendment to the Constitution of the United States. The vote on that amendment is extraordinarily close. It is argued by my friend, the Senator from Utah, that the balanced budget amendment is as good as we can produce. Mr. President, the Constitution of the United States is as close to perfection as has ever been achieved in managing the affairs of men and women. This is one case when good is not good enough. There are those who say that providing for a capital budget and the ability to respond to international military emergencies or national economic crises are simply amending gimmicks of a balanced budget amendment. Mr. President, meeting our historic responsibility to defend the United States in military emergencies, or dealing with economic recessions, or depressions is not a gimmick. It is a profound responsibility.

I have voted for a balanced budget amendment on other occasions, and I want to do so again. I approach it with extraordinary regret because I believe that our generation should be no less in managing the financial affairs of this country than all of those who preceded us. They did so because they cared about the future. They cared about the country, and they refused to abuse their ability and their power to borrow beyond their means. This generation has not so cared for the country.

So it is with real regret on previous occasions that I have voted for a balanced budget amendment. But I rise today to amend this joint resolution to amend the Constitution of the United States because I seek for us to meet the same high standard as those who founded this Republic and those who have cared for it through the years; not an amendment that is good enough but one that approaches perfection.

I have offered three principal changes. The first is for a capital budget. But I am told that it would be abused if we were to provide for a separate capital budget to ensure that we were building an infrastructure and maintaining a modern and productive means of commerce in the country, that it would be abused by regular spending and consumption. Yet, the Senator from Utah knows that, whether his amendment passes in its original form or with my amendment to it, enacting legislation will be required. His amendment is not operational on its face and neither is mine. This Congress would have to return after enactment by the States for enacting legislation to make it operational. And under the capital budgeting provisions we would clearly have to establish a separate and independent Government agency that would review the actions of the President and the Congress to ensure that anything in a capital budget is actually designed to enhance the productive capabilities of the country and its economy. We could not allow items of consumption to be part of a capital budget. That is the means by which every Governor operates in getting independent authority to ensure that it is a genuine bondable expenditure as I am sure my friend, the Senator from Wyoming, needed to operate as a mayor of his own community.

But at the end of the day, Mr. President, I leave my colleagues with this reality because this isn't good enough. In our understandable and justifiable efforts to balance the budget of the United States, the principal victim is long-term investment in this country—2 million miles of substandard roads, a quarter of a million bridges that are not safe or operational, deteriorating ports, 100 billion dollars' worth of repairs needed in our schools. We are last among the industrialized nations of the world in planning for our future. Without a capital budget, the internal pressures of this institution are going to force protecting consumption and victimizing planning and investment. It is not enough to rise on in this floor and say that a capital budget might be abused but not provide an answer to this reality.

Second, we are told that a war powers exemption, the ability to deficit spend if the United States is facing an imminent military threat, could not be accommodated despite the historic analogies that I have raised in World War II, the Persian Gulf, World War I, all of which required deficit spending in advance of a declaration of war.

I am told by my friend, the Senator from Utah, that the cold war is evidence that my analogies are not sufficient because we could have used this as an excuse throughout the cold war for deficit spending unless we have agreement. In 1962, with a nation only hours away, during the worst of the cold war, during the Cuban military crisis, John Kennedy mobilized the American Armed Forces. The United States was in deficit. It was also facing an imminent threat of war. In the Berlin crisis, in succeeding crises of the cold war, the President of the United States and our military leadership needed the ability to respond immediately. The vision of the amendment of the Senator from Utah is that upon a declaration of war and a three-fifths vote we will then respond and defend the national interest. It is good. It is a good amendment. It does not approach the historic standards of the U.S. Constitution.

Finally, we are told the country has the means and the ability to respond to the vagaries of the business cycle without the need or the ability to borrow.

History teaches us a different result. This Nation has learned a painful lesson from a historic perspective when

capitalism fails or goes through intense difficulties. The debate in Europe and in the United States in the 1930's was often between those who believed that the future belonged to fascism and those who believed it belonged to communism, democratic communism or fascism. Democratic capitalism, to many, was an anachronism that had failed in the depths of the Depression. Capitalism was saved by the easing of the business cycle. We learned how in times of high unemployment and deep recession to prevent the national economy from victimizing our own people. The triumph of capitalism, as certainly as it was earned on the battlefields and through ideological struggle, was also earned by our learning how to deal with the difficulties of recession, the pain of depression, by using the fiscal and budgetary powers of the U.S. Government to care for the Nation in times of real need.

The Senator from Utah says his amendment is good enough; we can have a vote to ease its restrictions. Good is not good enough. The level of perfection required to amend the Constitution of the United States requires more. These are not theoretical problems, not in another century, not even in a different generation. Each of them has been experienced in our own time—dealing with the problems of recession, the regular and serious problems of international conflict, and the deterioration of national investment.

I stand here prepared to vote to change the Constitution of the United States. It is something that I believe requires an extraordinary burden of proof. Anyone attempting to change this document must bear a higher burden than in any other Chamber and undertaking any other legislative goal because the Constitution of the United States has no peer. I am prepared to recognize that this burden would be met given the mounting problems of debt in this Nation and the need to restore some permanent fiscal responsibility, but it cannot be met unless these questions are answered.

Constitutions are not written for any one time. Laws are written for our time. Constitutions are written for all time. I need the Senator from Utah to explain to me how a generation unborn, in circumstances unforeseen, will deal with renewed military hostilities, deep recessions, with the problem of international economic competitiveness in the face of declining national investment. I offer my vote for change, will accept that this burden of proof has been met and will otherwise change a document which I believe in only the rarest of instances we ever meet the burden of change——

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

Mr. TORRICELLI. But that requires enactment of this amendment and answers to these questions.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wyoming has 3 minutes.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mrs. BOXER. Mr. President, if I might ask unanimous consent just to set aside the pending amendment and offer an amendment and lay that aside. I have been told by the floor staff that would expedite matters.

The PRESIDING OFFICER. The Senator from Wyoming was recognized.

Mr. ENZI. I assume that that will not come out of my time, if that were to happen.

Mrs. BOXER. That is correct.

Mr. ENZI. We are running out of time. I am sure that will not happen in my time.

The PRESIDING OFFICER. The Senator's time will not be charged for unanimous consent.

Is there objection? Without objection, it is so ordered.

Mrs. BOXER. I thank my colleague so very much.

AMENDMENT NO. 16

(Purpose: To provide Federal assistance to supplement State and local efforts to alleviate the damage, loss, hardship and suffering caused by disasters or emergencies by exempting spending that is designated emergency requirements by both the President and the Congress.)

Mrs. BOXER. I ask unanimous consent to set aside the pending amendment, and I send an amendment to the desk, and I ask unanimous consent that it be set aside for debate at a later time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 16:

At the end of Section 5, add the following: "The provisions of this article may be waived for any fiscal year in which there is a declaration made by the President (and a designation by the Congress) that a major disaster or emergency exists, adopted by a majority vote in each House of those present and voting."

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I thank the Senator from New Jersey for his comments, his answers, and his passion. We share that passion for this country. I am pleased to be in the entering class with him.

I appreciate the approach that he has taken was not set on a course to scare anybody but to get something done, and I really appreciate that. I am appreciative also of the talk that we are having here on this floor about good accounting systems. That is of the utmost necessity for our country and for us.

The reason it is important for us is to know exactly where we are. I pledge I will work with the Senator from New Jersey to get those kinds of accounting procedures so that we can do the kinds of things we need to do for this United States and do it within the constraints of a balanced budget so we are not continuing to pass on things to our kids and our grandkids.

I will remind everybody that we cannot go into a capital budget situation without the clarification that we are not just creating another loophole. When I was in the legislature, one of the biggest frustrations I had was that we would propose the bill, and I knew there were people listening to that proposition who were already designing loopholes in the bill, ways to get around what we were doing and not sharing with us the ways to get around what we were trying to do. That is what we have to overcome, with the immense responsibility that we have in amending the Constitution.

I think the original amendment has that capability. I think it is important that we vote for the original amendment, not the substitute, but that under any circumstance we do have a balanced budget constitutional amendment that will preserve this country for ourselves, our kids, and our grandkids, and make sure that we are taking care of our parents and our grandparents.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Does the Senator from Wyoming yield back the remainder of his time? He has 27 seconds.

Mr. ENZI. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 37, nays 63, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—37

Akaka	Durbin	Leahy
Baucus	Feingold	Levin
Biden	Feinstein	Lieberman
Bingaman	Ford	Mikulski
Boxer	Glenn	Moynihan
Breaux	Inouye	Murray
Bumpers	Johnson	Reed
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dodd	Landrieu	
Dorgan	Lautenberg	

NAYS—63

Abraham	Chafee	Enzi
Allard	Coats	Faircloth
Ashcroft	Cochran	Frist
Bennett	Collins	Gorton
Bond	Coverdell	Graham
Brownback	Craig	Gramm
Bryan	D'Amato	Grams
Burns	DeWine	Grassley
Campbell	Domenici	Gregg

Hagel	Lugar	Sessions
Harkin	Mack	Shelby
Hatch	McCain	Smith (NH)
Helms	McConnell	Smith (OR)
Hollings	Moseley-Braun	Snowe
Hutchinson	Murkowski	Specter
Hutchison	Nickles	Stevens
Inhofe	Reid	Thomas
Jeffords	Robb	Thompson
Kempthorne	Roberts	Thurmond
Kyl	Roth	Warner
Lott	Santorum	Wyden

The amendment (No. 15) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, under the previous order, I was to be recognized to offer an amendment.

AMENDMENT NO. 17

(Purpose: To propose a substitute amendment)

Mr. DORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. DORGAN. It is in the nature of a substitute.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] for himself, Mr. DASCHLE, Mr. FORD, Mr. REID, Mr. HOLLINGS, Mrs. FEINSTEIN, Mr. WYDEN, Ms. LANDRIEU, and Mr. JOHNSON, proposes an amendment numbered 17.

Mr. DORGAN. Mr. President, I ask unanimous consent that the amendment be considered as read.

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

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE—

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal. The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds (as and if modified to preserve the solvency of the Funds) used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article.

"SECTION 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.".

Mr. DORGAN. Mr. President, I offer this amendment on behalf of myself, Mr. DASCHLE, Mr. FORD, Mr. REID, Mr. HOLLINGS, Mrs. FEINSTEIN, Mr. WYDEN, Ms. LANDRIEU, and Mr. JOHNSON.

Mr. President, I would like, as I offer this amendment, to describe it and begin at the beginning. I know that this issue has been debated again and again, and yet it seems to me it is probably appropriate now to describe what this is and what it is not.

Mr. President, I offer a substitute constitutional amendment. This substitute is essentially the same as the amendment offered by Senator HATCH, amended, if it would have been amended, by the amendment offered by Senator REID. Senator REID offered a perfecting amendment. It failed. So I am offering a substitute constitutional amendment to balance the budget.

Mr. President, the stack of books that has resided on that desk for some long time now is apparently designed to illustrate a number of budgets that have not been in balance. There is no one in this Chamber, I believe, who stands on the floor of the Senate trying to make a case for unbalanced budgets. I have known no one who stands up and says, "I've come from my office to the floor of the Senate to put in a few good words about the deficit," or, "I come to the floor to be a champion of Federal debt." I know of no one who says that, no one who believes that, and no one who comes and argues that on the floor of the Senate.

There is not a difference, it seems to me, about the will or the interest of Members of the Senate to see a balanced budget. This Government ought to spend within its means. It ought not keep charging consumption today to our children and grandchildren. We ought not continue to add to the Federal debt. We ought to have some fiscal policy that is in balance.

But this is not about balancing the budget. This debate is about altering the Constitution of the United States. We can alter the Constitution of the United States at 3 o'clock—that is 1 minute from now—and at 1 minute after 3, there will not have been one cent difference in the Federal debt or Federal budget deficits.

So it is about altering the Constitution. How do we do that? Should we do that? We have some people who come to this floor wanting to alter this Constitution at the drop of a hat. Some people think the Constitution is a rough draft and they have better ideas.

Last year we had three proposals to alter the Constitution offered in 1 month here in the U.S. Senate—three. We have had about 2,000 or 3,000 proposals to alter the Constitution since it was written. I do not peer around the Senate—and I do not mean this to sound disrespectful of the wonderful people I serve with—but I do not really see Madison and Mason and Franklin and George Washington. Thomas Jefferson was not at the constitutional convention. He was in Europe at the time, but he contributed greatly to the Bill of Rights and especially the first amendment. It is hard to recognize the folks here and compare them to those who wrote the Constitution. But we sure have a lot of folks who want to alter the Constitution.

Last evening I was at the National Archives, and I got to take a look at Thomas Jefferson's original draft of the Declaration of Independence, written, I think, when he was 33 years old.

I got a chance to take a look at the Senate markup of the Bill of Rights. It is really quite remarkable when you see the documents that represent the framework of our democracy, the system of Government, created in a Constitution of the United States by some wonderful people.

Included in the Constitution is a procedure by which we can change it.

Mr. HATCH. Will the Senator yield?

Mr. DORGAN. I am happy to yield to the Senator.

UNANIMOUS CONSENT AGREEMENTS

Mr. HATCH. I appreciate the courtesy of the Senator.

I ask unanimous consent that when the Senate resumes Senate Joint Resolution 1 on Thursday at 11 a.m., Senator GRAHAM of Florida be recognized to offer his amendment regarding public debt; I further ask unanimous consent that there be 90 minutes for debate equally divided in the usual form, and following the expiration or yielding back of time, the Senate proceed to a vote on or in relation to the Graham amendment.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. HATCH. I ask unanimous consent that immediately following the vote on the Dorgan amendment today, the Senate resume consideration of Senator

BOXER's amendment No. 16 relating to a disaster exemption, and the amendment be limited to 30 minutes of debate equally divided in the usual form, with a vote occurring on or in relation to the Boxer amendment at the expiration or yielding back of any debate time.

I further ask unanimous consent that on Thursday, immediately following the disposition of the Graham amendment, the Senate resume consideration of Senator FEINGOLD's amendment No. 13 under a 30-minute debate limitation equally divided in the usual form, and following that debate, the Senate resume debate on Senator FEINGOLD's amendment No. 14 under a 40-minute time limitation equally divided, after which both Feingold amendments will be temporarily set aside, and the Senate will then begin 2 hours of debate equally divided on the Kennedy amendment No. 10.

I finally ask unanimous consent that immediately following the expiration or yielding back of that debate time, the Senate proceed to a vote on or in relation to the Kennedy amendment No. 10, to be followed by 1 minute equally divided for debate, then a vote on or in relation to the Feingold amendment No. 13, to be followed by 1 minute equally divided for debate, and a vote on or in relation to the Feingold amendment No. 14.

I further ask unanimous consent that following those votes, the Senate begin 2 hours of debate equally divided on the Bumpers amendment No. 12, with a vote occurring on or in relation to the Bumpers amendment at the expiration or yielding back of time.

Mr. LEAHY. We do not object.

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

Mr. LEAHY. Madam President, I yield to the Senator from North Dakota.

AMENDMENT NO. 17

Mr. DORGAN. Madam President, I was in the process before the unanimous-consent requests of just trying to describe exactly where we are and what we are doing here. I was talking about the Constitution of the United States. I pointed out that there is a process in the Constitution of the United States that describes how we can change the Constitution. And we have, in fact, changed it from time to time.

I was not around, but I recall that we changed it and put something called the 18th amendment in the Constitution. That had to do with outlawing drinking; it was called prohibition. And then if you go to the 21st amendment to the Constitution, it says the 18th amendment to the Constitution is hereby repealed. That is a short, little amendment. That is the 21st amendment to the Constitution. I guess because at that point the American people felt we made a mistake on the 18th amendment, so the Framers of the Constitution not only provided a method by which we could change the Constitution but also described how we might correct a mistake. It is far better, however, not to make a mistake when you are changing the Constitution of the United States. There is a right way to do it and a wrong way to do it. This is not a debate so much about whether we should balance the budget. We should, and some of us have cast tough votes to reduce the budget deficit by 60 percent. Some have not cast those tough votes. Some have just bellowed on the floor of the Senate, thumbing their suspenders and going out and puffing on their cigars and ranting to anybody who listens, how much they oppose the deficit. But would they vote to reduce the deficit? No, it was "count them out." They just wanted to talk about it.

Some of us have cast hard and tough votes and paid a price to reduce the budget deficit. The only way you can reduce the budget deficit is individual votes on taxing and spending issues. You can change the Constitution until you are purple, and it will not alter the budget deficit or the Federal debt.

Shall we, however, change the Constitution? I say that yes, there are circumstances under which I will support that, and I have supported amending the Constitution dealing with fiscal policy, because I think there is merit—especially after the last decade and a half—there is merit in suggesting that the fiscal discipline that would come from requiring a balanced budget in the Constitution would be worthy and worthwhile. So then the question is, if a suggestion to alter the Constitution to require a balanced budget has merit, how do you alter the Constitution to do that? That is the question today.

I have said before, and the Senator from Utah will not find it surprising, that I think this amendment is terribly flawed with respect to the Social Security surpluses that it will use to claim it has balanced the budget.

Madam President, when Abe Lincoln and Stephen Douglas were involved in their famous debates, I was reading at one point that Abe Lincoln was enormously frustrated with Douglas because he could not get Douglas to understand his point. He just could not get it through. Finally, he said to Douglas, "Listen, tell me, how many legs does a horse have?" Mr. Douglas said, "Why, four of course." Lincoln said, "Yes, and now if you call a horse's tail a leg, then how many legs will the horse have?" And Douglas said, "Why, five." And Lincoln said, "You see, that is where you are wrong. Simply calling a tail a leg does not make it a leg at all."

That is what we have here. We have a tail called a leg. They say if we pass this constitutional amendment to balance the budget, the budget will be balanced. But a ninth grader with elementary math will have known the budget is not balanced because, guess what? This will enshrine in the Constitution a practice of using $1 trillion and more of Social Security trust funds, and in the year in which they claim the budget is balanced, that neon debt clock that ratchets up the Federal debt so we can all see where it is going, that debt clock will keep going, because the very year in which the budget is supposedly balanced the Federal debt will increase by $130 billion. The year in which the Federal deficit that is supposed to have been in balance, eliminate the deficit, 2002, the year in which those who support this will claim they have eliminated the Federal deficit, they will have to increase the Federal debt limit by $130 billion.

I have asked why, I guess for 2 weeks now, and no one will be able to answer: Why is the Federal debt continuing to increase at a time when they claim they balance the budget? Because they will have locked in the Constitution a process that allows them to use tens and tens of billions of dollars that are needed elsewhere, that are taken from workers out of paychecks to put in a trust fund to be saved for the future. They are able to use that money over here to claim they balanced the budget even as the Federal debt continues to increase. That is the weakness and the fatal flaw of this proposal. That is why this is not a balanced budget proposal. That is why this is masquerading as a leg, when, in fact, it is not a leg at all.

Now, I want to go back to the beginning, and I know that for some this is probably a debate that provides wonderful sleep medicine. It is so filled with complexity and dates and positions and laws. But I want to go back to the beginning, in 1983. In 1983, there were no Social Security surpluses. The Social Security system was taking in almost as much as it was spending out. But we knew that, in the long term, there was going to be a real problem because we knew of the baby boom—the largest baby crop in the history of our country. These folks would eventually find their way through the work system and go onto the retirement rolls, and we knew that at some time we would have a problem.

In 1983, the Greenspan commission convened and said, all right, Republicans and Democrats and outsiders and insiders working, here is a menu or a strategy by which we are going to respond to this problem in our country, where in the future we have the largest baby group retire, supported by the smallest working group, and we have a demographic time bomb and a problem. Here is the recipe by which we address it. That recipe included a lot of things. It included increasing the retirement age, beginning after the turn of the century, to age 67. That extends out

some long while before it finally happens, but it goes to 67, the new retirement age. That was done in 1983. A series of benefits were cut from the Social Security system in 1983. In addition to that, Social Security payroll taxes were increased for workers and for employers in 1983 and beyond. And the point and purpose was that the Social Security system would accrue a surplus, year by year, to be used later when it is needed.

I would like to just show my colleagues some of these surpluses that are going to exist. This chart shows what is happening to the Social Security trust fund. The Social Security trust fund isn't contributing a penny to the Federal deficit. In fact, the taxes taken out of the workers' paychecks and the taxes coming in from business, which are being paid for the purpose of keeping the Social Security system solvent, are in this year $78 billion more than is necessary to be spent in Social Security—just this year, $78 billion more. But you will see from the chart, every year from 1996 on up to the year 2010—and the surplus goes on out to 2019—surpluses every single year. This program doesn't contribute a penny to the Federal budget deficit, not a penny. It is taking in far more than it is using, at this point, every single year. This year, $78 billion more than is spent—just in this year alone—is taken in and put into the Social Security trust fund.

Now, I don't think those facts are in dispute. At least I have not heard anybody come to contest them. These are numbers from the Social Security Administration. I think the Congressional Budget Office reaffirms these numbers. Nobody is contesting that. So if these surpluses exist, why do they exist? Why are workers paying more than is needed to run the Social Security system today? Because the plan was to save it for the future when they and their children will need it.

What happens under this constitutional amendment to balance the budget? Under the majority's proposal, this money is not part of a savings account, in a trust fund. This money becomes part of all the other money in the system. This money is no different than a dollar of income tax. It is no different than any other dollar of revenue the Federal Government has and is used as an offset against all other spending.

In 1983, I was on the House Ways and Means Committee and we largely accepted the Greenspan commission's report. That report included a whole series of steps to respond to the Social Security problem that we faced. In 1983, when the Ways and Means Committee considered this legislation, I offered an amendment and I had thought the amendment was defeated. I said that on the floor, and I was wrong. I looked it up. The amendment actually passed in the Ways and Means Committee of the House of Representatives. It was dropped out in conference with the Senate. That was before I served in the Senate, and I spoke less well of the Senate at that point. But the amendment I offered in the Ways and Means Committee was approved, and it got through the House. I want to describe the amendment, just to say that I am not on this floor as a Johnny-come-lately on this issue.

Fourteen years ago, in 1983, when we debated the Social Security reform package in the Ways and Means Committee, which was the committee of jurisdiction—that is where it all originated, and I was a member of the committee—I offered an amendment on March 1. My amendment was exactly what I am talking about here, in 1997, in the U.S. Senate, to take the Social Security system and its trust funds and the surpluses it is going to have out of the unified budget so that its money cannot be used for every other purpose in Government that some would want to use it for—take it out, separate it, make Social Security whole and make decisions about Social Security, both on spending and taxing, on the basis of whether you are going to make the Social Security System solvent. Don't make Social Security decisions on the basis of whether you want to fund the star wars program, or whether you want to fund some other program in some other agency. Make decisions about Social Security and its future based upon the merits of Social Security solvency. On March 1, 1983, I offered an amendment. The amendment would have removed the Social Security system from the unified budget effective October 1, 1988. I gave it a 5-year phase-in, so it could be removed completely in 1988. I made a statement. I will not make it today, but it is essentially what I have been saying ever since. There is a tendency for everyone to want to use those funds for purposes other than solvency of the Social Security system.

Now, when I offered that amendment, in 1983, I was supported, among others, by Congressman ARCHER, who now happens to be chairman of the House Ways and Means Committee. Congressman ARCHER made the point in 1983 that "if the Social Security funds are permitted to be used in the unified budget, it will distort all of the spending and permit massive deficit spending out of the general fund." And so Congressman ARCHER supported me—a Republican, now head of the Ways and Means Committee, supported me. Congressman Gradison supported me, also a Republican on the Ways and Means Committee.

The point is, in 1983, we started down the road of doing the right thing with my amendment, and then it got thwarted. Here we are, 14 years later, building substantial surpluses in the system that we need when the baby boomers retire. This constitutional amendment—yes, every President, including this President, and every Congress, including this Congress, has used the money the same way. It is wrong. The budget deficit, last year, was not $107 billion, as advertised by the CBO; it was $107 billion plus the $70 billion they used of Social Security funds. The same was true back when it was a Federal deficit of nearly $300 billion. It was more than that, because then they were using the Social Security funds as well.

My point is, the proposal in the Senate will enshrine in the Constitution a practice that is fundamentally wrong. It says, take all these Social Security trust funds—one of the few sober things done in the 1980's, to save for the future—and just throw them in with other revenue and balance it out and measure it. If you come to zero, that is fine. But it is not fine, because nobody can answer the question I have asked: When you say you have come to zero, why does the Federal debt continue to increase? Why, in the year in which you claim you balance the budget, does the debt increase $130 billion? Because you are not truly saving in the Social Security trust funds. That is the point of the substitute amendment I offer.

If we had done the right thing 14 years ago, in 1983, we would not even be discussing this. Well, we might. My fear back then was the tendency for those who want to get their mitts on this and use it for another purpose.

But I can't think of one Member of Congress who would come to the floor and say: I have a plan. Here is my plan. I think it is going to be really politically popular. My plan is to tell workers and their employers that we want to have them contribute to Social Security, and then take some taxes from them and call it the Social Security tax, promise them to put it in a trust fund, promise that we are going to dedicate it for one purpose, and that it will be available when it is needed in the future. And then the second part of my plan is more intriguing. The second part of the plan is that, once we get it, then ignore all the promises and throw it in a pot with all the rest of the money and use it to add up the revenue so you can say you have balanced the budget.

I would like to know of one man or woman serving in the House or Senate who is willing to stand up and wave their handkerchief and say, "Count me in, sign me up to that, let me do that right now." Is there one? Is there one Senator? I do not think so. Yet, if you vote for this constitutional amendment, that is exactly the proposition you support, exactly. There isn't any way to argue it another way.

You can argue that pigs fly and shrimp whistle and that this piece of paper is purple and that grass is black.

You can argue it in whatever way you like. But when the day is done, what you have described, under the constitutional amendment offered by the majority, is that you believe it is OK to take dedicated trust funds to the tune of over $1 trillion and mix them up with other revenues so that you can claim you have balanced the budget.

What I offer is a substitute constitutional amendment that includes the Reid provision which, if passed, would prevent that very thing from happening. It would say that, if we are going to balance the budget, we should do it honestly. Let's do it honestly. It would say that at the end of the day when you have balanced the budget, the debt clock will not still be increasing, the debt clock will be a stopwatch, and there will be no increase in the Federal debt. Maybe we will start seeing a paydown or a drawdown on the debt. Wouldn't that be a nice thing to see happen? The proposal that is on the floor of the Senate by the majority would enshrine in the Constitution this practice which I have described. My substitute constitutional amendment would prevent that very practice. That is a pretty stark difference. Those who want a constitutional amendment, those who want a balanced budget, if they will support my substitute—I think we will have 70 to 75 votes this afternoon—we will have a constitutional amendment to balance the budget, and we will have done it the right way and we will not have misused the Social Security trust funds.

We have a law. I know Senator HOLLINGS has been over to the floor. Long after 1983 when I did what I did in the House Ways and Means Committee successfully, but then it was dropped in conference, Senator HOLLINGS in 1990 wrote a law that requires the Social Security System to be treated as off budget and not part of the unified budget. That is now the law, section 13301 of the Budget Enforcement Act. Senator HOLLINGS has talked about it a number of times. That existing law will effectively be nullified by this constitutional amendment. Senator HOLLINGS makes that point. There is no one in this Chamber who has said Senator HOLLINGS is wrong because they can't say he is wrong. This constitutional amendment will nullify Senator HOLLINGS' law. And it will enshrine in the Constitution a practice that I think is fundamentally wrong.

I said last year that we have three different arguments, and it is hard for me to reconcile them. I try to keep them straight.

There is one group who stands up and says, "What are you talking about, the Social Security trust fund? Don't you know there is no trust fund? There is no Social Security trust fund."

Then we have the second position. These are the three stages of denial. The second position is, "Yes, there is a trust fund, but we insist we are not misusing it."

The third position is, "There is a trust fund. We are misusing it, and we pledge to stop doing so in the year 2008." That was the third thing I was told on the Senate floor in the 1995 debate.

So those are the three stages of denial as best I am able to interpret them.

I don't know what people think when they hear this debate about this issue because it is so intriguing to see all of this maneuvering and movement. This is not rocket science. It is important. It is critically important. But it is not rocket science to understand that you have a certain amount of money, a certain amount of expenditure, and a certain money dedicated for a certain thing. So you have money left. Either it matches or it doesn't. Let's say that we take the amount of money dedicated for something else and bring it over here and claim it is all matched up. It doesn't take sophisticated mathematics to understand the bankruptcy of that. That is why you end up, when they say they have balanced the budget, with $130 billion in increased debt.

The Congressional Research Service has reviewed this matter several times. I am amused actually by the folks who came rushing to the floor of the Senate with six dozen different interpretations of the Congressional Research Service missive on this issue.

But the Congressional Research Service has concluded something interesting. What they have concluded is that, under the majority's proposed balanced budget amendment, if you save this money to be used for the future, you can't spend it in the future, according to the Congressional Research Service, unless when you decide to spend it you have a corresponding tax increase or a corresponding budget cut somewhere else. You are simply, with this amendment that they are offering, prevented from spending the savings that you have accrued.

That will be interesting—when somebody shows up for their Christmas Club savings account or to cash in their bonds someplace and the bank says, "Well, the only way you can take your savings out is if you cough up a like amount yourself," people would look at them like they have been drinking all afternoon.

That is exactly what the Congressional Research Service says is required by enshrining this practice in the Constitution: save money for a specific purpose and then later call on that money to be used, what are you required to do? Raise taxes in order to use it. That is not much of a bargain, in my judgment. That is what the Congressional Research Service says. We had people knocking each other down at the door over here trying to get through the door waving several iterations of the Congressional Research Service memos, all of which said the same thing with different language.

So they all had a chance to wrap it around on the floor, wave it, create a bunch of wind with it, and all of them said exactly the same thing. There isn't any way, with the proposal that we have before the Senate, where you can use the savings that we have promised people we would use for Social Security unless it is timely to do it. You either cut other spending or raise other taxes to do so.

There are other points that I wanted to make. But I am going to at this point conclude my remarks—there are others who want to speak on this issue—by saying this:

There have been a lot of polls cited about this issue on the floor of the Senate. Frankly, I think there are too many polls in our country, and there are too many pollsters in our country. I wish people would stop polling and stop worrying what the pollsters are telling us and do what is in their guts, but do what they think is right, do what the message somewhere between the brain and the pit of the stomach tells them is right to themselves and to their constituents of the country. I am a little tired of hearing about this poll or that poll, this cross tab and that cross tab. Yes, the polls will show that the American people want a balanced budget, that they support a constitutional amendment to balance the budget, and, yes, polls will show, if you ask them the question: "Should you enshrine in the Constitution the issue of Social Security trust fund?" those same people will say, "No; absolutely not." Seventy to seventy-five percent will say that is fundamentally wrong.

So you can find polls every way from Sunday to support every position on the floor of the Senate. The only thing that matters to the American people, in my judgment, is, are we going to make the decision to honestly balance this budget? If one of those decisions is to alter the U.S. Constitution to require more fiscal discipline, I will participate in doing so and I will vote for it. But I will not in any event vote for a proposition that alters the Constitution that will in my judgment require us to come back just as we did on the 21st amendment and repeal it because it is a dishonest budgeting practice—yes, practiced by both political parties. It is dishonest, in my judgment. It takes from those who are now paying taxes under the pretense of savings for the future when they are going to need it, and it says to them, "We will give you an IOU instead" that we are not going to be able to pay because we are going to use the money now. That engages in a practice of let us pretend that we have balanced the budget even as we increased the debt.

When this is an honest proposal, and a proposal as I offered as a substitute

that is an honest proposal that will not allow that budget practice to occur, then we will alter the Constitution. If my friends in this Chamber who are anxious to alter the Constitution will join us in doing it the right way, they will have this afternoon 70 to 75 votes for doing it and they will be able to celebrate an achievement that is significant. If not, they may not be able to alter the Constitution because there are some of us who refuse to support something that is as flawed as that which is being proposed on the floor of the Senate today.

I yield the floor. I reserve the remainder of my time.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I have appreciated the history lesson in preserving the Social Security system. I wish that the history lesson included a much better ending than where the Senator ended. I wish that the Senator's amendment included an ending for where we are going. The Senator's chart goes out to the year 2010. I think he could have carried it out to the year 2019 and had a pretty good-looking chart. It starts to curve off the other end if you get past 2010. So he is showing the best of the best, the best times for building up money that should be in a reserve for Social Security. He is leaving off the time that it starts to taper off. And the Senator is leaving off the real lie of a substitute amendment that says take Social Security off budget. The Senator is leaving out the part where we have to pay in for my generation to draw the money out. The Senator is talking about a short-term solution rather than a longer term solution. We have to have a long-term solution.

I appreciate the efforts the Senator went to when he was in the House. We have to have a long-term solution for that. And we have to do it through enabling legislation so that it doesn't just cover from now till the best of times but covers from now till the best of times through the worst of times. We need to have an accounting system for Social Security that is honest with our seniors.

One of the things I have been doing through this debate is to mention that we are not even talking about what the true cost is out there of making this system actuarially sound, of putting the same kind of requirement on this retirement fund that we have forced on every business retirement fund in this country, one that includes annual audits to make sure that we are not lying with those business pensions the way we are lying with Social Security.

We tell the businesses of this country that they are going to take their pension funds and they are going to contribute to those pension funds to the extent that the money will be there at the time that the person retires so that they will have an annuity that lasts through the rest of their lifetime. There is a variety of them. Some of them have COLA's with them, some of them do not have COLA's with them. But there is an honest attempt by the Senate and the U.S. Government to force them to have money on hand, true money on hand, true trust funds that will pay those people through the time they expect to be paid. Then we turn around and we say, well, that is not the requirement for us. The Senator is trying to go to that in the amendment, but he does not get all the way. He only gets through the good times and we do not talk about the future times.

Mr. DORGAN. If the Senator will yield for a question, I would be happy to share the time with him on this.

Mr. ENZI. As long as it does not come out of my time.

Mr. DORGAN. I will be happy to ask the question and have the response come out of my time.

This is a chart that shows what happens to Social Security through 2035. The Senator is correct: at 2029, you run out of money; there is nothing left in the trust fund. And the purpose of this saving, incidentally, is so that you have an amount of money to cover the deficits, at least between 2019 and 2029. There are going to have to be deficits beyond 2019, no question. But with this constitutional amendment, if you do not have this money available, what you have done is you have shortened the life of the Social Security trust fund by 10 years—10 years, and that is the problem. Current law provides that the trust fund will go broke in 2029 or thereabouts. But this constitutional amendment that is on the floor would in effect make the trust fund go broke 10 years earlier, unless the Government raises taxes or cuts spending to fund the deficits between 2019 and 2029. So the question of the responsibility here on the side of saving to meet the future, the constitutional amendment that the Senator supports does precisely the opposite, and that is the point I was trying to make.

I appreciate the Senator yielding.

Mr. ENZI. Madam President, the constitutional amendment that I support recognizes the red that is out there on the end as well as the green and recognizes a need to stop doing to Social Security what that huge green there shows at the present time. I am saying that we need to start recognizing Social Security honestly, not calling it off budget so we can force things into Social Security in future years by merely naming them "Social Security" and not having to account for them in the deficit—to recognize them honestly.

Our seniors think that there is a trust fund out there, that there is money out there that will continue to fund them. I am always fascinated when I see the articles which suggest that we should privatize Social Security. If we tried to privatize it, we would recognize that it does not have the money there; that the money is not there to be able to do it because we have this system of taking the money that is paid in now and spending it at the moment that it is paid in, with a piddly surplus. And when you look at the future of Social Security, that little green line there is not a big surplus. It is $1.3 trillion, but that is not a big surplus. The actuarial liability on the Social Security system is $9.2 trillion.

This is money that people expect to be there. We are giving the impression that it is there. This balanced budget constitutional amendment is not a constitutional amendment just for the next few years. It is a balanced budget constitutional amendment hopefully for the rest of the history of the United States, and it will require us to have good accounting.

As an accountant, I have been fascinated with all of the debate that we have had in this process to talk about things that we should be doing as a nation. This is the place we have to start, not by scaring our seniors but by answering our seniors, not by scaring our seniors but by setting up a system where they understand the system and where it is and help us to force the kind of accounting, the kind of disclosure that will help to assure that that money will be there, not just for the ones on the system now but for you and me and the generations to come.

I have explained before that the kids in this country, if you ask them if they are going to get Social Security, will agree that they are more likely to see an unidentified flying object, than to see $1 of their Social Security money.

They already believe they are not going to get this money, and they are paying 7.45 percent of their paycheck, every time they get one, into Social Security. And that is being matched by their employer for another 7.45 percent. That is almost 15 percent. That would be one tidy pension fund if it were truly a pension fund.

I keep asking, if we do not have good accounting for this, beyond the year 2010, not just for the present time, will not that next generation cause a revolution in this country if they are paying, and there are estimates that they will be paying 84 percent of their wages in taxes—that includes their Social Security taxes, 84 percent of their taxes, and at a point that will only be going to pay interest on the national debt. It will not build another road that we have been talking about in capital budgeting. It will not add to the defense of this country that we have been talking about. It will not provide anything for education that we have been talking about. It will pay interest on the national debt.

Now, if you and I were paying all of our taxes, and they are not nearly as high as what we are talking about those kids paying, if we were paying all of that and it was only paying interest on the national debt, what would we do? We would say we paid into that fund. How come we are not going to get it? Is anybody entitled to it? I am afraid there could be a revolutionary generation there. They may do it calmly and precisely by joining this body and the one down there and the Presidency and taking that away because they will be paying taxes that they have never see. That is what they already believe.

If we move Social Security off budget, if we quit having to account for it as part of the deficit—we can add more stringent requirements to the balanced budget constitutional amendment that is before us, we can add more stringent requirements to that to recognize what has been said here, and it can be done through a normal statute, the enabling act, for instance. We can put the enabling legislation in it that will take care of recognizing the surplus spending we are having now and the huge deficits we are going to have in the future.

I remember not too long ago sitting in on the President's State of the Union Message, and I was kind of surprised when he got to page 2, about halfway down the page, after he had said all the things about how we needed to be bipartisan and how we needed to balance the budget and we did not need a balanced budget constitutional amendment to do that; we just needed action, and then a couple of days later, making use of the extra time that he was given by this body and the one across the hall, he presented a budget. And was it balanced? No, it was not balanced. Did it do with Social Security what the Senator is talking about doing? No, it did not do it.

Do we need other constraints to make sure that there is good accounting for Social Security? To make absolutely sure, as all of us want to do, that there is Social Security there? No, it did not recognize that surplus from Social Security in such a way as to preserve it as a surplus.

I have said before that, individually, we all promise a balanced budget; collectively we just don't seem to be able to get there. We have to do that, for our kids and our grandkids.

And we cannot ignore the seniors in 2019. On behalf of the seniors, we do need to recognize the debt, we do need to recognize what is happening now and into the future. And we are only going to do that by legislation forced on us by a balanced budget constitutional amendment and one that goes further than what is being done here. I join in protecting Social Security, as would all the other Senators, but not through one that only solves half the problem.

I reserve the remainder of my time.

Mr. DORGAN. Madam President, I appreciate the opportunity to serve with the distinguished Senator from Wyoming. I appreciated his statement. I obviously disagree strongly with his contention that doing what he proposes to do will in any way strengthen Social Security. It will do exactly the opposite. In fact, the surpluses that we are desiring to save are not going to be there and that is precisely my point. Let us balance the budget, but let us also do what we need to do to make sure the surpluses are to be saved for the future.

I ask my friend from Wyoming, it is probably unfair for me to ask him this, but if he is able to answer the question: Why, at a time when we have a balanced budget, presumably, by the constitutional amendment and by the mandate, in 2002, why the Federal debt will continue to increase? Is that not because the trust funds are used to show a balanced budget?

Mr. ENZI. Madam President, the reason that debt has to increase is a requirement that we be honest with those seniors. That is being honest. That is the utilization of those funds, which are a trust fund, which are an intergovernmental transfer that has to be recognized as a part of the Federal debt under the accounting system that we use. It is not an adequate accounting system to show where the money has gone.

Mr. DORGAN. If we are going to be honest with senior citizens and take the money out of the trust fund and claim you take the money over here but the Federal deficit keeps growing, isn't the purpose of limiting the Federal deficit to discontinue the building of additional debt? The whole purpose here, in my judgment, is to stop burdening the shoulders of our kids and grandkids with more debt. If we claim to balance the budget at the very time the debt keeps increasing, what have we added onto our children's shoulders? Shouldn't we, and if we should, won't you join us—shouldn't we decide we want to do two things: Balance the budget and stop the Federal debt from increasing? Are those not two goals we ought to aspire to? And if we are going to require discipline in the Constitution, shouldn't we aspire to acquire that discipline rather than say we balanced the budget even as the Federal debt keeps increasing?

I am not asking the Senator to respond for everybody on his side of the aisle, but I continue to ask the question, and will this week, because I think the Senator from Nevada and I have proposed something that will respond to both issues. Let us balance the budget and let us do so in a way that does not have the Federal debt continue to increase, even after those who claim they have balanced the budget have finished the job, according to them.

Mr. REID. Will my friend yield to the Senator from Nevada, 10 minutes?

Mr. DORGAN. I will be happy to yield to the Senator from Nevada 10 minutes and appreciate the response of the Senator from Wyoming. We obviously disagree on this, but I hope, as we move through this, maybe we will all understand. I am going to vote for my substitute, as is the Senator from Nevada. I will support a constitutional amendment, the right one and the one that both discontinues deficits and discontinues the growth in Federal debt.

I will be happy to yield 10 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, I saw my friend this afternoon offer the amendment, my friend from North Dakota. I wanted to come to the floor for a couple of reasons. One is to express my personal appreciation for the determination and the expertise he has lent to this argument over these last several years. The Senator from North Dakota has a background in finance. He was a State tax commissioner. He served in the other body, the House of Representatives, on the Ways and Means Committee for many Congresses. So he brought that with him when he came here.

I have read with interest the numerous op-ed pieces he has written for newspapers all over this country on this issue, on the matter now before this body. I do not think there is anyone—I can say with certainty—there is no Senate delegation that has the financial expertise that the delegation from North Dakota has. The senior Senator and the junior Senator from North Dakota are people whom I, and many people in this body, look to for guidance when it comes to matters dealing with finances. So I express my appreciation, again publicly, to my friend from North Dakota for what he has done to narrow the issue and to make sure that it is an understandable issue.

Mr. DORGAN. I wonder if the Senator will yield for a moment? I deeply appreciate the compliments. There are probably too many compliments on the floor of the Senate. I suspect there are a lot of people out there who view us all as a bunch of windbags in blue suits. The fact is, people judge us not on what they think we say or do here on the Senate floor but whether the public policy we create improves their lives, whether at the end of the day we advance this country's interests, whether we have helped them find a way to send their kids to a better school, whether we have helped them find a better job, whether kids have an opportunity to breathe clean air and clean water.

Compliments aside, the real task is for us to do the right thing for the future of this country, and that is part of

this debate. When you put something in the Constitution, it ought to be right for the future of this country.

Mr. REID. I say to my friend from North Dakota—a couple of things. First of all, the debate that has taken place, and this is what I wanted to add, after my compliment, the debate that has taken place has led to the ability of the American public to understand this issue. Now 75 percent of the American public agrees with us. That is not the way it was, when all this information that was not right was put out in years past. We have been able to put this issue so the American public understands it.

That is, the amendment we are offering, the amendment that has been offered by my friend from North Dakota, of which I am a sponsor, is what I refer to as the honest balanced budget amendment. I have been struck by the statements made by those proponents of the underlying amendment who come on this floor and say we cannot balance the budget unless we use Social Security moneys. That is my whole point. I do not want to do that. I want to balance the budget in the honest way and that is the right way.

I ask a question to my friend from North Dakota. Why do we refer to this as the honest balanced budget amendment?

Mr. DORGAN. It relates to the question I asked the Senator from Wyoming a few moments ago. With the alternative that is being proposed, the majority party's proposal, we will not achieve both a balanced budget and a freezing of the debt. What we will have is an increase in public debt, building up even as those in the Chamber claim they have balanced the budget.

I come from a very small town, as I have said repeatedly: 300 people. On Main Street on Saturday night everybody would come to downtown. The barber would cut hair until midnight—a wonderful place. You could not take this proposition we are talking about here today to my hometown and take it to the barber shop or the bar and tell people about it and have them say, "Yes, that sounds OK to me." There is not anybody who says this sounds OK. You cannot take money from people's paychecks and say to them this money we are taking is for Social Security and we promise to put it in a dedicated trust fund and we will save it for you, you cannot do that and say: By the way, we have changed our mind. The trust fund doesn't exist, or the trust fund exists and we are now misusing it, or it does exist and we promise to stop misusing it in 15 years. That does not work in a small town where people think through these things a little more rationally than I think is exhibited by some of the debate in Congress.

What we are proposing is to amend the Constitution of the United States the right way, sufficient so that at the end of the day we will require both the budget to be in balance and we will stop the growth of the increase in the Federal debt.

Mr. REID. I would also hope that people would look closely at the vote yesterday on the amendment that I offered to Senate Joint Resolution 1. We got 44 votes with one Senator being ill who is here today. And we will get on this amendment, I assume, a bare minimum 45 votes. I hope there will be some people like JOHN MCCAIN. You really do not have to talk about his courage. I think that has been established. It was established even before he was confined for 6 or 7 years to a prison camp in Vietnam. He is a courageous man. I think part of his courage was, certainly, apparent yesterday when he decided to vote with us on the amendment that I offered.

The senior Senator from Pennsylvania also voted with us.

I hope that we would get some other courageous people on the other side of the aisle to vote with us. Why? Because the balanced budget debate would be over for all time, because we would have to balance a budget. And it would be hard. We would have to make significant cuts or we would have to phase in and balance the budget, maybe by the year 2008, or maybe even 2010. But when that budget was balanced, I say to my friend from North Dakota, the debt clock would no longer continue to run.

I am willing to do that. If we are going to stop playing games with the American public, then let's balance the budget the right way, the honest way.

I had somebody come to me today and say, "Well, if you want to take the Social Security trust fund, why don't you take the other trust funds?" I told them the same thing I said on this floor yesterday. The Social Security trust fund is where the big bucks are. As Willie Sutton said when they asked him why he robbed banks, he said, "That's where the money is." The other trust funds don't mean anything in the whole scheme of things. But when you have budget surpluses that go into the trillions of dollars, that is the real money, and that is why we have to have a real honest balanced budget amendment. I hope the substitute is one that is adopted.

I read in the paper today that the majority leader had a trick up his sleeve. I hope the trick up his sleeve is they will vote for our amendment. We can have a celebration. I repeat, the celebration would be short-lived, because we would have to come back here, if the House adopts it and the States adopt it, and make some real tough decisions, but we won't be playing games with the American public. We would have a real balanced budget amendment.

Madam President, as I said yesterday, we are talking about small sums of money for millions of people. We don't have millions and billions and trillions of dollars that represent certain interests that want this Senate Joint Resolution 1 passed. We represent small numbers in dollars but large numbers in people. They are concerned about whether or not they are going to continue to be able to get their check of $700 a month to maintain their dignity. That is why this amendment is so important. We represent the working men and women of this country, not just the seniors, people who want to maintain the Social Security system for the years to come.

Social Security is the finest social program in the history of the world. This substitute will allow this finest social program in the history of the world to continue. I support the amendment that has been offered by my friend and would certainly ask my friends on the other side of the aisle to support it also.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, in the short time that I have been here, and this is my first year in the Senate, which means I have been here about 6 weeks, this is not even the first time we have debated and voted on this particular issue. We have had it thrown out several different ways, talked about several different ways, but it is always the same thing that we are redoing.

Of course, one of the reasons we do that and one of the reasons we exclude those other trust funds we talked about is that this is where the people are. It isn't this is where the dollars are, because we are talking about deficits in the year 2019, we are talking about people who rely on Social Security. There are people who need it badly, and they scare easily at the thought of losing it, and should. We are right there worrying about it with them, but we can't accept something that is half an answer.

I mentioned that we have voted on this three separate times. I think we talked about it most of the ways that we can, but I want to try and answer some of the questions.

Madam President, the balanced budget amendment does, indeed, require a balanced budget. Outlays must not exceed receipts under section 1 of this resolution. But it is also true that gross debt may still increase, even if the budget is balanced. That is because the Government's exchange of securities for Social Security taxes is counted as gross debt, and we had better count it somewhere. I don't think there is anybody out there who wants us to take those funds and not account for them somehow.

We passed a law that says that those Social Security funds have to be invested in the Federal Government.

That is where they are. The way that we account for them is to show them as Government debt. Should we loan them and not show them as Government debt? It is merely an accounting or bookkeeping notation of what one agency of the Government owes another agency. It is analogous to a corporation buying back stocks and debentures. Such stocks and bonds are considered retired obligations that, once paid, have no economic or fiscal significance. Thus, if we enact a balanced budget constitutional amendment, the debt the United States owes to everyone, but itself, will stop growing. It will not stop growing as long as we have the Social Security funds paid out as an investment in the Federal Government.

This type of debt, termed "net debt" or debt held by the public, is legally enforceable, and it better be. But if we don't balance that budget, the funds will not be there to pay this legal debt when the time for the legal debt comes due. Those bonds that we have in that great storeroom called Social Security, the bonds that have already been loaned to the Federal Government, have to be paid off at the time they come due. We will not be able to do that without a balanced budget.

If the debt zooms because of interest payments of debt, which last year amounted to $250 billion, budget deficits balloon with all the dire economic consequences, and we have been talking about those economic consequences and the advantages of a balanced budget. To assure that budgets will be balanced, unless extraordinary situations arise, debt held by the public cannot be increased unless there is a three-fifths of the whole number of each House concurring.

That net debt is considered to be a far greater economic significance than the gross debt is a widely held truism among economists. Indeed, in the study "Analytical Perspectives: Budget of the United States Government Fiscal Year 1998," the Clinton administration concludes that net debt, or borrowing from the public, whether by the Treasury or by some other Federal agency, has a significant impact on the economy.

On the other hand, the study also maintains that gross debt, or debt issued to Government accounts, does not have any of the economic effects of borrowing from the public. It is merely an internal transaction between two accounts within the Government itself. We have to account for the debt. We have to account for it honestly, and we have to balance the budget more than past the year 2010. A balanced budget constitutional amendment is for all time until altered by us, and we don't do that on a regular basis. It is extremely tough.

Our forefathers did provide a mechanism for doing it. That is the process we are going through now, and they made it an extremely tough one, with a two-thirds vote and then ratification by three-fourths of the States.

If this balanced budget didn't have so much backing, would there be all of this opposition to having it? In checking, if just the Senators from the States that oppose the balanced budget did not ratify this, there would never be a balanced budget constitutional amendment. But I know from traveling out there that those States are saying we live under a balanced budget constitutional amendment. It works. We don't have to go through all of these other funny little accounting gimmicks to get there. The people know when it is balanced. You don't hear of lawsuits on a regular basis dealing with their balanced budget constitutional amendments. Consequently, they will ratify this if they can get Senators from those States to back a balanced budget constitutional amendment.

I think that in a number of years, if not right now—I do think it will happen right now. I think this is the most important debate we could possibly be having in our lifetime because of the consequences in our lifetime and for generations to come. This is the most important thing we can be discussing. I do think if the last election didn't make the difference, the next election will make the difference, because people have promised their people at home that they will vote for a balanced budget constitutional amendment. We have to move on those promises so we can meet the expectations of the people at home, the people who voted for us, the people who sent us here with a trust in the political process. It is up to us now to fulfill that trust. I reserve the remainder of my time and yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, the views offered by the Senator from Wyoming made the point I have been trying to make so hard here this afternoon. The Senator from Wyoming indicated what the Senator from Utah has indicated before him, and others, saying that the gross debt will continue to increase even after the budget is balanced because we have to be honest about that to the senior citizens.

Gross debt will continue to increase—translated, that means that once the budget is balanced, the Federal debt will continue to increase. But they say, "Gross debt is different than net debt; net debt is different than gross debt," and it is, you know, "Honey, you're complaining about the credit card debt I owe, but you don't understand it's net debt versus gross debt. Net debt is more important than gross debt. You just don't understand."

I am sorry. Is it debt or is it not? Is it an obligation or is it not? Will it have to be paid back or won't it? We know the answer to that. Gross debt will continue to increase, the Senator says. That is the problem. That strips naked the entire proposition here and is why I hope Senators will vote for the substitute constitutional amendment I offer.

When the Senator says people have promised to vote for a constitutional amendment, they can vote for the one that I offer today, the right one, the one that at the end of the day will not have a budget in balance with gross Federal debt continuing to increase, but will have instead a budget that is in balance without an increase in gross debt. Gross or net does not make much matter to folks in my hometown. It is a debt and an obligation, it is saddling their children and grandchildren.

I will simply observe that as we discuss this, the end goal is not just to alter the Constitution of the United States; the end goal is to alter the decision-making process here in Congress sufficient so that we have done what the American people want us to do—put our budget in balance, eliminate budget deficits, and especially eliminate the increases in Federal debt.

I want to make one more point responding to something the Senator from Wyoming said. He talked about Governors and States. I have heard all these Governors and other folks from States come here and talk about their balanced budgets. It is interesting to me that those same Governors and States who claim to have balanced budgets also have debt.

Question: Why would a State that has a constitutional prohibition against having a deficit, why would a State like that have a debt? Answer: Because they have capital budgets. If they accounted for their budget the way the Federal Government accounts for its budget, they would not have balanced their budgets.

In fact, we have had Governors come up to a table and sit there and talk about the fact that they have balanced their budgets and then talk about fiscal policy and how it impacts their credit rating in their State. Credit rating? Why do you need a credit rating? Because of borrowing money. Why are they borrowing money if they have a constitutional provision that prohibits deficits? Because they have debt. They have a capital budget. I mean, that is a fact of life. We do not, of course. We probably should. I think we should. But, nonetheless, that is a different issue. I always am constrained to respond when people talk about the States balancing their budget—balancing their budget and then ending up with a debt.

So I will just conclude my presentation—Senator CONRAD is on his way to the floor, I believe—by again pointing out there is more than one

constitutional amendment being offered. I am offering one now as a substitute. Those who choose to vote for it can choose to alter this Constitution of the United States the right way.

The Constitution is just a mere, small portion of this booklet. We can alter this the right way. We can do it in a way that will not require us to come back as we did with the 21st amendment and say the 18th amendment is hereby repealed. It will happen, I guarantee you, if we pass the amendment offered by the majority party. That will not happen if we enact the amendment and send to the States the amendment I now propose as a substitute because it does the two things simultaneously. It requires the budget be in balance and does it in a way that you are not using large portions of trust funds and creating a future obligation by misusing them now so that you have claimed a balanced budget and then have increased the Federal debt.

Again, you can, until you are blue in the face, talk about gross debt and net debt and gross and net, this and that.

The question I ask is this: At the end of the day, when you claim the budget is in balance, is the Federal debt increasing? The answer is yes, and that is exactly what is wrong with this proposal.

The answer will not be yes if this Senate adopts my substitute. The question will be: At the end of the day, is the Federal debt continuing to increase? The answer will be no. The budget will have to be in balance and there will be no further increases in Federal debt. I yield the floor and reserve my time.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Chair recognizes the Senator from Wyoming.

Mr. ENZI. Mr. President, I feel compelled to speak a little bit on debt. That seems to be what we are talking about here today. We have talked about the Social Security debt for quite a while. There does not seem to be a lot of willingness to agree on some of the basics on it.

Again, I want to explain that if we are paying our Social Security in and that money is being invested in the U.S. Government, if we do not recognize it as debt, we are lying to the people right now. We have to admit what we have and what we are using.

The solution that is suggested by this substitute amendment is one that wants to take the Social Security numbers and just recognize them while there is this surplus, but really only recognize them while there is a surplus, to scare people about Social Security. We really ought to be worrying about Social Security.

Debt is really a difficult thing to explain unless it is your own. Then it is even scarier. We heard a little explanation of State debt here a moment ago. State debt is a whole lot different than this Federal debt we are talking about, because in every State that has a balanced budget, they are expected to pay the debt back.

We have yet to talk about paying debt back. We have a national debt, but I do not recall us saying that we are going to start budgeting not only to balance it, but we are going to balance it and pay back some of the national debt. We put that kind of requirement on the States. The States put that kind of requirement on themselves. They agree that if they borrow money, they have to agree to pay it back by a time specific.

They have covenants. They have to meet covenants on those bonds, which means they put a little extra away. Sometimes they have to fund things up front. So when they are talking about capital debts, they are talking about a whole different ballgame than we are talking about. They are talking about the same one that that mortgage lender is doing when he enters into a home loan. When you go out and buy a house, you do not just ask to pay the interest and expect to get a house loan. You do not expect to be able to buy two or three houses, if you feel like it, and just pay the interest. The banker expects you to pay the loan back.

I talked about municipal governments this morning. They are expected to pay the loans back. They are forced to pay the loans back. Many of them are forced to have a balanced budget. It is kind of interesting how their balanced budget estimates work. Theirs are a little more conservative than ours. They say, unless you can show that the economy has declined and you will not get as much revenue as last year, you will use last year's revenue estimates. That is pretty conservative.

If we had to say that in a growing economy we had to use last year's numbers, we would be able to pay back some of the national debt with what was left in a growing economy. We would be putting aside some in the good times to take care of the bad times.

That is the kind of an accounting system that we have to get to. That is the kind of budgeting that we have to get to if we are going to be fair, not only with today's generation alone, but with the ones of the future. We cannot keep buying the things out of the Christmas book that we want to have and expect our kids and grandkids to pay for it.

That is what we are doing at the moment. Any way we try and phrase Social Security so that we only want to recognize the money through the good times, not adjust for it in the bad times, we are not properly accounting for Social Security. We have to take care of it past 2010. The amendment before the Senate only takes care of it through 2010 and then allows us to lie about it, to ignore it, to not have to worry about it.

That is when the bonds come due. That is when the debt comes due from raising the debt limits over these years. I want to protect my seniors. I want to be sure there is money there in the year 2019 as well.

I yield the floor but retain the balance of my time.

Mr. CONRAD. I yield myself 8 minutes off the time controlled by the Senator from North Dakota.

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

AMENDMENT NO. 18

(Purpose: To protect the Medicare Health Insurance Trust Fund)

Mr. CONRAD. Mr. President, I ask unanimous consent that the pending amendment be set aside so Senator ROCKEFELLER's amendment can be called up.

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

Mr. CONRAD. I now send to the desk that amendent, and immediately after it is reported, I ask unanimous consent Senator ROCKEFELLER's amendment be set aside.

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

The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] for Mr. ROCKEFELLER proposes an amendent No. 18.

Beginning on page 3, strike lines 12 through 14 and insert the following:

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts. Medicare outlays shall not be reduced in excess of the amount necessary to preserve the solvency of the Medicare Health Insurance Trust Fund.

AMENDMENT NO. 17

Mr. CONRAD. Mr. President, we have heard a novel argument just now from the other side with respect to Social Security. The argument is that the only way we can save Social Security is to raid it. The only way we can secure the future of Social Security is to loot it.

Now, that is an argument that does not stand up to much scrutiny. The argument of the Senator on the other side is that if we take every penny of Social Security surplus funds as this balanced budget amendment that is before the body now contemplates, that once we have done that, we are then faced with a circumstance in which Social Security goes into deficits.

Let me just say the one thing we know for sure is that we are running those surpluses. The one thing we know for certain is that each and every year we are taking in more money on Social Security than we are spending. That was designed so that we would save those funds to be ready for when the baby boomers start to retire. Instead, what we are doing is taking

every penny and spending it on other programs. What we are going to find when the baby boomers start to retire is that there is a cupboard there, but the cupboard is bare, and the only thing in it is an IOU. The problem with that is then we are going to face draconian choices.

Our friends on the other side who are defending this balanced budget amendment to the Constitution say that is OK. It is OK if we raid every penny of Social Security surplus between now and the year 2019. We take $1.8 trillion of Social Security surpluses to claim we have balanced the budget because later on in the sweet by-and-by when this thing starts to go negative, we will be including that, as well.

That is an argument that frankly does not stand up very well because we cannot wait until Social Security goes negative. We cannot ever permit that to happen, not to the degree they have discussed on the other side, because you would never be able to meet your responsibilities and the promises that have been made. Those who have been taxed have been taxed in a regressive payroll tax in order to secure the promise that has been made. So the Congress is going to have to act and it is going to have to act soon to get our long-term fiscal imbalances addressed.

What our friends on the other side are doing in the short term—and by short term I mean the next 20 years—is to take every penny of Social Security surplus, every penny, throw it into the pot, and claim they have balanced the budget. That is not a balanced budget. That would not qualify as a balanced budget in any organization that I know of. That would not pass the laugh test in any corporate board room in America. If in any corporate board room in the United States had a circumstance in which the chief executive officer came in and said, "You know what, we have a little problem in the operations of this company, and what I am proposing is that we take the retirement funds of our employees, throw those into the pot, and call it a balanced budget," well, if you tried to do that, he would be in violation of Federal law. No. 2, he would be in violation of every accounting principle known to any financial expert in America.

I say to my friends when you hear the sweet siren song that they are going to balance the budget, you better ask this question, you better ask this question: What budget is being balanced? Because what you will find, as shocking as it may seem, is that they are not talking about a real balanced budget at all. They are talking about taking every fund in sight, every trust fund known to man, and taking the income from those and throw them into the pot and then say they balanced the budget.

As I said the other day, out in North Dakota we say you can call a pig a cow but it does not make it a cow. It does not make it a cow to call a pig a cow. You can call this a balanced budget. You can call it anything you want. It does not make it so.

In fact, if you look, here is what you will find. They will take in 1998 $81 billion of Social Security surpluses, they will take every penny, throw it in the pot, and say they balanced the budget. By 1999, $169 billion, and by the year 2002 they will take $465 billion of Social Security surpluses to claim they have balanced the budget. They have not balanced the budget. They just said they did.

That is exactly what people are tired of in Washington. That is Washington talk. You say something, you put a label on it, it does not matter if it is a true label, it does not matter if that really fits the description, but we just say it. That is what is wrong in Washington. We say things that do not mean what anybody understands them to mean in common parlance.

All we have to do is look to the year 2002 to see how misleading this whole argument is. If we look at the year 2002, the year that they are claiming there is a balanced budget, they are claiming no deficit in the year 2002, but you pierce the veil, you look a little further, and what do you find? The on-budget deficit that excludes Social Security and postal service accounts is in deficit by $103 billion. The gross debt of the United States is going to increase in the year 2002 by $110 billion. They are claiming they balanced the budget. They are claiming they balance the budget and the debt is increasing by $110 billion. Senator DORGAN had a chart that shows $130 billion. That is last year's budget resolution. This is this year's budget numbers for the year 2002. That is the difference between them. The principle is identical.

This, I think, shows how fraudulent this whole balanced budget amendment that is before the Senate now really is, because what they are trying to enshrine in the Constitution of the United States is the definition of a balanced budget that could not stand the light of day in any financial institution in America. There is not a single one that could take the retirement funds of their employees, throw those into the pot, and claim they have balanced their budgets. That is not a balanced budget.

We ought to be straight with the American people and straight with ourselves as to what is happening. The best way for us to deal with what is before the Senate is to draft a balanced budget amendment that deals with the fatal flaws of this one. No. 1, define a balanced budget in an accurate and honest way. Let us say clearly to the American people, we are not going to loot every trust fund in sight. We are not going to raid every single surplus trust fund in America in order to claim a balanced budget. That is the kind of fire-sale approach that is just going to dig us a deeper hole for the future—in fact, a hole so deep we would never dig out.

Mr. President, I yield myself another minute of my colleague's time. Won't he be surprised when he returns.

Mr. President, let me just conclude by saying there is a better way. We have to deal with the fatal flaws. We don't loot trust funds. That ought to be principle No. 1. No. 2, we ought to provide for national economic emergencies. No. 3, we ought to have a circumstance that makes certain that the Justices of the Supreme Court don't write the budget of the United States.

As I said yesterday, I can look through those doors and I can see a corner of the Supreme Court of the United States. Our forefathers never intended that Justices sitting around a table at the Supreme Court would write the budget of the United States. We ought to make certain they do not.

The proposal by Senator DORGAN would address the first problem—the raiding of the Social Security trust fund to claim balance. I hope my colleagues will support it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Ms. SNOWE. 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.

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

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

Ms. SNOWE. Mr. President, I yield as much time as he may consume to the Senator from Utah.

The PRESIDING OFFICER. The Chair recognizes the honorable Senator from Utah [Mr. BENNETT].

Mr. BENNETT. Mr. President, during this debate, we have heard time and again from some of the opponents to the balanced budget amendment to the Constitution that we are getting toward balance without a constitutional amendment. The President has proposed a balanced budget by the year 2002. The Republicans have called for a balanced budget by the year 2002. Why do we need a constitutional amendment when we have the result before us?

I wish to point out that we do not have this result before us. We have the same kind of rhetoric about the balanced budget that we have had for years and years. I will focus primarily upon the President's proposal for a balanced budget by 2002 and express why I do not believe that it will achieve that result and why we need the discipline and the balanced budget amendment in the Constitution to get that result. We are not getting it now.

If I may, Mr. President, I will show some charts. Here are the levels of deficits outlined in the President's budget. If you look at that chart all by itself, it looks fine. It shows a downward trend. What it does not show is that, in the first year of the President's budget, in 1997, he calls for the deficit at $125 billion, up sharply from fiscal year 1996. So if we are going to have a balanced budget, we start by increasing spending from last year to this year, we start by going from $106 billion, up to a deficit of $125 billion. We stay in that neighborhood through 1998. We stay in that neighborhood in 1999. We don't start coming back to the level of where we are today, at $106 billion, until the year 2000, and we do not see a significant reduction in the deficit from its present level until the year 2001.

Now, there will be cynics among us who will say that it's not a coincidence that the year 2001, which is the first real year of reduction from where we are now, happens to be the first year that Bill Clinton will be out of office, and the deficit reduction will come only under his successor and successive Congresses.

We have seen examples of how serious the President is about these outyear budgets. Outyears, Mr. President, is a term that we in Washington use for the future. Folks back home don't understand the term "outyears," and so maybe they don't understand what we mean when we say this problem will come in the outyears, or we will get it solved in the outyears. What they really mean is we will deal with that tomorrow. I have said on this floor before that I am afraid when it comes to budget matters, the theme song for this administration comes from the musical Annie: "Tomorrow, tomorrow, I love you tomorrow, you're always a day away." That is what we see here in this deficit level proposed under the President's budget. It will come tomorrow. It will come after the President has left office. It will be future Congresses that will have to deal with that.

Now, I sit on the Appropriations Committee, Mr. President. As a member of that committee, I see the budget requests that come from members of the executive branch. Last year, I sat on the subcommittee chaired by the Senator from Missouri, Senator BOND, and we had coming before us on that subcommittee a number of agencies that talked about their budgets. One of them was the Veterans' Administration. I have here what Secretary Brown of the Veterans' Administration had to say formally and on the record with respect to his budget. Senator BOND, the chairman of the subcommittee, questioned him about the drastic cuts in the outyears, and asked the question: "What is going to happen when you have to make these drastic cuts?" We got an answer from Secretary Brown that says, "I am not going to have to make those cuts. The President has assured me that I will not."

Reading along, Senator BOND said, "So you are saying that these outyears mean nothing. It is all going to be negotiated in the future. So we should not worry about the President's budget plan. He does not intend to hold you to those significant decreases in spending. This 7-year budget plan is a sham. It has no substance is what you are saying. You are not planning to live with that budget."

That is the statement from the chairman of the subcommittee. This is the response from the Cabinet-level officer in the President's administration to that statement. He says, "I am not planning to live with it. I am not planning to live with your budget * * * nor am I planning to live with the President's line."

If the Cabinet officers are not planning to live with the budgets laid down by the President, what credibility should the Congress give to the budget laid down by the President?

The Secretary said—lest we think the Secretary is speaking on his own, I am quoting from his testimony—the Secretary said, "The President understands that. I talked with him personally about it, and that is one of the reasons why he gave me his personal commitment that he was going to make sure that the Nation honors its commitments to veterans and that he will negotiate the budget each and every year. So the main point that is realistic up there is the President's 1996 budget and his 1996 budget request. We all know what is going to happen to that, but the outyears and the tough decisions will be made each and every year."

He said on the record to the Appropriations Committee of this Congress that the only number he was willing to live with was the President's number in 1996 and the rest of it would be left to the future. If I may, tomorrow we will deal with that. Tomorrow, and tomorrow is always the day away.

Lest you think this was an isolated incident, I take you to another hearing that occurred in that same subcommittee on which I sat. This has to do with NASA. I am a great supporter of NASA. I believe we get our money back tenfold that we spend in NASA in terms of the technology spinoff that takes place, the jobs that are created. I think NASA is a place where we should continue to spend money. It is the same thing. NASA was going to have a nice budget for the near term, the present budget, and then there would be drastic cuts in the outyears.

Senator BOND said to Dr. Goldin, Administrator of NASA, "Now, I understand you have been told that the numbers should be expected to change for the outyears, so there is no need to defend any specific funding level in his budget, nor any likely programmatic consequence of such funding levels. Is that your understanding?" Dr. Goldin, Presidential appointee, Administrator of NASA, said, "Yes, and based upon assurances I have had by discussions with the administration, I expect that as the clarity comes into focus, the outyear budgets will change."

We all know which way they will change. They will go up. As I say, I am delighted by that because I am a strong supporter of NASA. But I am not delighted by the sleight of hand that occurs in the overall budget figures which we saw in the first chart where the President says, overall, yes, we can continue spending at a level higher than we are spending today for all of the years that I am in office and then we will project that the savings will come. This is what we are being told is the budget. This budget proves that we do need a budget amendment. This budget shows we do need the discipline which would come from writing something into the Constitution.

Mr. President, I have one other chart that I want to share with you and others who may be watching which puts this whole debate into a different perspective. I have used this chart on the floor before. It is a slightly different chart than many we have seen. This is not a chart of the debt in absolute terms. This is a chart of the debt in relative terms.

Frankly, to me, as a former businessman, the relative terms make more sense. If you take the debt as an absolute number and do not have anything to compare it to, it frankly doesn't mean much. I have used this analogy on the floor before. But I have learned since I have been in the Senate that there is no such thing as repetition. So I can use it again with a perfectly clear conscience.

Taking a business with which I was involved before I came to the Senate, when I went to work for this business as its chief executive officer it had debt of $75,000. That debt, given the size of the company, was sufficient to sink the company. They were doing a total of $250,000 in business, a total volume $250,000 a year, and they owed $75,000 in debt. They were in serious trouble. There was no way they could pay that debt off with $250,000 in total volume because their margin on that total volume that they could keep after they bought the raw materials for their product was relatively small. They were in deep trouble at $75,000 in debt.

When I left the company prior to my run for the Senate, that company had $7.5 million in debt. And if all you looked at was a chart that showed $75,000 to $7.5 million, you would say this company is clearly going broke, and what terrible stewardship Mr. Bennett provided as the chief executive officer of the company if he allowed the

debt to rise from only $75,000 to $7.5 million in only 6 years. When we had $7.5 million in debt, the company was doing $80 million in annual revenue and we happened to have about $20 million in cash. You say, "Well, why would you have any debt if you had $20 million in cash?" It was left over from the period of time when we had to mortgage some of the buildings in order to get some built and there were prepayment penalties on the mortgages. So it made more sense to the shareholders for us to keep the cash than to pay the prepayment penalties on the mortgages. So the size of the debt frankly was not the key issue. The question was, how big a debt do you have compared to the financial strength of the company? And $7.5 million in debt compared to the financial strength of the company when I left it was frankly nothing at all to be concerned about, whereas the $75,000 in debt when I began there was threatening to destroy the company.

So I have taken the national debt and expressed it not in absolute terms, not in the debt where it was in this year and how rapidly it has risen to where it is now, but as a percentage of the economy, gross domestic product, the total production of goods and services in a year. And you will see that the greatest time of debt in the history of this country as a percentage of gross domestic product, or GDP as we abbreviated it, was at the height of the Second World War. This is 1945. Our debt stood at 130 percent of our total year's output of goods and services.

Now, you will notice that at the end of the war the debt as a percentage of GDP started falling and kept falling fairly dramatically, and kept falling and kept falling and it bottomed out in the mid-1970's. It got down to about 30 percent of GDP, from 130 down to 30, and then something started to happen. And then something started to happen. It started to happen before Ronald Reagan became President. It started to happen before the defense buildup under Caspar Weinberger. It started to happen before the tax cuts that were passed by this Republican Senate in the early 1980's. The debt started during the Jimmy Carter years, and it started back up. And for the first time in our history we saw the debt increasing as a percentage of GDP during peacetime. Prior to that, the debt always came down during peacetime, and only went up during wartime, as a percentage of GDP.

What happened? Was it Jimmy Carter's fault? Was it the Republican Congress' fault? Frankly, it was the kicking in of the automatic increases of entitlements in an aging population that started the debt to increase as a percentage of the gross domestic product. No politician was responsible for it, and no politician can take credit for having solved it until we muster the courage and the strength on this floor to address the issue of the automatic nature of entitlement increases.

We have been unable to do that. We have talked about it, but we have been unable to muster the necessary political courage. We meet in the cloakrooms, we meet in the dining room where we talk to each other, and we tell each other this is what we have to do, and then we do not muster the majorities to do it. There is one way to make sure we will muster the majorities to do it and start this back down, which is where it needs to be moving. The way to do that is to write into the Constitution, the basic document that governs all of our activities, the requirement that we balance the budget, and have no deficit. As the economy grows, even if the debt stays exactly where it is, it will diminish as a percentage of GDP as it did in the 30 years between the end of the Second World War and the time when it started back up. We can go back to that downward trend if we just keep the debt where it is. And the only way we keep the debt where it is is to balance outlays with income every year. I say the time has come to put the requirement that we do that into our basic document, the Constitution, at which point we will then have a balanced budget.

Mr. President, there are many other things I could say about all of the debate that has gone on on this floor. Frankly, much of what I have heard in the debate on this floor I think is irrelevant to the core issue. I can comment on the various amendments to the balanced budget amendment that have been raised. I will not because these issues have been dealt with by my colleagues in great depth, and I see no point in repeating all of that.

I am a reluctant convert to the idea of a balanced budget amendment. I have made that point clear before. I do not like amending the Constitution. I have voted against amendments to the Constitution that many of my colleagues thought were meritorious simply because I think the Constitution is so significant a basic document that we should exhaust every other remedy before we consider amending it.

It is with great reluctance that I make an exception to that position with respect to the question of the balanced budget. If we do not have the discipline written into our basic document dealing with this issue, our past history shows that we cannot control the impact of the entitlement increase on future generations.

So for that reason, I announce, with all my misgivings about amending the Constitution, that in this case the issue is so important, the challenge is so significant that an amendment to the Constitution is called for. That is why I intend to vote for the amendment that is before us, why I have voted and will continue to vote against any crippling amendments to that amendment and hope that the rest of the Senate and ultimately the rest of the country will come to realize that the only way to start these yellow lines going back down again in a significant, historic trend is to write a basic requirement into the Constitution of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine has 13 minutes remaining.

Ms. SNOWE. I thank the Chair.

Mr. President and Members of the Senate, I certainly compliment the Senator from Utah for his very compelling statement on the necessity of having a constitutional amendment to balance the budget. He rightfully points out the fact that if we fail to place this amendment in the Constitution, then there is no guarantee of providing fiscal stability for this country in the future.

As we have made the case time and time again in this body, there is no issue more central to competitiveness, to security, to stability of America's future than the issue of a balanced budget. It means more jobs; it means increased wages; it means a better standard of living; it means less taxes; it means lower interest rates, all of which will benefit the American people and future generations.

The overwhelming majority of people in America today are pessimistic about the future when it comes to their children and what kind of life they will enjoy. That is the essence of this issue. This issue points to the fact that we need to do all we can to reduce the Federal deficit, to reach a balanced budget, and begin to grapple with the burgeoning debt that we have compiled for generations. The fact is the next generation will be required to pay an 82-percent tax rate and a 50-percent reduction in benefits to manage and to finance the debt that we leave behind.

I do not think that is the kind of legacy we want to bequeath the next generation.

We have had this debate in this body in 1995 and on many previous occasions, and in fact when I served in the House of Representatives I can remember we had this debate in 1982, and we had it many times thereafter. We heard the same rationale each and every time, that we should be able to have a balanced budget without a constitutional amendment. In fact, the President himself said it in the State of the Union. He said we do not need to rewrite the Constitution; all we need is your vote and my signature.

We as Republicans worked very hard in the last Congress to design a balanced budget plan with specifics and in great detail, without gimmicks. We presented it to the President of the United States, so he got our vote, but, unfortunately, we did not get his signature.

I think the reason is that without a constitutional amendment, it does not force consensus on all sides and between both branches of Government. So ultimately there is no will and there is no self-discipline to reach a consensus on balancing the budget without a constitutional mandate.

We have heard many reasons today as to why Senators cannot support this particular amendment. We have had many amendments that proposed exemptions to this amendment, all of which were designed and disguised as a rationale for avoiding supporting a constitutional amendment.

Nothing could be further from the truth than suggesting that exempting the Social Security Program from this balanced budget amendment would protect the benefits of Social Security retirees. There is nothing in that amendment that would suggest that. In fact, quite the contrary. The Social Security trust fund, since its inception, has been on budget. We have always addressed the shortfalls. We have prepared for the future by redesigning the program, as was the case in 1983, with a bipartisan commission that was chaired by the head of the Federal Reserve Board, Chairman Greenspan, to address those concerns.

We have no idea, we have no track record to know what would happen to the Social Security trust fund off budget. No one has presented us a plan for how the surpluses would be used. The surpluses on budget are invested in Government-backed bonds. But no one has told us, those who presented amendments exempting the Social Security trust fund, how these surpluses would be invested off budget. Would they be used and invested in private securities with a privatized Social Security? That is a major issue, and certainly I think it represents a consequence of placing the Social Security trust fund off budget. Would the Social Security trust fund off budget be diverted for other purposes? That is a real possibility, that those funds could be used for programs other than Social Security. So, if I were a retiree—and I will be one long after the turn of the century—I would be very much concerned about how those trust funds would be used.

We have also heard and we know that, by exempting the Social Security trust fund from this amendment, we will have to further reduce Federal expenditures by $295 billion over the next 5 years, between now and the year 2002, in addition to the more than $250 billion that is required to reach a balanced budget in the year 2002. In addition to that, we would also be required to reduce the budget another $709 billion between the year 2002 and the year 2007. That represents $1 trillion in additional cuts above and beyond what will be required to reach a balanced budget. Again, I think we have a right to know, from those who propose this exemption, as to how they would reach that target, with an additional $1 trillion in cuts? In fact, if you carry it further, to the year 2019, it would be $1.9 trillion—$1.9 trillion in additional cuts.

Mr. President, 2 years ago when we were having this debate, an amendment was offered by the minority leader that was called the right to know amendment. It says if you are going to propose a constitutional amendment to balance the budget, then, indeed, Members of this body have the right to know and are entitled to know as to exactly how we would accomplish balancing the budget. The same is true here today. We have a right to know exactly how these additional cuts will be accomplished over and above the cuts that already will be required in achieving a balanced budget between now and the year 2002 and then, of course, beyond. I repeat, it would require $1 trillion more in additional reductions in order to accomplish that. Yet, again, we do not have a plan as to how, exactly, that would be achieved.

In the final analysis, it gets back to the central issue, the central question in this constitutional amendment. That is whether or not we are truly committed to engaging in fiscal responsibility so future generations can have a secure future. We have an obligation, as one generation to the next, to provide a better standard of living. I think it is regrettable that we in this Congress decide to pursue a direction that accepts budgets that suggest, somehow, that higher taxes, a lower standard of living, sub par growth and anemic recovery are acceptable in a global economy as we approach the 21st century. It is certainly not what I want for future generations.

So, I hope we would consider this amendment for what it is. In reality, it is a way of avoiding the passage of this constitutional amendment because, in the final analysis, it does nothing to guarantee the benefits for Social Security retirees. In fact, I would say, quite the contrary, it raises a great deal of concern as to exactly what will happen to this trust fund, what will happen to the benefits for retirees, because we have no plan from the proponents of this amendment as to exactly how the off-budget program would work for Social Security and exactly how the surpluses would be used and whether or not this program, the trust fund, would be used for other purposes other than for Social Security benefits.

So, I hope this body will reject this amendment. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, Senator DORGAN's substitute, simply put, would add to Senate Joint Resolution 1 language that would exempt Social Security from the requirement that "total outlays for any fiscal year not exceed total receipts for that fiscal year," unless three-fifths of each House concurs. In essence, the Dorgan substitute's exemption for Social Security is identical to the Reid amendment, which we fully debated yesterday. As such, we are all familiar with the arguments—pro and con—of the effect of removing Social Security from the safeguards of the balanced budget amendment.

It is my fervent hope this renewed debate over the proposed exemption of the Social Security funds from the requirements of Senate Joint Resolution 1 will convince my colleagues to support the balanced budget amendment. As Justice Brandeis so eloquently wrote in the 1927 case of Whitney versus California, "[i]t is the function of speech to free men from the bondage of irrational fears." I truly believe that many of my well-meaning colleagues' desires to exempt the Social Security Program is based on unfounded fears. I hope to allay those fears and demonstrate that far from harming Social Security, including the program within unified budgets subject to the amendment, will help to preserve the program. Moreover, ironically, by exempting Social Security from the amendment, the very fears of some of my colleagues may come about because the program will certainly be weakened if we agree to remove it from the unified budget.

Before I directly address my colleagues concerns, it is helpful to put this debate in a larger context. Today, the accumulated national debt is nearly $5.4 trillion. Interest payments on this debt consume $250 billion annually, which the Washington Times recently estimated, is more than the combined budgets of the Departments of Commerce, Agriculture, Education, Energy, Justice, Interior, Housing and Urban Development, Labor, State, and Transportation. This means that the share of the debt for every infant born today is about $20,000.

There is a crying need for sound fiscal reform. Unless we do something, this Nation will continue to have stagnant economic growth with less jobs. Unless we do something, the interest payment on the debt will continue to devour capital that could be otherwise used for investment or Federal programs. Let's not kid ourselves that Washington politicians will remedy this problem; the blunt truth is that no balanced budget deal has worked in the past, that is why we need to amend the Constitution to provide for fiscal sanity.

Yet opponents of Senate Joint Resolution 1 argue that Social Security should be removed from the protection of the balanced budget amendment. But to do as they request would be a risky gimmick that would harm Social Security and open a loophole in the constitutional amendment.

THE DORGAN SUBSTITUTE IS UNWORKABLE

Mr. President, the Dorgan substitute suffers from the same disease as the Reid amendment. It is not workable. Let me tell you why.

First, as I discussed during the debate on the Reid amendment, it is necessary to include Social Security in any balanced budget plan. Obviously, without including Social Security, other programs must be cut far more than they really need to be. The proponents of this amendment have not told us which programs they will cut in order to come up with the approximately $100 billion per year that the total exclusion of the Social Security surpluses will cost us—astoundingly, this figure is greater than our combined annual expenditure on education, the environment, transportation and infrastructure. In fact, between 2002 and 2019, when Social Security outlays will exceed receipts, the trust fund is expected to earn more than $1.9 trillion. Where do supporters of the Dorgan substitute propose to come up with money necessary to cover this self-imposed shortfall? Show me the money.

Let's put this in perspective. Discretionary spending savings from last year's budget resolution, which were described as draconian, were only $291 billion. The Dorgan substitute would require that Congress cut spending or raise taxes more than six times this amount. Similarly, the projected revenues from the 1993 Clinton tax increase—the largest tax increase in history—were only $241 billion. The Dorgan substitute would require that Congress cut spending or raise taxes over eight times this largest tax increase in history. These levels of spending cuts and tax increases are clearly unworkable, and the adoption of the Dorgan substitute would kill any chance the balanced budget amendment has of being ratified.

Indeed, as I alluded to, the Clinton administration uses Social Security surpluses in formulating its own budgetary numbers, and has done so for the past 4 years. Secretary of the Treasury Rubin admitted to and defended the practice during hearings before the Judiciary Committee on January 17: "We will include it * * * I believe that with respect to budget policy that the view of the Congress and the view of the President to include Social Security is correct."

Similarly, in a recent press conference, President Clinton noted that Social Security receipts are used in his budget and admitted that neither he nor the Republicans could balance the budget without including the Social Security surpluses. The fact is that all administrations in recent memory have relied on a unified budget calculation of surpluses, and it is good budgetary policy.

Second, exempting Social Security from the mandates of the BBA for any considerable period of time will probably result in the demise of the Social Security Program years early. Such an exemption will create a powerful incentive to redefine spending programs as "Social Security" and pay for them through what could become a giant loophole in any attempt to balance the budget.

Opponents of the BBA incorrectly contend that including present-day Social Security surpluses in a unified budget would raid the trust funds. This is a complete misnomer because the surpluses are nothing more than an accounting reference. Social Security FICA taxes are deposited with all other revenues. Interest bearing securities are purchased equal to the amounts of Social Security receipts. This debt provides a safe investment. This safety, however, would be wrecked if Social Security were removed from the protection of Senate Joint Resolution 1's balancing requirements. In fact, the very fears of the advocates of the Dorgan substitute will be realized. Their exemption of Social Security would really cause the trust funds to be raided.

Why? Because under the Dorgan substitute, trust fund receipts would be used to finance other costly programs that would be relabeled as Social Security. With the loophole proposed by this exemption in place, there will be an irresistible impulse for future Congresses to redefine unrelated programs as Social Security. This, in turn, would create an incentive for Congress to include costly programs as part of Social Security. Congress has not been able to restrain itself from either wasteful spending or increasing this web of services provided by Social Security in the past—what would prevent combining them in the future? Are we willing to let future Congresses roll the dice with the financial security of America's seniors?

Passing an exemption loophole, accordingly, would essentially create two federal budgets, one based on sound principles of solvency, and the other, the Social Security budget, which would not. One budget will be required to be in balance unless a supermajority votes to allow a deficit, the other—the Social Security budget—would be raided and bloated with unrelated spending projects. Taking Social Security off budget will subject its funds to Washington's special interest scavengers. When you have rats in your house, you need to plug up all the holes. If you do not, they'll find a way in. If we leave Social Security off budget, new and old special interest spending initiatives—which cannot survive or make their way in under a balanced budget plan—will smell out the scent of Social Security and devour it. This loophole would not only blow a hole in the BBA, but it would also seriously harm Social Security. This, in turn, will mean the end of Social Security as we know it, transforming it into the least secure of all Government accounts.

Under the Dorgan substitute, the other possible use for Social Security surpluses would be for the Government to pay down our staggering national debt. Thus, if there are any surpluses left over after programs are redesignated "Social Security," the remaining surplus would be used to make debt repayments. This sounds wonderful, but in fact, creates a dangerous mechanism for the Congress to continue deficit spending. By paying down the debt, the Congress would provide itself a debt cushion—that is, a gap between the statutorily limited debt ceiling and the actual paid down debt. Congress could therefore use this gap to continue to deficit spend, thus avoiding the three-fifths vote required in section 2 of the BBA to raise the debt ceiling. The surpluses used for the purpose to pay down the debt will have been squandered as the debt ceiling is reached with a new gorge of spending equal in amount to the surplus that was used to pay off debt. Such a spending device completely frustrates real purposes for which I have introduced the balanced budget amendment—achieving sound fiscal policy and a healthy economy.

Consequently, the net effect of the loophole will be the depletion of the trust funds years early, with no protection for the benefit checks owed our seniors. How ironic. This is exactly what the Dorgan substitute was designed to avoid. But the Dorgan substitute does absolutely nothing to protect the Social Security trust funds. Let's just look at the language—is there anything in this amendment that prevents Social Security from being cut? Of course there isn't.

I believe that the gamesmanship and gimmickry that the Dorgan substitute will engender is exactly what must be avoided. The way to avoid it is to reject such exemptions. The best way to protect retirees and future generations is to adopt a clean and strong balanced budget amendment, free of loopholes.

Third, let's not forget about the troubling future for Social Security. The Dorgan substitute does absolutely nothing to protect Social Security and, in fact, will make it extremely difficult—if not impossible—to achieve balanced budgets. The Social Security Board of Trustees estimates that by the year 2070, Social Security is expected to run an annual $7 trillion deficit. If we include Social Security in our balanced budget calculations, we will be able to prepare for and budget these massive shortfalls. Under the Dorgan substitute, we will not be including this deficit in our budgetary planning. As a result, under the Dorgan substitute, in order to raise revenue and increase the debt ceiling sufficient to cover the expected Social Security shortfalls in the next century, we will

have to dramatically increase taxes or cut spending in other important programs, or face an annual three-fifths vote fiscal crisis to avoid financial default by raising the already staggering $5.5 trillion debt ceiling.

Fourth, Mr. President, the Dorgan substitute should be rejected because the language of the exemption is confusing and its application may harm the Social Security program—the very thing the Dorgan substitute claims to protect. The substitute exempts the Social Security trust funds from Senate Joint Resolution 1's balancing requirement. But it also includes the proviso, as and if modified to preserve the solvency of the funds.

Explicitly exempting Social Security by placing it in the Constitution may constitutionalize the program in perpetuity unless a subsequent constitutional amendment provides for the program to be altered or abolished. As a result of the Dorgan substitute, do minor technical changes to Social Security every year require amendments to the Constitution? The constitutional amendment process is a long one; indeed it was designed by the Framers to be lengthy to prevent specious changes to the Constitution. If we must go through this time consuming process for every change to Social Security—even minor technical alterations—I fear that major needed reforms to Social Security will come far too late.

Similarly, does the proviso language require the solvency of the Social Security system or does that language merely allow Congress to take steps to assure the solvency of the trust funds? And if the answer is that Congress must take measures to assure solvency; does this require tax increases or benefit cuts?

Frankly, this proviso language strands us in uncharted territory. We do not know exactly how this language will be interpreted. It could also very well mean that the scope of Social Security, as a constitutional provision, could be amended by statute. For instance, in 1965, Social Security was broadened by statute to include portions of Medicare. My question is this: if, under the Dorgan substitute, Social Security can be similarly modified by statute, would we be constitutionalizing a massive loophole, through which we could constitutionally enforce spending on any program redesignated as Social Security? If, on the other hand, we can only modify Social Security by constitutional amendment, won't that require a two-thirds Senate vote, approval of 37 States and a 7-year delay to enact even the most minor changes?

All this demonstrates the danger that the Dorgan substitute as a whole creates—that Congress ought to be responsible and not amend the Constitution to include specific statutory programs like Social Security. A constitutional amendment should be timeless and reflect a broad consensus, not make narrow policy decisions. We should not place technical language or overly complicated mechanisms in the Constitution and undercut the simplicity and universality of the balanced budget amendment. Explicitly exempting Social Security may constitutionalize the program in perpetuity unless a subsequent amendment provides for the program to be altered or abolished. It would also invite gaming and endless litigation as the terms of the program are altered.

Former Assistant and Acting Attorney General Stuart Gerson and attorney Alan Morrison have both had extensive experience litigating constitutional issues and testified in a Judiciary Committee hearing on Senate Joint Resolution 1. Although the two disagree about the wisdom of the balanced budget amendment, they agree that exempting Social Security is a bad idea, and both strongly opposed exempting Social Security from the balanced budget Amendment.

According to Alan Morrison, a litigator with Public Citizen who opposes the balanced budget amendment and testified for the minority:

> Given the size of social security, to allow it to run at a deficit would undermine the whole concept of a balanced budget. Moreover, there is no definition of social security in the Constitution and it would be extremely unwise and productive of litigation and political maneuvering to try to write one. If there is to be a Balanced Budget Constitutional Amendment, there should be no exceptions.

RESPONSES TO OPPONENT'S ALLEGATIONS

Supporters of exempting Social Security argue that section 13301 of the 1990 Budget Enforcement Act [BEA] literally exempts the Social Security trust funds from the President's and the Congress' budget calculations. They claim that the balanced budget amendment would change this because it requires a unified budget. These critics of the balanced budget amendment are wrong on both counts.

Under section 13301(a) of the BEA, the receipts and outlays of the Social Security trust funds are indeed not counted in both the President's and Congress' budgets—but only for certain specific reasons. The primary purpose for this exclusion was to exempt Social Security from sequestration by the President under the Gramm-Rudman-Hollings procedures and from the act's pay-as-you-go requirement. In addition, as added protections, sections 13302 and 13303 of the BEA also created firewall point-of-order protections for the Social Security trust funds in both the House and Senate. All of this is made clear by the conference report accompanying the 1990 act. Indeed, the 1990 Budget Enforcement Act does not preclude both Congress and the President from formulating a unitary budget—that includes Social Security trust funds—for national fiscal purposes. Surely, the opponents of the balanced budget amendment are not suggesting that the President of the United States and the Congress have been flouting the law when they include the Social Security trust funds in their respective budget calculations?

Look, we all know that Social Security will need reform if it is to continue to be viable over the long haul. But the problem is not the inclusion of Social Security funds in the budget. The problem is that with the retirement of baby boomers, there will not be enough FICA taxes to fund their retirement. Moreover, the surplus Social Security taxes being collected today will not cover the future costs of the system. Most of current Social Security taxes are used to cover benefit payments to present retirees. Outlays will exceed receipts of the system in about 2019. The guarantee of future benefits, therefore, will depend on the Federal Government's future ability to pay benefits.

Not including Social Security in the budget would harm the program. Congress could rename social programs—as they have done before—as Social Security and use the FICA taxes to fund these programs. Then you'll really see the program raided. The problem that the Dorgan substitute raises—in reality—is not with the BBA, but with the problems the Social Security program faces. We need to fix that and adopting the balanced budget amendment is a good start.

Mr. President, in a related argument that seeks to justify the exemption, some have argued that the balanced budget amendment will override the existing statutory protections for Social Security.

Contrary to this assertion, it is clear that the current statutory protections for Social Security would not be eliminated by the amendment. Of course, the supremacy clause of the Constitution provides that any legislation contrary to a constitutional provision must fail. As the great Chief Justice John Marshall held in the landmark 1803 decision of Marbury versus Madison, "[a]n act of the legislature, repugnant to the constitution is void." But what critics fail to mention is that there is absolutely nothing in the balanced budget constitutional amendment that is inconsistent with the current statutory schemes. The Social Security statutory protections are not legislative acts repugnant to the Constitution as amended by Senate Joint Resolution 1. Congress under the balanced budget amendment can also create statutory protections for the Social Security program.

Further, the Dorgan substitute has absolutely no protection against Social Security benefit cuts. The plain fact is that the best thing we can do for Social

Security, the best thing we can do for retirees, and the best thing we can do for all Americans is to enact the balanced budget amendment without loopholes or exemptions, and bring fiscal sanity and a little common sense back to Government

Finally, opponents of the Senate Joint Resolution 1, in arguing for a Social Security exemption, contend that the balanced budget amendment will not in reality produce a balanced budget because gross debt will still rise. This is clever, but misleading.

Mr. President, the balanced budget amendment does indeed require a balanced budget. Outlays must not exceed receipts under section 1 of Senate Joint Resolution 1. But it is also true that gross debt may still increase even if the budget is balanced. That is because the Government's exchange of securities for incoming FICA taxes is counted as gross debt. It is merely an accounting or bookkeeping notation of what one agency of Government owes another agency. It is analogous to a corporation buying back its stock or debentures. Such stock and bonds are considered retired obligations that once paid have no economic or fiscal significance. Thus, if we enact the BBA, the debt the United States owes to everyone but itself will stop growing.

This type of debt—termed net debt or debt held by the public—is legally enforceable and is what is economically significant. If net debt zooms—because of interest payments of debt—which last year amounted to $250 billion—budget deficits balloon with all the dire economic consequences. To assure that budgets will be balanced unless extraordinary situations arise, debt held by the public cannot be increased unless three-fifths of the whole number of each House concur.

That net debt is considered to be of far greater economic significance than gross debt is a widely held truism among economists. Indeed, in the study "Analytical Perspectives: Budget of the United States Government Fiscal Year 1998," the Clinton administration concludes that net debt or "borrowing from the public, whether by the Treasury or by some other Federal agency, has a significant impact on the economy." On the other hand, the study also maintains that gross debt, or debt issued to government accounts, "does not have any of the economic effects of borrowing from the public. It is [merely] an internal transaction between two accounts, both within the Government itself." Analytical Perspectives at 218–219.

It is true that a balanced budget amendment does not by itself reduce the $5.3 billion national debt. But what it does do is to straighten-out our national fiscal house. Passage of Senate Joint Resolution 1 will increase economic growth and allow us to run surpluses. With this, our national debt may be decreased if Congress desires to do so in the interest of national economic stability and prosperity. Without Senate Joint Resolution 1, this will be an impossibility.

The Dorgan substitute, on the other hand, adds nothing to protect the trust funds from accumulating debt. In fact, by creating this loophole, the Dorgan substitute may cause the trust fund to dry up sooner and run deeper deficits. Thus, the Dorgan substitute is a risky gimmick that endangers Social Security.

Mr. President, the biggest threat to Social Security is our growing debt and concomitant interest payments. Debt-related inflation hits hard those on fixed incomes, and the Government's use of capital to fund debt slows productivity and income growth, and siphons-off needed money for worthwhile programs. The way to protect Social Security benefits is to pass Senate Joint Resolution 1. The proposal to exempt Social Security will not only destroy the BBA, but in all probability will also cause the Social Security trust funds to run out of money sooner than it would have without an exemption.

Benjamin Franklin, moments after the Philadelphia Constitutional Convention adjourned in 1787, was asked what type of government was established. He replied, "[a] Republic if you can keep it." Franklin knew his history. The judgement of history has always been that republics and democracies were frail entities prone to collapse because of the greed and envy of an unchecked majority. It would take a citizenry imbued with civic virtue to prevent that collapse. Indeed, a wise philosopher once opined that without that virtue a democracy cannot last as a permanent form of government:

> It can only exist until the voters discover that they can vote themselves largesse from the public treasury. From that moment on the majority always votes for the candidate promising the most benefits from the public treasury with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship.

The fundamental question facing the American Republic in the coming millennium is how our Nation deals with the future fiscal crisis born of a volcano of rising debt. The success of our Republic depends on the virtue and morality of America—on the willingness of her people to eschew largesse that we simply cannot afford. We need to get our fiscal house in order. And to do that, past Congresses have proved that this Nation needs to place within our Constitution a balanced budget amendment.

Finally, Mr. President, I compliment my colleague for her excellent remarks. She has been a stalwart on this balanced budget amendment, and rightly so. She has been an inspiration to me, and I personally want to express my gratitude.

Mr. President, we have only 1 minute left. This is the Reid amendment revived. There is only one reason for this amendment and that is because they do not want the balanced budget amendment. I guess they want to continue just the same 28 years of unbalanced budgets; 58 out of the last 66 years.

Let us just be honest about it, this amendment, along with most of the others, is what I call a downright phony amendment. First of all, I cannot imagine why anybody in their right mind would believe you could take the largest item out of the Federal budget and put it out there to drift aimlessly on its own where anybody could amend it, anybody could redefine it, anybody could add any program, anybody could use the surplus for additional spending rather than trying to balance the budget, and to argue that it is raiding the trust fund when, in essence, we are going to continue to put money into U.S. Government securities and bonds regardless of what happens.

What they do not tell you is that unless we have a balanced budget amendment, we are not going to be able to pay off those bonds. When the baby boomers come, and maybe even before—and I suggest it is going to happen before—we are going to hit the skids where we are not going to know what to do for our seniors because of the games that are played on the balanced budget amendment.

I am not going to accuse anybody of insincerity, but I can say this: There is no question that there is a desire on the part of many who like to spend and tax to kill this balanced budget amendment, no matter what it takes. If they can hide behind something they can demagog later, they will do it. That is what this whole game is about.

This amendment is not a good amendment. This amendment is something that anybody in their right mind would say, "My gosh, how can you even present it as an amendment that might do some good in this country?" In fact, the only thing that will do good is the balanced budget amendment.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from North Dakota has 2 minutes.

Mr. DORGAN. Mr. President, the Senator from Utah is overanxious.

"Phony," "demagog," he uses the words with great abandon. Phony? You show me a plan that says I have balanced the budget but my debt is still increasing, that is what I call phony. That is what the folks in my hometown call phony, a plan that says we have balanced the budget but the debt goes up.

You say, why is that the case? Is that the case?

Oh, yes, you don't understand, it is debt held by the public, and net debt is more important than gross debt. Tell that to the folks who are going to bear the burden of the debt.

I have watched people make sausage and try to sell it as tenderloin. I see what is going on. We have a stack of books, a Tower of Babel here about balanced budgets. The way we are going to balance the budget is to make taxing and spending decisions. We had one big chance to do that in 1993. I signed up, and I said, "Count me in." Some of the folks now speaking the loudest said, "Count me out; I'm out the door because I want to vote no and tell the folks back home that what they did back there was unpopular."

It is not popular to make the tough decisions to really balance the budget. I suppose it is popular to suggest we should alter the Constitution and then not want to describe to the American people why, after we boasted we balanced the budget, we are still increasing the Federal debt. They may have some popularity from this, but it's not the right way to alter the Constitution, and it will not ultimately balance the Federal budget.

Let's alter the Constitution the right way, and let's balance the budget the right way. At the end of the day, when the dust has settled, let's decide we are not increasing the Federal debt and we are not continuing to saddle our children and grandchildren with additional debt.

Mr. President, this is a substitute constitutional amendment to balance the budget. I intend to support it, as I have in the past, and those who want a constitutional amendment to balance the budget to pass in this Chamber, and to do so with 70 or 75 votes, should decide to support this substitute constitutional amendment to balance the budget.

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

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HATCH. I move to table the amendment and 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. The question is on agreeing to the motion to lay on the table amendment No. 17, offered by the Senator from North Dakota [Mr. DORGAN]. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 59, nays 41, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—59

Abraham	Bond	Campbell
Allard	Brownback	Chafee
Ashcroft	Burns	Coats
Bennett	Byrd	Cochran
Collins	Hatch	Robb
Coverdell	Helms	Roberts
Craig	Hutchinson	Rockefeller
D'Amato	Hutchison	Roth
DeWine	Inhofe	Santorum
Dodd	Jeffords	Sessions
Domenici	Kempthorne	Shelby
Enzi	Kerrey	Smith (NH)
Faircloth	Kyl	Smith (OR)
Frist	Lott	Snowe
Gorton	Lugar	Stevens
Gramm	Mack	Thomas
Grams	McConnell	Thompson
Grassley	Murkowski	Thurmond
Gregg	Murray	Warner
Hagel	Nickles	

NAYS—41

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Glenn	McCain
Bingaman	Graham	Mikulski
Boxer	Harkin	Moseley-Braun
Breaux	Hollings	Moynihan
Bryan	Inouye	Reed
Bumpers	Johnson	Reid
Cleland	Kennedy	Sarbanes
Conrad	Kerry	Specter
Daschle	Kohl	Torricelli
Dorgan	Landrieu	Wellstone
Durbin	Lautenberg	Wyden
Feingold	Leahy	

The motion to lay on the table the amendment (No. 17) was agreed to.

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

Mr. SANTORUM. I move to lay it on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 16

Mrs. BOXER. Mr. President, thank you very much. I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment before the Senate is amendment No. 16, proposed by the Senator from California. There are 30 minutes of time to be equally divided. The Senator from California will have 15 minutes, and the Senator from Utah will have 15 minutes.

Mrs. BOXER. Thank you, Mr. President. I yield myself 10 minutes.

Mr. President, as a member of the Budget Committee and now of the Appropriations Committee, I am keenly aware of the benefits of a balanced Federal budget. I have voted for three balanced budget plans—the Conrad plan, the Bradley plan, and the bipartisan Chafee-Breaux plan. As a Member of the House, I voted for a balanced budget statute.

While I have very serious reservations about a balanced budget amendment, which I spoke about on this floor—as do, by the way, 1,100 economists, including Federal Reserve Chairman Alan Greenspan—I believe if we are to have a balanced budget amendment, however, which we cannot predict today if we will or not, it should be flexible enough to respond to emergencies which occur as a result of natural disasters.

Now, Mr. President, I hope that Members of this U.S. Senate will understand that it is not one State of the Union that gets all of the natural disasters, although sometimes I feel, certainly, that my State gets far more than its fair share. I can tell you, if you look at this natural disaster risk profile that was put out by the U.S. Geological Service, you can see that there are tremendous risks for natural disasters all over this country. The light blue is the low risk, the darker greenish blue is the high risk, and this is the medium risk. Almost all over the country we have serious risks. This hatched area shows the extreme risk of tornado in the midsection of our Nation, and hurricanes, the extreme risk of hurricanes, as my friends in the Gulf States know so well, which are also on the Atlantic.

Clearly, in California we run the risk of earthquakes. That is our biggest risk. But we have many other risks, as well: such as volcanos and floods. Floods occur all over the country.

I say to my friends in the Senate that I pray that none of us ever has to come to the floor of the Senate asking for help in times of emergency. I will say under this amendment if you do that and you have hundreds of millions of dollars or billions of dollars of damages—as we have seen in Florida, as we have seen in California, as we have seen in the Midwest, as we have seen in many other parts of the country, in order to get this aid under this particular balanced budget amendment, you need to get 60 votes in this U.S. Senate. I will tell you right now there is no certainty of that.

So what we do in our amendment, Mr. President, is simply say that when there is a declaration of a natural disaster, and that declaration is supported by a simple majority vote in both Houses of Congress, we will be able to move by a simple majority vote, not a 60-vote majority, and send the aid that is needed.

Mr. President, I want to remind you by way of some photographs of some of these disasters that we have seen in my State. Here is a picture of the damage to a freeway in Northridge in 1994 where basically the freeway completely collapsed, people were killed, and we had to act very, very fast. In that particular earthquake, Mr. President, due to the kindness, the kindness of the Clinton administration and this Congress, we were able to pump into the Los Angeles area in excess of $11 billion to repair lives, to repair homes, to make sure that people had shelter—children, families. And I will tell you, Mr. President, if we had to find that $11 billion elsewhere in the budget or we needed to come up with 60 votes, I think it would be a very difficult thing to do. A supermajority is wrong in any case. It is wrong to give so much power to a minority when a natural disaster is a question of life or death.

Here is another photograph, Mr. President. This is from this year. These

are homes, and you can barely tell that because they are buried in water. That is the kind of flooding we had when levees broke—very similar to the Midwest. We need to move quickly when these disasters hit.

Here is a photograph of Yosemite this year, Mr. President. You can't even pass through the road here. The communities that rely on tourism are in deep trouble.

If Senators had to go to the floor and cut other parts of the budget to meet the needs of these emergencies, I will tell you, it would be very difficult. So I am very hopeful that we will not put this U.S. Senate into a straitjacket. This Senate already defeated some very important amendments to protect Social Security. They defeated, with a block of votes, amendments that would have allowed us to react in a serious recession or depression. Those 1,100 economists said that what the Senate is doing is dangerous. It is dangerous to put this Government into an economic straitjacket. And Alan Greenspan, whom so many of my friends on the other side of the aisle credit with this economic recovery—they turn away from his advice.

But I say to them, here we are talking about life or death. Here we are talking about shelter for people who get hurt in a disaster. Here we are talking about a serious problem where we must act and we must act swiftly. And if we have to do it with 60 votes, or if we must cut corresponding amounts from the rest of the budget, I am saying this as sure as I am standing here—and I am proud to be standing here—we may leave Americans in dire straits because we are handcuffing our ability to react.

There are some people here who obviously have no trust in their colleagues. They are calling for a supermajority. They don't trust their colleagues. They want a minority to be able to hold back a very important vote, perhaps to save people in my State, or people even in their own States. I think this is wrong. I said, when I came on to this floor several days ago at the beginning of this debate, I believe this is a very radical proposal.

I believe the evidence is in and that those people who are following this debate now understand that we don't need this amendment to balance the budget. All we need to do to balance the budget is cast the tough votes. What is extraordinary to me is that most of the people voting for this balanced budget amendment weren't there when the tough votes were taken and when we were able to reduce this deficit—4 years in a row—from $290 billion down to $107 billion. Where were those people? So they offer up this fiscal figleaf, and it will put us in a straitjacket. It will tie our hands. We won't be able to protect Social Security or protect jobs in a depression or a severe recession. And now, without my amendment—and I am not that hopeful that we will win this because we have not won any of these amendments—a minority of the Senate, or a minority of the other body, could hold up desperately needed disaster aid.

I will reserve the remainder of my time to respond to my good friend from Utah, and I am hopeful that Members will look at this and support the Boxer amendment, which is also supported by Senator DURBIN and Senator MURRAY.

Again, I reserve my time.

Mr. HATCH. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. There are 15 minutes for the Senator from Utah, and 5 minutes 17 seconds for the Senator from California.

Mr. HATCH. Mr. President, I listened to my colleague, and I know she is sincere. But I have to point out that her amendment, like all of the others, is just another way of making sure the balanced budget amendment has no effect. Let me read it to the people:

> At the end of section 5, add the following: "The provisions of this article may be waived for any fiscal year * * *"

That means for the whole fiscal year.

> * * * in which there is a declaration made by the President (and a designation by the Congress) that a major disaster or emergency exists, adopted by a majority vote in each House of those present and voting.

This amendment is simply a permutation of the amendment we voted on today, the Feinstein amendment, which was rejected by 67 Senators just a few hours ago. It would have provided for a waiver of the balanced budget requirement for any fiscal year in which the United States is experiencing a serious economic emergency or major natural disaster. I was one of the 67 Senators who opposed that amendment. But I have to say that I actually prefer that amendment to the one being offered now by my friend from California. For one thing, the spending loophole created by this amendment is even more gaping than the one in the amendment we voted down this evening. As Senator ENZI said, you can "sail an aircraft carrier through the loophole created by the Feinstein amendment." If so, then you can sail an entire fleet through the loophole this amendment would provide. This would provide for a waiver of the balanced budget requirement in any fiscal year in which Congress and the President declare there is a major disaster or emergency. Unlike earlier amendments, this amendment does not even require that the disaster be a natural disaster or that the emergency be an economic one. That being the case, I wonder what exactly qualifies as a disaster and an emergency under this amendment.

According to the language of this amendment, a disaster is whatever Congress says it is. I think the worst disaster we are facing are these continual, piled-up unbalanced budgets every year. That is what we are trying to resolve here. Just think of all the things that a creative Congress, bent on deficit spending, could categorize as a disaster or emergency in order to justify more borrowing. Does this amendment mean to say that a drop in SAT scores can be deemed an emergency by Congress and thereby be used as a basis for borrowing to increase educational funding, without having to abide by the strictures of a balanced budget amendment?

The fact is that, under this amendment, just about anything can be classified a disaster or emergency and serve as a springboard for continued deficit spending.

For one thing, Mr. President, this is precisely the type of behavior that has put us into the $5.3 trillion of national debt. These unbalanced budgets for the last 28 years demonstrate that. They demonstrate the sad result of such loosely defined exemptions from borrowing or spending limits. For another thing, this amendment does nothing more than preserve a distorted version of the status quo.

Under this amendment, a waiver of the balanced budget requirement may be obtained by a declaration made by the President and a similar declaration by Congress. But the precise procedure is not clear. Does this mean that the President must first declare an emergency or disaster by Executive order before the Congress acts to ratify or adopt that declaration? Does it then need to be signed by the President? Or, if that is not what this amendment means, then perhaps, in effect, it means that Congress must declare an emergency or disaster—by a joint resolution or some other legislative vehicle—adopted by a simple majority vote and then signed by the President. That is what we have been doing when we came up with these 28 straight unbalanced budgets. That is also what we've done in piling up unbalanced budgets in 58 of the last 66 years. That sounds more familiar to me. Indeed, it is familiar to me because it is exactly how we operate today. It is exactly how we have gotten our Nation into a $5.3 trillion national debt and have produced unbalanced budgets for every one of the last 28 years.

Mr. President, Senate Joint Resolution 1 is a clear, concise amendment carefully drafted over several years with input from Members on both sides of the aisle. I heard earlier in the day one of our colleagues say that this is a Republican amendment. Give me a break. Yes; all 55 Republicans are supporting it. But there are 11 courageous Democrats supporting this. I wonder what CHARLIE STENHOLM thinks about remarks like that, another courageous Democrat from the House who has helped to work on this. And Senator

BRYAN, Senator GRAHAM, Senator ROBB, and so many others who have played a pivotal role in this.

The three-fifths waiver contained in section 1 strikes an important balance in that it is both sufficient to answer the concerns raised by the Senator's amendment and strong enough to keep the balanced budget amendment meaningful.

The simple fact is that in actual circumstances of disaster or emergencies, Congress has had little difficulty achieving the supermajority vote required under the balanced budget amendment. I have done some research on the disasters in this Nation during the past 7 years with the help of the Congressional Research Service. I found that in virtually every circumstance, emergency spending bills placed before the House and Senate passed with supermajorities, even when no such requirement was in place.

For example, in fiscal year 1995 the House and Senate voted on H.R. 1944, which provided $7.2 billion in disaster aid, mostly to help with recovery efforts in Los Angeles from the 1994 earthquake. The bill passed the Senate with a vote of 90 to 7—well over the supermajority requirements of Senate Joint Resolution 1. In the House, the bill passed by 276 votes—also a supermajority.

The 1994 fiscal year disaster supplemental appropriations bill, H.R. 3759, received similar treatment. That bill, to provide nearly $10 billion in new appropriations for emergency expenses of the Los Angeles earthquake, humanitarian assistance and peacekeeping activities, as well as for Midwest flood assistance, and highway reconstruction from the San Francisco earthquake, passed the House by a vote of 337 to 74—some 75 votes more than would have been necessary under Senate Joint Resolution 1's supermajority requirement. The same measure passed the Senate by a vote of 85 to 10.

Mr. President, I could go on, but I will summarize by saying that in the past 7 years we have voted many times on emergency disaster funding. I count only two situations where a supermajority was not reached—this despite the fact that no supermajority was needed. The reality is that when there are truly meritorious circumstances the general three-fifths waiver will not stand in the way of what is best for the American people. What will stand in the way is the kind of frivolous expenditures and disregard for the financial well-being of future generations that has plagued our budget process for each of the last 28 years, exemplified by these two stacks of unbalanced budget books.

Mr. President, we are here to instill in the budget process the fiscal discipline that has been lacking for much of this century. I will say once again that what we need to do is pass a balanced budget amendment free of loopholes and gimmicks. Unless we do, we will never rein in the out-of-control spending habits that have brought us to where we are today.

I urge my colleagues to join me in opposing the Boxer amendment, and hopefully we will move quickly to pass the balanced budget amendment.

Mr. President, there was a discussion earlier today on whether or not the Reagan tax cuts enacted by Congress caused the debt we now have or whether it was congressional spending that has run up our debt. I would like to add some more concrete figures to illuminate that discussion. I believe the facts are clear—the Reagan tax cuts increased revenues. But spending increased faster.

Let me explain further:

Excessive spending and not tax cuts are responsible for increased deficits during the 1980's.

Even with tax cuts, Federal tax revenues continue to increase.

In fact, Federal revenues have continued to grow in every fiscal year after the 1981 tax cuts. The only exception to this was fiscal year 1983, after the recession of 1982.

This increase in Federal revenues was consistent through the sources of Federal receipts—individual income taxes, corporate income taxes, Social Security insurance taxes and contributions, and other taxes.

Total receipts went up by the following percentages: 1980–1986: 48.7 percent; 1981–1986: 28.8 percent; 1981–1987: 42.5 percent. The middle percentage from 1981 to 1986 is probably the most representative of the effects of the Reagan tax cuts.

Further, tax revenues grew faster after the Reagan tax cuts than they have following the Bush and Clinton tax increases. From 1983 to 1989, tax revenue grew at a real rate of 8.7 percent compared to a 5.9-percent growth rate from 1990 to 1996.

Similarly, President Kennedy knew the growth effects of lower taxes. During the years of the Kennedy tax cuts revenues increased 6.4 percent a year.

As President Kennedy said in his address to the American people concerning his tax proposal:

> Prosperity is the real way to balance our budget. * * * By lowering tax rates, by increasing jobs and income, we can expand tax revenues and finally bring our budget into balance..

To further illustrate these points, I ask unanimous consent to have printed in the RECORD two tables from the 1996 Economic Report of the President.

For further detail, I also refer my colleagues to the Joint Economic Committee report on taxes and long-term economic growth, dated February of 1997.

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

TABLE B–74.—FEDERAL RECEIPTS, OUTLAYS, SURPLUS OR DEFICIT, AND DEBT, SELECTED FISCAL YEARS, 1929–95

[In billions of dollars; fiscal years]

Fiscal year or period	Total			On-budget			Off-budget			Gross Federal debt (end of period)		Addendum: Gross domestic product
	Receipts	Outlays	Surplus or deficit (−)	Receipts	Outlays	Surplus or deficit (−)	Receipts	Outlays	Surplus or deficit (−)	Total	Held by the public	
1929	3.9	3.1	0.7	3.9	3.1	0.7				[1] 16.9		
1933	2.0	4.6	−2.6	2.0	4.6	−2.6				[1] 22.5		56.8
1939	6.3	9.1	−2.8	5.8	9.2	−3.4	0.5	−0.0	0.5	48.2	41.4	87.8
1940	6.5	9.5	−2.9	6.0	9.5	−3.5	.6	−.0	.6	50.7	42.8	95.4
1941	8.7	13.7	−4.9	8.0	13.6	−5.6	.7	.0	.7	57.5	48.2	112.5
1942	14.6	35.1	−20.5	13.7	35.1	−21.3	.9	.1	.8	79.2	67.8	141.8
1943	24.0	78.6	−54.6	22.9	78.5	−55.6	1.1	.1	1.0	142.6	127.8	175.4
1944	43.7	91.3	−47.6	42.5	91.2	−48.7	1.3	.1	1.2	204.1	184.8	201.7
1945	45.2	92.7	−47.6	43.8	92.6	−48.7	1.3	.1	1.2	260.1	235.2	212.0
1946	39.3	55.2	−15.9	38.1	55.0	−17.0	1.2	.2	1.0	271.0	241.9	212.5
1947	38.5	34.5	4.0	37.1	34.2	2.9	1.5	.3	1.2	257.1	224.3	222.9
1948	41.6	29.8	11.8	39.9	29.4	10.5	1.6	.4	1.2	252.0	216.3	246.7
1949	39.4	38.8	.6	37.7	38.4	−.7	1.7	.4	1.3	252.6	214.3	262.7
1950	39.4	42.6	−3.1	37.3	42.0	−4.7	2.1	.5	1.6	256.9	219.0	265.8
1951	51.6	45.5	6.1	48.5	44.2	4.3	3.1	1.3	1.8	255.3	214.3	313.5
1952	66.2	67.7	−1.5	62.6	66.0	−3.4	3.6	1.7	1.9	259.1	214.8	340.5
1953	69.6	76.1	−6.5	65.5	73.8	−8.3	4.1	2.3	1.8	266.0	218.4	363.8
1954	69.7	70.9	−1.2	65.1	67.9	−2.8	4.6	2.9	1.7	270.8	224.5	368.0
1955	65.5	68.4	−3.0	60.4	64.5	−4.1	5.1	4.0	1.1	274.4	226.6	384.7
1956	74.6	70.6	3.9	68.2	65.7	2.5	6.4	5.0	1.5	272.7	222.2	416.3
1957	80.0	76.6	3.4	73.2	70.6	2.6	6.8	6.0	.8	272.3	219.3	438.3
1958	79.6	82.4	−2.8	71.6	74.9	−3.3	8.0	7.5	.5	279.7	226.3	448.1
1959	79.2	92.1	−12.8	71.0	83.1	−12.1	8.3	9.0	−.7	287.5	234.7	480.2
1960	92.5	92.2	.3	81.9	81.3	.5	10.6	10.9	−.2	290.5	236.8	504.6
1961	94.4	97.7	−3.3	82.3	86.0	−3.8	12.1	11.7	.4	292.6	238.4	517.0
1962	99.7	106.8	−7.1	87.4	93.3	−5.9	12.3	13.5	−1.3	302.9	248.0	555.2

TABLE B–74.—FEDERAL RECEIPTS, OUTLAYS, SURPLUS OR DEFICIT, AND DEBT, SELECTED FISCAL YEARS, 1929–95—Continued

[In billions of dollars; fiscal years]

Fiscal year or period	Total			On-budget			Off-budget			Gross Federal debt (end of period)		Addendum: Gross domestic product
	Receipts	Outlays	Surplus or deficit (−)	Receipts	Outlays	Surplus or deficit (−)	Receipts	Outlays	Surplus or deficit (−)	Total	Held by the public	
1963	106.6	111.3	−4.8	92.4	96.4	−4.0	14.2	15.0	−.8	310.3	254.0	584.5
1964	112.6	118.5	−5.9	96.2	102.8	−6.5	16.4	15.7	.6	316.1	256.8	625.3
1965	116.8	118.2	−1.4	100.1	101.7	−1.6	16.7	16.5	.2	322.3	260.8	671.0
1966	130.8	134.5	−3.7	111.7	114.8	−3.1	19.1	19.7	−.6	328.5	263.7	735.4
1967	148.8	157.5	−8.6	124.4	137.0	−12.6	24.4	20.4	4.0	340.4	266.6	793.3
1968	153.0	178.1	−25.2	128.1	155.8	−27.7	24.9	22.3	2.6	368.7	289.5	847.2
1969	186.9	183.6	3.2	157.9	158.4	−.5	29.0	25.2	3.7	365.8	278.1	925.7
1970	192.8	195.6	−2.8	159.3	168.0	−8.7	33.5	27.6	5.9	380.9	283.2	985.4
1971	187.1	210.2	−23.0	151.3	177.3	−26.1	35.8	32.8	3.0	408.2	303.0	1,050.9
1972	207.3	230.7	−23.4	167.4	193.8	−26.4	39.9	36.9	3.1	435.9	322.4	1,147.8
1973	230.8	245.7	−14.9	184.7	200.1	−15.4	46.1	45.6	.5	466.3	340.9	1,274.0
1974	263.2	269.4	−6.1	209.3	217.3	−8.0	53.9	52.1	1.8	483.9	343.7	1,403.6
1975	279.1	332.3	−53.2	216.6	271.9	−55.3	62.5	60.4	2.0	541.9	394.7	1,509.8
1976	298.1	371.8	−73.7	231.7	302.2	−70.5	66.4	69.6	−3.2	629.0	477.4	1,684.2
Transition quarter	81.2	96.0	−14.7	63.2	76.6	−13.3	18.0	19.4	−1.4	643.6	495.5	445.0
1977	355.6	409.2	−53.7	278.7	328.5	−49.8	76.8	80.7	−3.9	706.4	549.1	1,917.2
1978	399.6	458.7	−59.2	314.2	369.1	−54.9	85.4	89.7	−4.3	776.6	607.1	2,155.0
1979	463.3	504.0	−40.7	365.3	404.1	−38.7	98.0	100.0	−2.0	829.5	640.3	2,429.5
1980	517.1	590.9	−73.8	403.9	476.6	−72.7	113.2	114.3	−1.1	909.1	709.8	2,644.1
1981	599.3	678.2	−79.0	469.1	543.1	−74.0	130.2	135.2	−5.0	994.8	785.3	2,964.4
1982	617.8	745.8	−128.0	474.3	594.4	−120.1	143.5	151.4	−7.9	1,137.3	919.8	3,122.2
1983	600.6	808.4	−207.8	453.2	661.3	−208.0	147.3	147.1	.2	1,371.7	1,131.6	3,316.5
1984	666.5	851.8	−185.4	500.4	686.0	−185.7	166.1	165.8	.3	1,564.7	1,300.5	3,695.0
1985	734.1	946.4	−212.3	547.9	769.6	−221.7	186.2	176.8	9.4	1,817.5	1,499.9	3,967.7
1986	769.1	990.3	−221.3	568.9	806.8	−238.0	200.2	183.5	16.7	2,120.6	1,736.7	4,219.0
1987	854.1	1,003.9	−149.8	640.7	810.1	−169.3	213.4	193.8	19.6	2,346.1	1,888.7	4,452.4
1988	909.0	1,064.1	−155.2	667.5	861.4	−194.0	241.5	202.7	38.8	2,601.3	2,050.8	4,808.4
1989	990.7	1,143.2	−152.5	727.0	932.3	−205.2	263.7	210.9	52.8	2,868.0	2,189.9	5,173.3
1990	1,031.3	1,252.7	−221.4	749.7	1,027.6	−278.0	281.7	225.1	56.6	3,206.6	2,410.7	5,481.5
1991	1,054.3	1,323.4	−269.2	760.4	1,081.8	−321.4	293.9	241.7	52.2	3,598.5	2,688.1	5,676.4
1992	1,090.5	1,380.9	−290.4	788.0	1,128.5	−340.5	302.4	252.3	50.1	4,002.1	2,998.8	5,921.5
1993	1,153.5	1,408.7	−255.1	841.6	1,142.1	−300.5	311.9	266.6	45.3	4,351.4	3,247.5	6,258.6
1994	1,257.7	1,460.9	−203.2	922.7	1,181.5	−258.8	335.0	279.4	55.7	4,643.7	3,432.2	6,633.6
1995[2]	1,350.6	1,514.4	−163.8	999.5	1,225.7	−226.2	351.1	288.7	62.4	4,921.0	3,603.3	7,004.5

[1] Not strictly comparable with later data.

[2] Estimates for 1995 from Final Monthly Treasury Statement, October 1995, except GDP calculated using quarterly seasonally adjusted data.

Note.—Through fiscal year 1976, the fiscal year was on a July 1–June 30 basis; beginning October 1976 (fiscal year 1977), the fiscal year is on an October 1–September 30 basis. The 3-month period from July 1, 1976 through September 30, 1976 is a separate fiscal period known as the transition quarter.

TABLE B–76.—FEDERAL RECEIPTS AND OUTLAYS, BY MAJOR CATEGORY, AND SURPLUS OR DEFICIT, 1940–95

[In billions of dollars; fiscal years]

Fiscal year or period	Receipts (on-budget and off-budget)					Outlays (on-budget and off-budget)										Surplus or deficit (−) (on-budget and off-budget)
							National defense									
	Total	Individual income taxes	Corporation income taxes	Social insurance taxes and contributions	Other	Total	Total	Department of Defense, military	International affairs	Health	Medicare	Income security	Social security	Net interest	Other	
1940	6.5	0.9	1.2	1.8	2.7	9.5	1.7	.....	0.1	0.1	.....	1.5	0.0	0.9	5.3	−2.9
1941	8.7	1.3	2.1	1.9	3.3	13.7	6.4	.....	.1	.1	.....	1.9	.1	.9	4.1	−4.9
1942	14.6	3.3	4.7	2.5	4.2	35.1	25.7	.....	1.0	.1	.....	1.8	.1	1.1	5.4	−20.5
1943	24.0	6.5	9.6	3.0	4.9	78.6	66.7	.....	1.3	.1	.....	1.7	.2	1.5	7.0	−54.6
1944	43.7	19.7	14.8	3.5	5.7	91.3	79.1	.....	1.4	.2	.....	1.5	.2	2.2	6.6	−47.6
1945	45.2	18.4	16.0	3.5	7.3	92.7	83.0	.....	1.9	.2	.....	1.1	.3	3.1	3.1	−47.6
1946	39.3	16.1	11.9	3.1	8.2	55.2	42.7	.....	1.9	.2	.....	2.4	.4	4.1	3.6	−15.9
1947	38.5	17.9	8.6	3.4	8.5	34.5	12.8	.....	5.8	.2	.....	2.8	.5	4.2	8.2	4.0
1948	41.6	19.3	9.7	3.8	8.8	29.8	9.1	.....	4.6	.2	.....	2.5	.6	4.3	8.5	11.8
1949	39.4	15.6	11.2	3.8	8.9	38.8	13.2	.....	6.1	.2	.....	3.2	.7	4.5	11.1	.6
1950	39.4	15.8	10.4	4.3	8.9	42.6	13.7	.....	4.7	.3	.....	4.1	.8	4.8	14.2	−3.1
1951	51.6	21.6	14.1	5.7	10.2	45.5	23.6	.....	3.6	.3	.....	3.4	1.6	4.7	8.4	6.1
1952	66.2	27.9	21.2	6.4	10.6	67.7	46.1	.....	2.7	.3	.....	3.7	2.1	4.7	8.1	−1.5
1953	69.6	29.8	21.2	6.8	11.7	76.1	52.8	.....	2.1	.3	.....	3.8	2.7	5.2	9.1	−6.5
1954	69.7	29.5	21.1	7.2	11.9	70.9	49.3	.....	1.6	.3	.....	4.4	3.4	4.8	7.1	−1.2
1955	65.5	28.7	17.9	7.9	11.0	68.4	42.7	.....	2.2	.3	.....	5.1	4.4	4.9	8.9	−3.0
1956	74.6	32.2	20.9	9.3	12.2	70.6	42.5	.....	2.4	.4	.....	4.7	5.5	5.1	10.1	3.9
1957	80.0	35.6	21.2	10.0	13.2	76.6	45.4	.....	3.1	.5	.....	5.4	6.7	5.4	10.1	3.4
1958	79.6	34.7	20.1	11.2	13.6	82.4	46.8	.....	3.4	.5	.....	7.5	8.2	5.6	10.3	−2.8
1959	79.2	36.7	17.3	11.7	13.5	92.1	49.0	.....	3.1	.7	.....	8.2	9.7	5.8	15.5	−12.8
1960	92.5	40.7	21.5	14.7	15.6	92.2	48.1	.....	3.0	.8	.....	7.4	11.6	6.9	14.4	.3
1961	94.4	41.3	21.0	16.4	15.7	97.7	49.6	.....	3.2	.9	.....	9.7	12.5	6.7	15.2	−3.3
1962	99.7	45.6	20.5	17.0	16.5	106.8	52.3	50.1	5.6	1.2	.....	9.2	14.4	6.9	17.2	−7.1
1963	106.6	47.6	21.6	19.8	17.6	111.3	53.4	51.1	5.3	1.5	.....	9.3	15.8	7.7	18.3	−4.8
1964	112.6	48.7	23.5	22.0	18.5	118.5	54.8	52.6	4.9	1.8	.....	9.7	16.6	8.2	22.6	−5.9
1965	116.8	48.8	25.5	22.2	20.3	118.2	50.6	48.8	5.3	1.8	.....	9.5	17.5	8.6	25.0	−1.4
1966	130.8	55.4	30.1	25.5	19.8	134.5	58.1	56.6	5.6	2.5	0.1	9.7	20.7	9.4	28.5	−3.7
1967	148.8	61.5	34.0	32.6	20.7	157.5	71.4	70.1	5.6	3.4	2.7	10.3	21.7	10.3	32.1	−8.6
1968	153.0	68.7	28.7	33.9	21.7	178.1	81.9	80.4	5.3	4.4	4.6	11.8	23.9	11.1	35.1	−25.2
1969	186.9	87.2	36.7	39.0	23.9	183.6	82.5	80.8	4.6	5.2	5.7	13.1	27.3	12.7	32.6	3.2
1970	192.8	90.4	32.8	44.4	25.2	195.6	81.7	80.1	4.3	5.9	6.2	15.6	30.3	14.4	37.2	−2.8
1971	187.1	86.2	26.8	47.3	26.8	210.2	78.9	77.5	4.2	6.8	6.6	22.9	35.9	14.8	40.0	−23.0
1972	207.3	94.7	32.2	52.6	27.8	230.7	79.2	77.6	4.8	8.7	7.5	27.6	40.2	15.5	47.3	−23.4
1973	230.8	103.2	36.2	63.1	28.3	245.7	76.7	75.0	4.1	9.4	8.1	28.3	49.1	17.3	52.8	−14.9
1974	263.2	119.0	38.6	75.1	30.6	269.4	79.3	77.9	5.7	10.7	9.6	33.7	55.9	21.4	52.9	−6.1
1975	279.1	122.4	40.6	84.5	31.5	332.3	86.5	84.9	7.1	12.9	12.9	50.2	64.7	23.2	74.9	−53.2
1976	298.1	131.6	41.4	90.8	34.3	371.8	89.6	87.9	6.4	15.7	15.8	60.8	73.9	26.7	82.8	−73.7
Transition quarter	81.2	38.8	8.5	25.2	8.8	96.0	22.3	21.8	2.5	3.9	4.3	15.0	19.8	6.9	21.4	−14.7
1977	355.6	157.6	54.9	106.5	36.6	409.2	97.2	95.1	6.4	17.3	19.3	61.0	85.1	29.9	93.0	−53.7
1978	399.6	181.0	60.0	121.0	37.7	458.7	104.5	102.3	7.5	18.5	22.8	61.5	93.9	35.5	114.7	−59.2
1979	463.3	217.8	65.7	138.9	40.8	504.0	116.3	113.6	7.5	20.5	26.5	66.4	104.1	42.6	120.2	−40.7
1980	517.1	244.1	64.6	157.8	50.6	590.9	134.0	130.9	12.7	23.2	32.1	86.5	118.5	52.5	131.4	−73.8
1981	599.3	285.9	61.1	182.7	69.5	678.2	157.5	153.9	13.1	26.9	39.1	99.7	139.6	68.8	133.5	−79.0
1982	617.8	297.7	49.2	201.5	69.3	745.8	185.3	180.7	12.3	27.4	46.6	107.7	156.0	85.0	125.4	−128.0
1983	600.6	288.9	37.0	209.0	65.6	808.4	209.9	204.4	11.8	28.6	52.6	122.6	170.7	89.8	122.3	−207.8
1984	666.5	298.4	56.9	239.4	71.8	851.8	227.4	220.9	15.9	30.4	57.5	112.7	178.2	111.1	118.6	−185.4
1985	734.1	334.5	61.3	265.2	73.0	946.4	252.7	245.2	16.2	33.5	65.8	128.2	188.6	129.5	131.8	−212.3
1986	769.1	349.0	63.1	283.9	73.1	990.3	273.4	265.5	14.2	35.9	70.2	119.8	198.8	136.0	142.1	−221.2

TABLE B–76.—FEDERAL RECEIPTS AND OUTLAYS, BY MAJOR CATEGORY, AND SURPLUS OR DEFICIT, 1940–95—Continued

[In billions of dollars; fiscal years]

Fiscal year or period	Receipts (on-budget and off-budget)					Outlays (on-budget and off-budget)										Surplus or deficit (–) (on-budget and off-budget)
	Total	Individual income taxes	Corporation income taxes	Social insurance taxes and contributions	Other	Total	National defense		International affairs	Health	Medicare	Income security	Social security	Net interest	Other	
							Total	Department of Defense, military								
1987	854.1	392.6	83.9	303.3	74.3	1,003.9	282.0	274.0	11.6	40.0	75.1	123.3	207.4	138.7	125.9	–149.8
1988	909.0	401.2	94.5	334.3	78.9	1,064.1	290.4	281.9	10.5	44.5	78.9	129.3	219.3	151.8	139.4	–155.2
1989	990.7	445.7	103.3	359.4	82.3	1,143.2	303.6	294.9	9.6	48.4	85.0	136.0	232.5	169.3	158.8	–152.5
1990	1.031.3	466.9	93.5	380.0	90.9	1,252.7	299.3	289.8	13.8	57.7	98.1	147.0	248.6	184.2	203.9	–221.4
1991	1,054.3	467.8	98.1	396.0	92.3	1,323.4	273.3	262.4	15.9	71.2	104.5	170.3	269.0	194.5	224.5	–269.2
1992	1,090.5	476.0	100.3	413.7	100.5	1,380.9	298.4	286.9	16.1	89.5	119.0	196.9	287.6	199.4	173.9	–290.4
1993	1,153.5	509.7	117.5	428.3	98.0	1,408.7	291.1	278.6	17.2	99.4	130.6	207.3	304.6	198.8	159.7	–255.1
1994	1,257.7	543.1	140.4	461.5	112.8	1,460.9	281.6	268.6	17.1	107.1	144.7	214.0	319.6	203.0	173.8	–203.2
1995[1]	1,350.6	590.2	157.1	484.5	118.9	1,514.4	272.2	259.6	16.4	114.8	159.9	220.2	335.8	232.2	162.9	–163.8

[1] Estimates.

Note.—Through fiscal year 1976, the fiscal year was on a July 1–June 30 basis; beginning October 1976 (fiscal year 1977), the fiscal year is on an October 1–September 30 basis. The 3-month period from July 1, 1976 through September 30, 1976 is a separate fiscal period known as the transition quarter.

Refunds of receipts are excluded from receipts and outlays.

Data shown in this table are from ***Budget of the United States Government, Fiscal Year 1996,*** February 1995, except 1995 data are from ***Final Monthly Treasury Statement,*** October 1995.

Mr. HATCH. I reserve the remainder of my time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I want to respond to my friend's comments. And I hope he can stay on the floor because I think he raised some important points, some of which I agree with.

He said this isn't a partisan issue. I agree with my friend from Utah. Alan Greenspan, who is the hero of many on the Republican side of the aisle—indeed, when we say the President's policies have brought us millions of new jobs and the lowest misery index, they always say it is Alan Greenspan. Alan Greenspan, Republican, opposes this amendment to the Constitution.

I will give you another voice, Jean M. Ross of the nonpartisan California Budget Project, wrote that a balanced budget amendment would limit the Federal Government's ability to help States needing economic assistance. I can say to my friend that economic assistance to States is not only needed during the recessions, which my friend thought was a big loophole, but it is certainly needed in times of disaster.

If you look at this map, you can see almost the entire country is under some risk for disaster.

My friend says we can never balance the budget. He has all these budgets up there. I was glad to see Senator BYRD point out that the biggest deficits occurred in the 1980's in those books because of trickle-down economics, and a huge military buildup. We didn't pay for it. Those are what those books say.

My friend says we are never going to have a balanced budget until we have a balanced budget amendment to the Constitution. We will never have a balanced budget until we vote for a balanced budget, and I have done that three times. I voted the tough votes, and the deficit is going down. I feel standing up here is quite fiscally responsible because of those votes. But when you put this country in an economic straitjacket, I think it is dangerous.

My friend says he doesn't understand my amendment. I find that extraordinary because I offered it the last time we voted on this balanced budget. No one had problems understanding it. It is the same amendment. But let me read to my friend the purpose as written in my amendment, in case he doesn't understand it. The purpose is to provide Federal assistance to supplement State and local efforts to alleviate the damage, loss, hardship, and suffering caused by disasters or emergencies by exempting spending that is designated emergency requirements by both the President and the Congress.

The point is that it is very clear that the President will declare a disaster or emergency. The Congress will then take a look at it. The Congress will then act. And, if the Congress agrees that this is a disaster or an emergency, then the 60-vote requirement is waived.

My friend says it is easy to get 60 votes in an emergency. I would like to tell my friend a story. We had an earthquake in San Francisco and a freeway collapsed. It was called the Cypress Freeway. It is in Oakland, and it was destroyed. I am very familiar with this because my husband crossed that freeway an hour before it went down. So I am very familiar with the Cypress Freeway. We are rebuilding the Cypress Freeway.

And one of my colleagues on the other side of the aisle—as a matter of fact, it was the then majority leader, Bob Dole, who decided that he didn't like the rebuilding plan and brought the issue before us. And I had to fight for my life, along with Senator FEINSTEIN, to keep the rebuilding of the Cypress Freeway on the floor and alive and fulfill our obligations to the people of Northern California. We forced a vote on it. We got 53 votes, and we were able to move forward. We did not get 60 votes. Had this balanced budget requirement been in place we would not have been able to finish building the Cypress Freeway.

So for anyone who comes on this floor and thinks that it is easy to get 60 votes when politics plays a role in some of it, and budget deficits will play a role in it, I would just say to them, please don't give that kind of power to a minority of the U.S. Senate. Let us vote a simple majority vote in case of natural disasters.

There is no confusion about this amendment. If my friend has confusion, all he has to do is read the purpose. It is clear what we are talking about.

I will just show one more picture again of what we are talking about. We are talking about flooding and storms that cause roads to shut down. We are talking about houses being buried in the water because of floods. It is real simple, I say to my friend. Let's not tell people it is confusing. It is pretty clear.

I yield the floor. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. 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. HATCH. Mr. President, in spite of the sincerity of my colleague from California, I think I have said all that needs to be said on this. I yield back the remainder of my time, and I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. SESSIONS). The question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 60, nays 40, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—60

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Graham	Murkowski
Baucus	Gramm	Nickles
Bennett	Grams	Reid
Bond	Grassley	Robb
Brownback	Gregg	Roberts
Burns	Hagel	Roth
Campbell	Hatch	Santorum
Chafee	Helms	Sessions
Coats	Hutchinson	Shelby
Cochran	Hutchison	Smith (NH)
Collins	Inhofe	Smith (OR)
Coverdell	Jeffords	Snowe
Craig	Kempthorne	Specter
D'Amato	Kohl	Stevens
DeWine	Kyl	Thomas
Domenici	Lott	Thompson
Enzi	Lugar	Thurmond
Faircloth	Mack	Warner

NAYS—40

Akaka	Feingold	Levin
Biden	Feinstein	Lieberman
Bingaman	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Breaux	Harkin	Moynihan
Bryan	Hollings	Murray
Bumpers	Inouye	Reed
Byrd	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Conrad	Kerrey	Torricelli
Daschle	Kerry	Wellstone
Dodd	Landrieu	Wyden
Dorgan	Lautenberg	
Durbin	Leahy	

The motion to lay on the table the amendment (No. 16) was agreed to.

Mr. KYL. Mr. President, the Senate has had before it several amendments that include provisions their proponents say will exempt Social Security from the balanced budget amendment. I do not doubt the Senators who propose the amendments are sincere in their desire to protect Social Security; none of us wants to harm Social Security, which is so important to so many older Americans. I have to say, though, that well-intentioned as their amendment may be, I cannot think of a greater threat to Social Security.

Consider for a moment what it would mean to exempt Social Security from the balanced budget amendment. In effect, Social Security would become the only Federal program—the only program—where deficits would be permitted. The rest of the Federal budget would be required to be in balance.

How on earth does allowing Social Security to be in deficit protect our seniors? Quite the opposite. If a balanced budget is good for other programs, why is it not good for Social Security? There is no greater protection for seniors than having the money to take care of our obligations. In fact, we have been able to provide for seniors precisely because Social Security has usually been in balance or surplus; it is the rest of the budget that has been plagued by big, chronic deficits.

Now, at the very time it appears we are near consensus about how detrimental deficits are, some are proposing that we allow deficits to begin to infect the retirement program. In fact, the amendments to exempt Social Security would establish a constitutional presumption that Social Security will be run in deficit. Why else would the program be exempt from a balanced budget requirement?

Mr. President, we have always made sure that Social Security is actuarially sound. When Social Security faced problems back in the early 1980's, Republicans and Democrats came together in a bipartisan way to rescue the program and make sure that the benefits of current retirees were protected and paid on time.

On a bipartisan basis, we have abided by rules in the Senate that make it virtually impossible to pass a budget that adversely affects the Social Security surplus; it would take a supermajority vote to pass such a thing. On a bipartisan basis, we made sure that Social Security was exempt from the across-the-board spending cuts required by the Gramm-Rudman-Hollings deficit-reduction law in the 1980's. The Republican budgets of the last 2 years proposed ways of achieving balance without touching Social Security, and I assume President Clinton's new budget will not touch Social Security, either.

So the reality is that Republicans and Democrats have worked together every step of the way to protect the integrity of the Social Security system.

Why? Because there is general consensus in the country that Social Security must be protected. It has broad bipartisan support in Congress and around the country. It is supported by people young and old, rich and poor. It works. And unlike other programs run by our Government, it works because we have made sure that it has always operated in balance or with a surplus to cover unforeseen circumstances or expected future needs. That commitment to sound budgeting would be upheld by the balanced budget amendment—and applied to the rest of the budget as well.

Mr. President, I want to speak for a few moments about what I believe are some of the misperceptions about the balanced budget amendment and the Social Security exemption that is being proposed.

First, there is nothing in the balanced budget amendment that requires cuts in Social Security benefits. In fact, the budgets that Congress passed during the last 2 years would have achieved balance without touching Social Security, so obviously it can be done without harming the retirement system.

Second, there is nothing in the exemption that is being proposed that would prevent Congress from cutting retirement benefits, means-testing benefits, reducing cost-of-living adjustments, or raising payroll taxes. The exemption would not prevent the expenditure of Social Security funds for other purposes; in fact, it would do just the opposite. Given that the exemption would allow Social Security to run a deficit, Congress will in all likelihood simply shift spending that cannot be accommodated within a balanced budget to the Social Security budget.

Since Social Security is a program defined in statute—and Congress can amend that statute at any time by simple majority vote—Congress would be free to call virtually anything Social Security—whether it be Medicare, Medicaid, education, infrastructure development, or welfare—and thereby extend the exemption to cover those programs, too. The incentive would be to raid the trust funds for any project or program that might otherwise bust the Federal budget, and that would endanger the solvency of what today constitutes the Social Security Program. It would also mean that a provision of the Constitution could be amended by a simple majority vote—by just amending the statute that is referred to in the constitutional exemption. That, of course, would directly contradict the amendment clause of the Constitution itself.

Third, there is nothing in the exemption that precludes the Social Security surplus from being invested in Government securities and, in turn, being used to cover general operating expenses, just as it is now. Even those using Social Security as a pretext for opposing a balanced budget know that Congress has always made sure that the debt to the Social Security trust fund has been repaid—repaid with interest.

Mr. President, the fact that the Social Security surplus is invested in Government securities and used for general operating expenses does not mean beneficiaries are being short-changed of any benefits due them. The surpluses do not exist for current retirees, but to help cover the cost of benefits when the baby-boom generation retires years down the road.

So, the only relevant question regarding the safety and soundness of Social Security is whether, when it comes time to pay those benefits to future retirees, the Federal government will be able to cover its IOU's to the Social Security trust fund. That, in turn, depends on how deeply in debt the Federal government is.

Mr. President, the Congressional Budget Office projected just last month that the budget deficit will reverse course and begin to rise again—from $107 billion in 1996 to $124 billion in 1997—and it will keep rising to $278 billion in 2007. Debt held by the public will increase 55 percent in just the next 10 years. The more debt that accumulates, the harder it will be for the Government to repay Social Security in the future while also meeting all of the Nation's other needs—for example, in law enforcement, education, the environment, and health care. The balanced budget amendment will help minimize the accumulation of debt and

the threat to future retirees that is inherent in it.

If Congress does not balance the budget—if it does not constrain the national debt—the temptation will ultimately be to monetize the debt—that is, pay it off by printing more money. And that would lead to rampant inflation. No industrialized nation has ever reached the level of debt that our country is expected to face in the next century without monetizing the debt, printing more money, and experiencing destructive, rampant inflation.

If inflation drives the cost of basic goods and services beyond the reach of most Americans—if, for example, bread costs $100 a loaf—it will not matter that a retiree's $1,000 Social Security check arrives promptly in the mail. The worst enemy of those on fixed incomes is inflation.

So the exemption neither guards against cuts in benefits nor ensures that the government has the ability to repay its debts to the trust fund to cover future benefits. It is a false promise to the millions of Americans who depend on Social Security to meet their most basic of needs.

Leaving Social Security under the balanced budget amendment will, however, make sure that the retirement system remains safe, sound, and balanced. And that is important because, while the system is running annual surpluses now, it will soon begin running huge deficits. Beginning in 2012, Social Security will begin spending more than it collects in payroll taxes. By 2029, benefits will amount to more than all payroll tax revenue, accumulated surpluses, and interest—meaning that the trust fund will have neither sufficient income nor savings to meet then-current obligations. If allowed to continue operating in deficit, the Social Security Program will rack up $7 trillion in debt by 2070. These deficits are the greatest threat to the Social Security system.

Mr. President, the exemption will not protect benefits or guarantee repayment of IOU's to cover future benefits. It will not even ensure that Social Security surpluses are invested in something other than Government IOU's. But it will make it far more difficult to balance the rest of the budget by not allowing the amounts invested in Government securities to be counted toward a balanced budget.

That would mean Congress would have to cut spending, raise taxes, or both by an additional $706 billion over the 5-year period 2002 through 2007 beyond what would be necessary to balance a unified budget.

The exclusion would force deep spending cuts—an additional across-the-board reduction of 10 percent—in education, the environment, Medicare, law enforcement, and other discretionary spending programs. Or, it would require huge tax increases—up to 12 percent higher than they are today.

To put that into perspective, President Clinton's 1993 tax increase amounted to $241 billion. Last year's congressional budget resolution proposed slower Medicare-spending growth to provide savings of $158 billion, and discretionary spending savings totalling $291 billion.

The $706 billion in additional deficit reduction that would be required by the Social Security exemption would amount to more than the Clinton tax increase and those two sources of savings combined. It would obviously be very difficult to find any consensus for such huge reductions, and therein lies the rub. I am very concerned that the Social Security issue—that older Americans—are being made the scapegoats for a vote against the balanced budget amendment.

Mr. President, if proponents of the exemption are serious about wanting to balance the budget, excluding Social Security, then they should lay out how they will deal with tomorrow's Social Security deficit as well as how they intend to cover the $706 billion gap in the short term.

Or they should simply admit that they do not support a balanced Federal budget.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

Mr. GRASSLEY. Mr. President, without losing my right to the floor, I yield 2 minutes to the Senator from Texas.

FRANK M. TEJEDA POST OFFICE BUILDING

Mrs. HUTCHISON. Mr. President, I thank the Senator from Iowa, because it is very important that we pass a bill tonight. It is for a fallen colleague on the other side of the rotunda. We lost the Congressman from San Antonio a few weeks ago at the age of 51 to a battle with cancer.

Frank Tejeda was a great Congressman, he was a great friend, and he was a patriot for this country. He left high school at the age of 17, joined the Marine Corps, came back and graduated from St. Mary's University. He then went on to distinguish himself and earn degrees in law from U.C. Berkeley and Yale, as well as a masters in public administration from Harvard.

Frank Tejeda was a hero. He earned the Bronze Star for valor, and received the Purple Heart for wounds sustained in combat in Vietnam. But most of all, he never forgot where he was from—south San Antonio, TX. As a leader in his community and as a public servant, Frank always remembered the people he represented and was always there for them.

For that reason, Mr. President, my colleague Senator GRAMM and I want to name the Postal Service facility being constructed at 7411 Barlite Boulevard in San Antonio, TX, as the "Frank M. Tejeda Post Office Building." So I am going to make two unanimous-consent requests to discharge H.R. 499, which passed unanimously in the House of Representatives on February 5, 1997, in order to complete the naming of this post office for a great patriot, a great friend, and a wonderful Congressman from Texas.

Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 499; and further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 499) to designate the facility of the United States Postal Service under construction at 7411 Barlite Boulevard in San Antonio, Texas, as the "Frank M. Tejeda Post Office Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRAMM. Mr. President, I am honored to join my colleague, Senator KAY BAILEY HUTCHISON, in offering a tribute to our late colleague, Congressman Frank Tejeda.

Frank will be remembered as a man who dedicated his life to serving America. He was widely admired for his friendly common sense, but in particular for the special place that he kept in his heart for the men and women who wear the uniform of our country.

In his short tenure, Frank Tejeda left his mark on our country, on the people of Texas, and most personally on the people of San Antonio, who knew him best. It is most fitting that we designate the Post Office facility to be constructed in San Antonio as the "Frank M. Tejeda post office Building," not to remind people of who Frank was, for they do not need to be reminded. We designate the facility in Frank's name to recall for future generations that a man, whose life was too short, made a difference and will live in our hearts.

The Frank M. Tejeda Building will stand as a monument for dedication, commitment, and for the precept that with God-given talents and the will to work, we can do anything we set out to

do in America. Frank Tejeda epitomized those qualities in his life and we honor him.

Mrs. HUTCHISON. Mr. President, on behalf of Senator PHIL GRAMM and myself, I ask unanimous consent that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 499) was deemed read the third time and passed.

Mrs. HUTCHISON. Thank you, Mr. President. We have now finally passed the bill in both Houses of Congress that will name a post office for Frank M. Tejeda. It is a fitting tribute to a wonderful former Member of the U.S. Congress. Senator GRAMM and I are very proud to have served with him and to cosponsor this bill.

I thank the Senator from Iowa, and I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

THE FBI AND THE ALCEE M. HASTINGS MATTER

Mr. GRASSLEY. Mr. President, yesterday I spoke to my colleagues about management problems within the FBI, and within the Bureau's reputed crime lab. I spoke about the consequences of this mismanagement. Confidence and trust in the Nation's premiere law enforcement agency is dwindling. It is because of the FBI's own abuses of its very enormous powers.

Yesterday, I mentioned that I would talk about a specific case, with specific allegations. The case involves apparent false statements and evidence tempering by an FBI agent in a high profile case brought before the Federal judicial system and the U.S. Congress.

In a letter to me dated February 21, FBI Deputy Director Weldon Kennedy stated that the Justice Department inspector general "found no instance of perjury evidence tampering, evidence fabrication, or failure to report exculpatory evidence."

Mr. President, my first response to that is as follows: The IG investigation was not a criminal investigation. It therefore would not find perjury, evidence tampering, evidence fabrication, or failure to report exculpatory evidence. If it had been a criminal investigation, I believe Mr. Kennedy would not have said what he said. His credibility is undercut by the facts.

This morning's Washington Post contains a story about how one FBI agent, Special Agent Michael P. Malone, apparently shaved evidence, provided false statements, and tampered with evidence for an Eleventh Circuit Court proceeding involving then-Judge ALCEE L. HASTINGS. Mr. HASTINGS is now a Member of the House of Representatives. Mr. Malone is still an FBI agent, and has testified in thousands of cases.

Despite well-documented evidence of this wrongdoing, the FBI covered it up. The evidence was documented by an FBI lab scientist, who performed lab tests on a piece of evidence in the Hastings case. Malone falsely claimed to have done the tests himself.

The FBI scientist who made the allegations is not Dr. Frederic Whitehurst, the more well-known whistleblower from the FBI lab. Rather, it is Dr. William Tobin of the same lab. By the way, this undercuts the FBI's assertion that Dr. Whitehurst is the only one in the lab making these allegations.

A memorandum written by Dr. Tobin in 1989 details the alleged false statements, evidence shaving, and evidence tampering by Agent Malone. It was the basis of reports in the last 24 hours in the media. Mr. President, I ask unanimous consent to have printed in the RECORD the Washington Post story.

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

[From the Washington Post, Feb. 26, 1997]

FBI ROLE IN IMPEACHMENT PROBED

(By Pierre Thomas)

The Justice Department inspector general has been investigating whether the FBI intentionally gave misleading testimony to a judicial panel that was deliberating whether to recommend that then-U.S. District Judge Alcee L. Hastings be impeached.

The Justice Department probe has uncovered evidence that an FBI examiner who worked on the Hastings case, now a Democratic representative from Florida, vigorously challenged the bureau's laboratory analysis of a key piece of evidence relating to the judge's truthfulness in a bribery trial in the early 1980s. But Justice Department investigators found that FBI supervisors largely ignored the examiner's critique and never provided the dissenting information to Congress, which later removed Hastings from the bench.

The revelation is the first detailed account supporting allegations by FBI whistleblower Frederic Whitehurst about shoddy FBI laboratory work. Whitehurst claims that bureau officials routinely manipulated forensic work and allowed flawed expert testimony during court proceedings if it helped prosecutions.

"It is not just Dr. Whitehurst who has alleged wrongdoing in the FBI crime lab," Sen. Charles E. Grassley (R-Iowa) said yesterday. ". . . I fear the FBI has covered up the lab's shortcomings."

Documents obtained by The Washington Post in connection with the Hastings investigation raise questions about the bureau's willingness to address criticisms of its laboratory procedures, even when its own employees raised them, Grassley and others said.

"The misrepresentations and misstatements in the transcript (regarding FBI forensic testimony in the Hastings case) . . . represent a glaring pattern of conversion of what should have been presented as neutral data into incriminating circumstances by complete reversal of established laboratory test data with scientifically unfounded, unqualified and biased testimony," wrote frustrated FBI examiner William A. Tobin in 1989.

Tobin wrote that, while he agreed with the FBI's overall forensic assessment in the Hastings case, he was concerned that the bureau's testimony had gone too far in an apparent attempt to bolster the case against Hastings. Tobin's memorandum noted no fewer than 27 exceptions, or challenges, to bureau testimony against Hastings, Florida's first black federal judge, after he was acquitted of federal bribery charges. The judicial inquiry begun after his acquittal raised allegations of racism from African American leaders.

During an interview with the Justice Department inspector general's office, Tobin reiterated his concerns to investigators, according to sources familiar with the inspector general's ongoing review. He also told investigators that he turned his memorandum in to his supervisor, but the bureau apparently did nothing to address his concerns. In fact, he never heard back from his superiors on the matter, Tobin said. In addition, sources said that investigators have been unable to find Tobin's original forensic report, which should have been used to prepare for the testimony in the Hastings case.

"Alcee Hastings and I have believed for some time that a fair amount of evidence against him was manipulated or manufactured," said Terence Anderson, Hasting's attorney during impeachment proceedings.

Hastings called the revelation "astounding beyond belief. I need to understand who withheld this information, why they withheld it and what effect it would have had if it were presented to Congress," which impeached and convicted him.

Whitehurst's attorney, Stephen Kohn, agreed, saying that "if the FBI could put forth false evidence regarding a sitting judge, every American is at risk to FBI lawlessness."

In response to a broad inspector general investigation of the FBI crime laboratory, Justice Department officials have notified at least 50 state and federal prosecutors of potential problems in their cases.

Hastings was charged in 1981 along with friend and Washington lawyer William A. Borders Jr. of engaging in a conspiracy to accept a $150,000 bribe from an undercover FBI agent posing as the brother of two men convicted of racketeering. In exchange, Hastings was to reduce the men's sentences and return nearly $1 million in forfeited property.

Borders was convicted of the crime. Hastings, in a separate trial in 1983, was acquitted of the same charges. He has steadfastly maintained his innocence.

But after a 3½-year investigation prompted by an ethics complaint from several of his fellow judges, successive judicial panels concluded that Hastings had not only engaged in a bribery conspiracy, but lied and manufactured evidence at the trial to win acquittal.

Investigators sought to challenge Hastings' truthfulness on a number of fronts.

Hastings testified he was with Borders at the time he was alleged to have taken the bribe in part because he was trying to find a leather shop to repair a men's purse whose strap had broken.

FBI forensic experts were asked to test the strap to see if it could be snapped by accident, as Hastings described, or whether it was too strong and would have had to have been cut. The FBI's lab experts concluded the strap had been cut. The inference was that Hasting had cut the strap in an attempt to concoct an alibi.

Tobin generally agreed with that conclusion but said he was deeply troubled about FBI testimony in the case and believed it "revealed a pattern of complete omission of

crucial conditions, caveats, premises and or assumptions which may be viewed as tending toward exculpatory."

Mr. GRASSLEY. Higher ups in the FBI never did a thing about this problem. Yet, it speaks to exactly the charge made by Dr. Whitehurst; namely, that the culture within the FBI is to overstate lab results to get a conviction. They do this by withholding any data that might show the opposite.

That makes me think of an analogy, Mr. President. Imagine me standing by a dog. You ask me if my dog bites. I say "no." You reach down to pet the dog, and he bites you. You say, "I thought you said your dog doesn't bite." And I say, "That's not my dog."

The point is, I withheld valuable information to keep you from having an informed judgment. That is what the FBI does, according to Dr. Whitehurst, and in this specific case according to Dr. Tobin. And when the IG's investigative report comes out next month, we'll see if there are other examples that need following up.

In an interview with Federal investigators, Dr. Tobin called this "forensic prostitution." Those were his words, Mr. President. Forensic prostitution. It must be really bad when a senior, supervisory agent in the FBI's own lab calls that practice "forensic prostitution." What does that say about the standards in the lab? And does not that back up what was charged by Dr. Whitehurst? Of course it does.

The impact of the Tobin memo, in my view, is not whether it would change the outcome of the ALCEE HASTINGS case. I have heard arguments on both sides. I don't know, for instance, whether it would make enough of a difference for me to have changed my vote to convict Mr. HASTINGS. One thing is for sure: Agent Malone sure thought it was important. But is not it simply a matter of fairness for Mr. HASTINGS?

And that is not the only issue. The impact is much broader, much more serious. It raises questions about the integrity of the criminal justice process, especially the FBI's role. It raises the inference, in this highly visible case before the American people, that other evidence could have been tainted.

This alleged wrongdoing by an FBI agent wasn't done to a terrorist, or a mad bomber. He was a sitting Federal judge, a man who held a position of prestige and influence in a separate and coequal branch of our Government. The testimony was used in a court of law, and before the U.S. Congress.

Senior officials in the FBI knew about this. Nothing was done to correct the record. And nothing was done to discipline the agent. Is this because the culture in the FBI condones this? Is Dr. Whitehurst correct? Is Dr. Tobin correct, that forensic prostitution is condoned?

Last night, Director Freeh issued a statement saying that this was the first time he was aware of the Tobin memo. I don't understand this, Mr. President. The Justice Department's inspector general looked into this matter. It is in the report that has been sitting on Mr. Freeh's desk since January 20. How can he say that this is the first time he has heard of this?

Instead, he has his deputy, Weldon Kennedy, out making misleading statements to the public about how the IG didn't find any problems in the lab. I detailed this in my statement yesterday. And now we hear the Director telling us he was unaware of an issue that was on his desk for over a month.

There is another serious issue, Mr. President. There appears to be a missing document. The Tobin memo was written after the fact of Agent Malone's allegedly false testimony. But the original report by Dr. Tobin of the testing he did on the evidence has been missing. Director Freeh's statement last night alludes to that document and the fact that it was sent to the chief counsel of the 11th Circuit, which found Judge Hastings unfit to serve.

However, there was not a copy of that report within FBI headquarters, where it should have been. The reason it should be there is in case the inspector general or others wanted to investigate what happened. The fact of Mr. Freeh document, and that the eleventh circuit has it, does not answer the relevant question.

Also not mentioned in the Freeh statement are concerns about the public's perception of all this. The public's confidence in Federal law enforcement is already on the wane. The FBI lab situation will only add to that. I sense that the FBI is still dancing around the truth and full disclosure. Nothing short of the truth can and will be tolerated.

I have written today to the Justice inspector general requesting that he investigate the circumstances surrounding the disappearance of the original Tobin analysis. I have also written today to the Attorney General asking that the IG take the lead on this investigation because of possible conflicts of interest for the FBI.

Finally, Mr. President, let me reiterate a warning I made yesterday about action against Dr. Whitehurst or any of the other scientists who might come forward. This Congress will not tolerate action against Dr. Whitehurst, or any other individual who might come forward with the truth. And that message goes for Justice Department officials, as well, who have now removed authority from the FBI for any action taken against Dr. Whitehurst.

Mr. President, I ask unanimous consent to have printed in the RECORD the Tobin memo, plus attachments, and the two letters I sent today, to which I referred earlier.

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

Memo To: Section Chief Ken Nimmich.

From: SA William A. Tobin.

Subject: Exceptions to Testimony of SA Michael P. Malone in the Matter of U.S. District Judge Alcee S. Hastings.

Purpose: To advise of exceptions taken to testimony of SA Malone in 11th Circuit judicial inquiry, Atlanta, Georgia.

Details: In preparation for anticipated congressional testimony on August 3, 1989, SA Tobin reviewed the transcript of the 11th Judicial Circuit testimony in Atlanta, Georgia, of SA Malone. Because of the potential for serious conflict and substantial embarrassment to the Bureau, an audience was requested with you late in the day of August 3, 1989, wherein you requested the specific details of may objections, my exceptions to SA Malone's testimony, and technical analysis as to the effect of the testimony.

Attached hereto are the requested exceptions and analysis, as well as two photographs of test breaks.

Recommendations: None. For information only.

EXCEPTIONS TO TESTIMONY OF SA MALONE RE U.S. DISTRICT JUDGE ALCEE L. HASTINGS

1. p. 113, line 2: Metallurgical testing procedures utilized were not "winging it". I did not have to "design a test". The apparatus is, in fact, designed to test any solid material (including hairs).

This statement, repeated in various forms several additional times, undermines the legal value of the metallurgical testing as not in compliance with the Frye and "generally accepted guidelines" rules.

2. p. 116, line 23: False statement. SA Malone had no participation in the tensile testing, and had only requested to watch because he had ". . . never seen such a test . . ." and wanted to see how they were conducted.

3. p. 117, line 11: False statement. Either the writing is that of SA Tobin or the evidence has been altered subsequent to the tensile testing. On every nonmetallic item in which I have induced tensile failure on behalf of the FBI Laboratory, I have placed evidence or plain white tape at the fracture in order to identify Laboratory-induced failures, with Sharpie Marking Pen writing "test tear" and an arrow pointing to the failure. If my recollection serves me correctly, I believe I noticed when I saw the purse some time later that my own markings had been removed and those of SA Malone had replaced them.

4. p. 117, lines 21–23: False statement. Photos were made outside the presence of SA Malone by SA Tobin during the course of metallurgical examinations.

5. p. 118, lines 17, 18: False statement. Neither the test tears nor the photographs were made by SA Malone.

6. p. 120, line 22: Not true. I did not have to "jury rig it" . . . I used standard test fixtures for this type material and specimen. The equipment was designed for any solid material of suitable configuration. The testing was in conformance with the Frye and "generally accepted guidelines" rules, contrary to the manner in which the testimony is presented.

7. p. 123, line 23: False statement, particularly following the specific words "actually" and "yourself".

8. p. 124, lines 3–5: Incorrect. In fact, designers and users abhor sudden breaks because of the potential for catastrophic loss of life. Designers, therefore, attempt to insure

gradual failures so that it is not instantaneous. The terms "gradual" and "slowly" are deceptive and relate only to the strain rate selected by SA Tobin for the testing: almost any strain rate could have been selected for the test.

9. p. 124, lines 6, 7, and 15: The tears did not proceed (propagate) on a ". . . diagonal line across the entire strap until finally the entire strap went." The effect of this "observation" is to enhance differences between the questioned tear and the test tears. In addition, characterization of the test tears as "diagonal across the entire strap" puts the failure mode in a different category (when reviewed by a metallurgist or materials scientist), not supported by either expectations or actual test behavior.

10. p. 124 line 24: Use of the term "pressures" is not appropriate and is not interchangeable with "force" posing a potential technical review problem. On a strap approximately ¾" wide and ⅛" thick, a force of 29 lbs. results in approximately 309 lbs/in^2 on the same cross sectional area results in a force of 2.7 lbs exerted on the strap, a significant difference on technical review.

11. p. 126, lines 1–3: same comments as #9 above.

12. p. 127, lines 13–15: same comments as #5 above.

13. p. 126, line 9:

14. p. 129, line 9: Direct contradiction to laboratory (AE) findings supported by data. Presents apparently and potentially exculpatory information as incriminating.

15. p. 129, line 11: Contrived/fabricated response and false. Renders metallurgical test data very likely inadmissible because such data can be deemed to fail the Frye test and the "generally accepted guidelines".

16. p. 130, line 14, 15: Deceptive, if not outright false.

17. p. 130, line 24: Not true. The figure is not meaningless with regard to the strap.

18. p. 131, line 14: Contradicts #17 above, and not accurate. "Pressures" likely vary along the entire length of strap.

19. p. 132, lines 2: Unfounded and in direct contradiction to laboratory test data. In fact, test data indicates the strap would not be capable of supporting or hanging 30 pounds. Aggravates incriminating nature of evidence/data and omits assumptions, premises or qualifying stipulations which might be viewed as potentially exculpatory.

20. p. 133, line 15: Inaccurate and deceptive.

21. p. 133, line 19: Failure initiation and propagation assessment is completely fabricated.

22. p. 134, lines 3–8.

23. p. 135, lines 6–10: Completely fabricated failure propagation assessment.

24. p. 135, line 21: ditto.

25. p. 136, line 4: ??? as to where cut started. Unfounded and not supported by data.

26. p. 143, line 17: Unfounded. There is not data or indication that the cut was made by a person.

27. p. 144, line 24 and p. 145, lines 7, 8: Inaccurate observations and contrary to expected and actual test data.

Again suppresses apparent exculpatory material behavior and presents test specimens as incriminating data.

EFFECT OF TESTIMONY

The misrepresentations and misstatements in the transcript would, on review by metallurgical/materials personnel, represent a glaring pattern of conversion of what should have been presented as neutral data into incriminating circumstances by complete reversal of established laboratory test data with scientifically unfounded, unqualified and biased testimony. [See exceptions #8, 9, 11, 14, 17, 18, 19, 21, 23, 24, 26, 27].

Additionally, the transcript reveals a pattern of complete omission of crucial conditions, caveats, premises and/or assumptions which may be viewed as tending toward exculpatory in nature. Even Mr. Doar had to intercede to bring the testimony back to reality (see p. 146, line 14).

As an example, existing laboratory reports indicate that the strap failed consistently at approximately 29.2 lbs. and that a weight up to that of an individual can be exerted on the strap by anyone attempting to break the strap. After applying what is one of the weakest motions for exerting force by an individual (pulling an object with both hands exerting forces in opposite directions), he testified that, as a 200 lb. "weightlifter", he could not break the strap. [It does not require an expert to visualize how an individual might apply loads greater than what SA Malone exerted]. The strong inference is that it is impossible to accidentally or intentionally exert a breaking load on the straps and, therefore, the strap must be cut to successfully break it. Another example [exception #26] is the statement that a person made the cut.

The opinions expressed in the transcript can not be viewed as constituting professional differences. The witness has no apparent academic or empirical training to provide such testimony. Even had the witness undertaken the minimal studies for such testimony, to include Introduction to Materials, Strength of Materials, Engineering Materials, Behavior of Matter, Properties of Materials, Materials and Advanced Materials Laboratories, Mechanical Testing & Laboratory, and Failure Analysis courses or their equivalents (26 credit hours of study), he has not conducted any such testing, utilized the test apparatus, or even observed its use in the prior 15 years or more.

The testimony, almost in complete entirety, relates to materials strain or deformation, stress applications, tensile test procedures, tensile data, and failure (propagation) assessment. It was very apparent even before SA Malone testified in Atlanta, Ga., that the metallurgical examinations and test results would be of importance to the inquiry, but I was told that I was not needed. From the early stages of judicial proceedings I was queried a number of times for information as to these topics with an explanation of "personal curiosity". However, both the number of queries and complexity (specificity) indicated more than a casual interest. I cautioned SA Malone about attempting to present the metallurgical data without some of the crucial caveats, premises or assumptions which must be made, such as system constraints (eg., wearer's hand grasping the strap), lack of complete specimen adjustment to applied forces (varies with the manner in which individual is carrying purse), initial condition statements, strain rate considerations, and manner of stress application. All of these cautions have been ignored and omitted in the testimony, and all of them can be viewed as exculpatory in nature.

Contributing to the perception of complete exculpatory information suppression, review of the transcript reveals no indication that the Chief Judge or the 11th Circuit panel was in receipt of FBI Laboratory report 51025051 S RU; in fact, it suggests the contrary.

Further, the metallurgical test data may well be rendered inadmissible because the witness states that I was ". . . winging it", that I had to "jury rig" and "fiddle" with the test apparatus, and that ". . . nobody in our . . . lab had ever done a test like this, and I have never heard of any studies being published, it's almost a meaningless figure . . .". Testifying as, what the court thought was, an expert in that area, this is a fairly strong indictment of the testing. These statements beg for a ruling of inadmissability in view of the Frye and "generally accepted guidelines" standards.

These exceptions were originally discussed with Section Chief Ken Nimmich because of a potential for serious and embarrassing conflict in congressional testimony tentatively scheduled for August 3, 1989. Not unexpectedly, our testimony was not needed in the congressional proceedings. However, this is being made a matter of record to indicate that the testimony is not reflective of the metallurgical testing, test data and guidance provided.

Overall, the exceptions to the testimony of SA Malone do not affect the technical assessment that the purse strap has been cut.

U.S. SENATE,
Washington, DC, February 26, 1997.

Hon. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL: I am writing in reference to my meeting on February 24, 1997 with the DOJ Inspector General during which I requested an investigation into the matter of an alleged missing document detailing an initial F.B.I. analysis of the tests performed on evidence in the case against Alcee L. Hastings.

According to a February 25, 1997 statement released by F.B.I. Director Louis Freeh, the F.B.I. will be looking into this matter also. I have attached a copy of his statement.

I have asked the Inspector General to investigate this matter for reasons of ensuring the public's confidence in resolving this matter. In this regard, I believe it is better for an independent investigation rather than one by the F.B.I. Questions have been raised in the public arena in recent years regarding the F.B.I.'s ability to investigate itself. An independent investigation will ensure that there is no question of all the facts being disclosed.

Please provide a response to this letter by close of business on Friday, February 27, 1997. Your assistance is greatly appreciated.

Sincerely,

CHARLES E. GRASSLEY,
Chairman, Subcommittee on Administrative Oversight and the Courts.

U.S. SENATE, COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS
Washington, DC, February 26, 1997.

Hon. MICHAEL R. BROMWICH,
Inspector General, Department of Justice, Washington, DC.

DEAR INSPECTOR GENERAL: I am writing in reference to our meeting on February 24, 1997 during which I requested that you look into the matter of an alleged missing document detailing an initial F.B.I. analysis of the tests performed on evidence in the case against Alcee L. Hastings. You agreed to see what you could find out.

According to a February 25, 1997 statement released by F.B.I. Director Louis Freeh, the F.B.I. will be looking into this matter also. I have attached a copy of his statement. However, because of potential conflict of interests, I believe it is extremely important that your office take the lead in this matter.

Therefore, as Chairman of the Judiciary Subcommittee on Administrative Oversight and the Courts, I formally request that you proceed with this investigation, especially in light of the attached statement by Director Freeh.

Please respond to this request by March 5, 1997. Your assistance is greatly appreciated.

Sincerely,

CHARLES E. GRASSLEY,
Chairman.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I ask unanimous consent to speak in morning business for up to 10 minutes.

The PRESIDING OFFICER. The Senator has that right.

HOMOSEXUALITY IN THE MILITARY

Mr. COATS. Mr. President, I want to briefly address an item that was in the news this morning titled "New Study Faults Pentagon's Gay Policy." This morning the New York Times reported that with great alarm. It seemed that 850 men and women were discharged last year from the military for being homosexuals. They talk about an alarming increase in the number of people discharged under this policy that the Congress enacted just a couple of years ago.

First of all, we should put this in perspective. The 850 discharged amounts to six one-hundredths of 1 percent of active duty military personnel, and I do not think anybody on that basis can claim there is some kind of vendetta or witch hunt or anything else going on. It is really important for us to stand back and review where we are today following the debate that we had on gays in the military in 1994.

First, it is important to understand that the U.S. military maintains a commitment, a consistent commitment to the principle that homosexuality is incompatible with military service. This conviction has been one that was more thoroughly investigated and examined than perhaps any other policy, at least controversial policy, that this Senate body has examined in my memory and in many people's memories. We held exhaustive hearings. We held field hearings. We brought in experts from every perspective from the left, the right, and everywhere in between. Regardless of what their philosophical position was, we gave people the opportunity to express their opinion on this issue.

The evidence and the findings of fact that are laid out in the law itself that this Congress passed by a very substantial margin and which was signed by the President clearly demonstrated a factual basis and a rational basis for the policy that was adopted. The conviction is justified and, I think, clearly won the support of an overwhelming majority of both the House and the Senate and reaffirmed and signed into law and now has been reaffirmed into law.

Now, I know there are some who still disagree with the conclusion that the Senate arrived at and that the Congress arrived at, but they presented their argument in a national debate. That argument did not prevail and did not come close to prevailing. They lost that argument because we were able to demonstrate, on a bipartisan basis, led by Senator Nunn and was something I participated in and many others, that clear, open homosexuality undermines unit cohesion and military effectiveness. It creates an unavoidable sexual tension, often in close quarters, which compromises the central purpose of the military, and that is to be effectively prepared to be able to fight and win wars if necessary or if called on.

Second, the U.S. military defines homosexuality as it has always defined homosexuality. First, making a statement that you are a homosexual is a presumption, is a clear indication, that you have adopted a homosexual lifestyle and is grounds for discharge. Second, engaging in a homosexual act is prima facie evidence of the case that you are a homosexual as defined in the law. Third, entering into a homosexual marriage. Those are the criteria.

In the public debate, people have tried to call this policy many different things, but in fact it is the policy the military held even before we passed the so-called don't ask, don't tell policy in 1994, and it is the policy we enforce today. So when military commanders implement this policy, they are not violating the rules. They are simply enforcing the law as we in the Congress wrote the law, supported the law, voted for the law, on a bipartisan basis, and as that law was accepted and signed into law by the President, the current President, of the United States.

PARTIAL-BIRTH ABORTIONS

Mr. COATS. Mr. President, I will comment on another article in the New York Times which is titled, "An Abortion Rights Advocate Says He Lied About Procedure" of partial-birth abortions.

Many here remember the very heated and controversial and difficult and emotional debate that we had on this floor in attempting to override the President's veto of the partial-birth abortion bill passed, again on a bipartisan basis, in both the Senate and the House but vetoed by the President on the grounds that this was a rare procedure, it rarely happened, and, therefore, we should not make a policy which would deny on those few rare occasions, as the President described them, the opportunity to women to avail themselves of a partial-birth abortion.

A Planned Parenthood news release of November 1, 1995, which was cited by many on this floor as the basis for the fact that this is rare, said, "The procedure is extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality." The President cited that and quoted medical experts that said that this was a rare procedure and used that as the basis for his veto of the bill, which prevented us from passing a ban against partial-birth abortions.

Now, today, the New York Times comes out with an article indicating that one of the doctors that was so frequently quoted, and the fact that it was so frequently used by opponents on this floor to argue against the ban on partial-birth abortions, that doctor has stated that he lied when he said this was a rare procedure.

Reading the article:

> A prominent member of the abortion rights movement said today that he lied in earlier statements when he said a controversial form of late-term abortion is rare and performed primarily to save the lives or fertility of women bearing severely malformed babies.
>
> He now says the procedure is performed far more often than his colleagues have acknowledged, and on healthy women bearing healthy fetuses.
>
> Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, said he intentionally misled in previous remarks about the procedure.
>
> But he is now convinced, he said, that the issue of whether the issue remains legal, like the overall debate about abortion, must be based on the truth.
>
> Mr. Fitzsimmons recalled the night in November 1995, when he appeared on "Nightline" on ABC and "lied through my teeth" when he said the procedure was used rarely and only on women whose lives were in danger or those fetuses were damaged.
>
> "It made me physically ill," Mr. Fitzsimmons said in an interview, "I told my wife the next day, 'I can't do this again.'"
>
> As much as he disagreed with the National Right to Life Committee and others who oppose abortion under any circumstances, he said he knew they were accurate when they said the procedure was common.

As I said, last April, President Clinton vetoed a bill that would have outlawed this procedure, and in explaining that veto, as the New York Times quotes, "Mr. Clinton echoed the argument of Mr. Fitzsimmons and his colleagues." And I quote from the President:

> There are a few hundred women every year who have personally agonizing situations where their children are born to or are about to be born with terrible deformities, which will cause them to die either just before, during or just after childbirth," the President said. "And these women, among other things, cannot preserve the ability to have further children unless the enormity—the enormous size of the baby's head—is reduced before being extracted from their bodies.

Meaning a tube is stuck into the baby's head, the skull, the brains are sucked out, and the skull is collapsed. That is the procedure we are talking about here. He is reduced before being extracted from their bodies.

A spokeswoman for Mr. Clinton, said tonight that the White House knew nothing of Mr. Fitzsimmons' announcement and would not comment further.

I bring this to light, Mr. President, and I am putting it in the RECORD because I hope that the President would have the opportunity to now gain this information that was erroneous.

Mr. Fitzsimmons has admitted now on record that he "lied through his teeth," was deliberately deceptive. That was the justification on which the President formed his opinion and decision. I hope we can now use this opportunity to clarify the record, and that the President can revisit his decision, on the basis of this new information that this is a common procedure and not a rare procedure. The President could—and hopefully the Congress will be addressing this at some point—when presented again with an opportunity to provide a ban against a procedure that is inhuman, and many believe is infanticide, a grisly procedure that is even difficult to describe anywhere in public, and particularly on the floor of the Senate. I hope the President, now armed with this new information, will be able to reexamine his position on the issue, and when and if a bill is presented to him that bans partial-birth abortion, would, on the basis of this new information, and the justification he used to veto the previous bill, reverse his position and support our efforts to bring some level of decency and humanity into this abortion procedure.

We are not discussing here the issues that have so consumed us on the abortion question in the past. We are talking about a situation that most find abhorrent, and which is something I don't believe this Nation can have a policy advocating. So with this new information, we are providing an opportunity for people to revisit their decisions and their conclusions because, clearly, that was the justification and basis for the opposition to the ban on partial-birth abortion, and clearly now we have evidence refuting that opposition and, hopefully, that will provide the basis for us to go forward and correct what I believe was a serious mistake we made in the last Congress.

Mr. President, I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

WORKING TOGETHER ON THE ABORTION ISSUE

Mrs. BOXER. Mr. President, I just heard my colleague talk about information that he feels would lead people to change their view on the tragic issue of late-term abortion. I want to make a clear point that I made today to the press when they asked me about this. I think it is deplorable that anyone on any side of this issue would knowingly misstate the truth, on any side. There is no excuse for that. We can't resolve problems in this Nation if people don't tell the truth.

The issue here is—and I think it is very important to state it—that under Roe versus Wade, which is the law of the land and has been upheld by the Supreme Court several times, a woman has a right to choose, without Government interference, in the early stages of her pregnancy. Now, that is a matter of debate. Some colleagues here think that is a very bad decision by the Court. Some colleagues here would like to outlaw abortion at any stage. But what Roe versus Wade said is postviability. Once the fetus is viable, the Government can come in and regulate abortion. I agree with that.

What Roe versus Wade says is that the Government can regulate abortion at the postviability stage very clearly, as long as the life of the woman is protected and her health is protected.

Now, Mr. President, I think we owe it to the women of this Nation to ensure that they do not die, and if they have a very complicated pregnancy, where if they were to carry the child to term, they would lose their life or endure severe adverse health consequences where perhaps they could be paralyzed for life or become infertile—we had women, several of whom were religious Catholics and consider themselves pro-life, that had to go through and endure this procedure because they were told either their life was at stake or they could never carry another child.

So the issue isn't about how many times this procedure is used. My view is that even if it is used once incorrectly, it is wrong. I think what we ought to do is say that we should never allow an abortion in the late term, postviability, unless it is necessary to protect the life of the woman or her health. And I think that what we ought to start doing in this U.S. Senate is to start to come together on a couple of things. I don't think we are ever going to agree on the basis of Roe versus Wade. I think my friend from Indiana believes that abortion is wrong, and he is willing to outlaw it. I support Roe versus Wade. We have a fair disagreement. So we can't come together on that.

I think we can come together on two issues surrounding this difficult issue. First, family planning. We ought to all support family planning, so that every child is a wanted child and so that the number of abortions would drop dramatically. I was so pleased to see colleagues on the Republican side of the aisle join with colleagues on the Democratic side of the aisle and make a profamily planning statement. We ought to come together on that, and we ought to come together on the issue of late-term abortion. We ought to say it should not be allowed, unless it is necessary to save the life of a mother or spare her irreparable harm.

I really think we have an opportunity now, because this issue has been brought up again, to walk down the aisle together on those two points—family planning and on the late-term abortion issue. Consistent with Roe versus Wade, we can do that.

So, Mr. President, I know we will be revisiting this issue. I will, once again, bring to the floor the stories of the women who had to have these procedures, postviability, because their life was in danger or they might have been infertile. I will continue to put the woman's face on the issue. I hope we can reach agreement, in a bipartisan way, on this matter and move forward so that, in essence, we can reduce the number of abortions in this country and that every child can be a healthy and a wanted child. Thank you very much, Mr. President.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

ABORTION

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from California for her remarks. I find myself in complete agreement with what she has just said. I hope that this year, as opposed to last year, we can find a solution, that we can resolve the differences that may not be insurmountable in coming to grips with both of the issues—family planning and late-term abortion.

If we can find the language that says that, with respect to all procedures, postviability abortions ought to be outlawed, except in those rare, rare circumstances involving the life and emergency health situations so that we would protect the woman from irreparable harm or enable her to have another child at a later date, is something that I hope we can all support and come together to resolve. So, again, I thank her for her comments, and I would like to work very much with the Senator from Indiana, who has spent a lot of time on this issue to resolve this matter in a successful way sometime this session.

SENATOR GLENN'S RETIREMENT

Mr. DASCHLE. Mr. President, last Thursday our colleague, Senator JOHN GLENN, announced he will be retiring from the Senate at the end of his current term in 1998. While I am saddened by his decision, I certainly understand it, and I want to take a few moments to pay tribute to a man who has given a lifetime of service to his country.

Soldier, astronaut, hero, businessman, statesman, nuts-and-bolts reformer. All of these words accurately describe the long, distinguished career of JOHN GLENN. Courage, tenacity, modesty, authenticity, the "Right

Stuff." These words describe the character of JOHN GLENN, the ingredients that have made this great career so memorable.

When he retires on the cusp of the 21st century, JOHN GLENN will likely be remembered as one of the great American heroes of the 20th century, both for his heroism in battle and for conquering the peaceful but uncharted frontiers of space. But he should also be remembered as a Senator who helped prepare his government to enter the 21st century as a modern, efficient force for good in people's lives.

JOHN GLENN first answered his country's call when he joined the Naval Aviation Cadet Program shortly after Pearl Harbor. He was commissioned in the Marines in 1943. First Lieutenant GLENN flew nearly 60 combat missions in the Pacific theater. His great courage and skill earned him 2 Distinguished Flying Crosses and 10 Air Medals.

After the war, JOHN GLENN remained in the Marines, was promoted to the rank of major, then distinguished himself once again in the Korean conflict. He flew 90 combat missions in just 8 months, won 2 more Distinguished Flying Crosses, 8 more Air Medals, and numerous accolades from his fellow Marines, including the titles Mig-mad Marine."

JOHN GLENN could have retired from the military after Korea and entered civilian life a decorated hero. He chose instead to stay in the service and take on more challenges, including new frontiers that, at that time, existed only in the imaginations of most men.

As a military test pilot in 1957, JOHN GLENN established a new flight speed record, earning credit for the first-ever transcontinental supersonic flight. This record flight also earned him his fifth Distinguished Flying Cross and caught the eye of NASA's Project Mercury program, dedicated to launch the first human into space. As a Mercury astronaut, JOHN GLENN put in many months of intense training, and in 1961 he was chosen to make America's first attempt to orbit the Earth.

Numerous technical and weather problems delayed his attempt for 2 months. One can only imagine the pressure of an on-again, off-again wait for a risky, dangerous feat that no man had ever accomplished. But JOHN GLENN's moment finally came when an Atlas-D rocket launched his tiny capsule, *Friendship 7*, into Earth's orbit on February 20, 1962.

After the first of three planned orbits at up to 162 miles away from Earth, he lost the use of the automatic control mechanism that stabilized his craft. He then had to complete the final two orbits of the 81,000-mile flight under manual control, an incredibly dangerous challenge. In an interview some years later, JOHN GLENN said of this moment: "I was fully aware of the danger. And certainly there was apprehension. No matter what preparation you make, there comes the moment of truth. You're playing with big stakes—your life. But the important thing to me wasn't fear, but what you can do to control it."

JOHN GLENN left the Marine Corps in 1965 after 23 years of remarkable service. These two heroic decades are emblazoned on the American conscience. They are the material of which books are written and movies made.

But JOHN GLENN's Senate career of more than two decades will be the material serious students of government, cost-conscious taxpayers, and anyone concerned with the spread of dangerous nuclear weapons will remember. It is a career full of quiet, serious dedication to serve the people of Ohio, to make our Government work better, and to make our world safe from the spread of weapons of mass destruction.

We will remember JOHN GLENN's Senate career for many things. Among his accomplishments, Senator GLENN used his Governmental Affairs Committee post to root out Government waste, modernize Government, and save taxpayer dollars. Senator GLENN shepherded the Clinton administration's reinventing Government" initiatives through the Senate. His efforts helped streamline Federal purchasing procedures and trim the Federal workforce by 250,000 employees to the lowest level since John Kennedy was President.

He fought to create chief financial Officers for most major Federal agencies, making those agencies more accountable and efficient. He helped to install independent inspectors general in nearly 40 Government agencies and offices to ferret out wasteful spending, saving taxpayers hundreds of millions per year.

In the last few years, Senator GLENN extended his hand across the aisle to help pass legislation that brought Congress into compliance with Federal workplace laws. He fought for the bill that made it harder for Congress to pass on unfunded mandates to the States and localities. And he worked to pass legislation aimed at reducing the Government's paperwork volume.

Senator GLENN has never disparaged Government service nor bashed Government workers. He knows and recognizes the honor of public service. But he also knows that waste and lack of accountability undermine public confidence in Government, and he has dedicated a Senate career to combatting them.

Senator GLENN also made a career of fighting for a strong defense that balances the demands of national security and common sense. He authored the 1978 Nuclear Non-Proliferation Act, the only law on the books to control and stop the spread of nuclear weapons around the world.

A tenacious advocate for veterans, he led the effort to elevate the Veterans Administration to cabinet-level status and helped pass a package of benefits for troops serving in the Persian Gulf war. At the same time, Senator GLENN fought against weapons systems he considered wasteful, like the B-2, the MX missile, and the Star Wars program. He brought rare experience as a veteran and military hero to these efforts. He was rarely wrong, and he rarely lost a legislative battle.

Mr. President, the Senate community can be a contentious place. But because of people like JOHN GLENN and his wife, Annie, it can also be a friendly, decent, and inspiring place, where someone can serve with a real American hero who is also a true gentleman. Our Senate family, like the people of Ohio, will miss Senator GLENN when he retires in 1999. For your lifetime of service, we are deeply indebted, and we thank you, Senator, gentleman, and American hero, JOHN GLENN.

I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Chair is honored to recognize the Senator from Ohio.

Mr. GLENN. Mr. President, I just wanted to thank my good friend for those overly generous and very kind remarks.

It was not without a lot of feeling and emotion that I made the decision not to run again in 1998. But, as I said, we have never invented a cure for the common birthday. And at the end of my next term I would be 83, if I assumed that I won. It was for that reason and that reason only that I chose not to run.

My good friend, the minority leader, is absolutely right. I think one of the biggest things we have to face is some of the disparaging remarks about Government when some people talk down Government. And we are going to be working on those things over the next 2 years.

I happened to be in the cloakroom. I had been in another meeting, and just happened to come out here on the floor. I had not realized that this was going to be a time when the minority leader was going to be making the remarks. And I just wanted to say how much I appreciate it.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

PARTIAL-BIRTH ABORTION

Mr. COATS. Mr. President, I didn't have the opportunity to respond to the Senator from California when she stated her willingness to reexamine the issue of partial-birth abortion. The minority leader was on the floor waiting to speak, and had reserved time for that.

However, I would like to just say that, No. 1, I am pleased that they are willing to revisit the issue. It is an issue that I think deserve revisiting.

I want to correct some information that might be misconstrued, as referenced by the Senator from California—the fact that, if we could just make sure that we provided an exception for women whose lives were in danger, were the procedure not proposed. As I think the Senator remembers, that was clearly addressed in the bill that was before the Senate last Congress—that exception for life of the mother was clearly stated in that language. Now this whole addition of the well health of the mother—first of all, as the Senator from Pennsylvania [Senator SANTORUM] so eloquently described, there were no instances, there were no partial-birth abortions performed to protect the health of the mother. There was a lot of erroneous misinformation discussed about that. And this has always been the reason why opponents—of whatever attempts are made to address the question of abortion from the pro-life side—it is always, "If we could just add the exception for health of the mother."

As we have learned over the years and as has been demonstrated in numerous court holdings and other information that is presented to us, health of the mother is so broadly defined. Are we talking about psychological health of the mother, emotional health of the mother? It has really just been used as an excuse to provide abortionists, doctors who perform abortions, a basis for simply saying we will use this exception to allow the abortion to go forward.

I really think what we are dealing with here is a procedure that goes beyond the pale. It really, as many have said in the debate, is not an abortion issue. It is not a pro-choice abortion issue. This is the issue of a deliberate taking of life, of a fetus, of a baby that is well beyond the age of viability, however that is defined. My own personal belief is that life begins at conception.

Even if you do not agree with my personal belief on this, there is no question that at the 5th, 6th and 7th month, the times when partial-birth abortions are performed, because the head of the child is so large it cannot be extracted through the birth canal and therefore has to be collapsed by the doctor after the baby is killed, there is no question that the partial-birth abortion issue is one that is not in the purview of what we generally have been talking about on the pro-life pro-choice issues. It is clearly a situation where we have a baby who, if born at that moment, would be able to sustain life. Someone said 3 inches and 3 seconds from being declared murder.

I remember the situation when the young couple in New Jersey, I think it was, was arrested for the killing of their recently born baby. How ironic it is that had they gone to an abortionist and had a partial-birth abortion 1 minute before the baby was born and then they killed the baby, it would have been a perfectly accepted procedure without any criminal penalty, without any penalty whatsoever. And so we are talking about a human life that is capable of being sustained on its own that is deliberately ended, terminated, by an abortion doctor to provide for a more convenient abortion.

That is what is at stake here. That is what the debate is going to have to be about if we bring it back up. I am pleased that the minority leader and the Senator from California, who was the primary opponent of our efforts to override the President's veto, I am pleased they want to revisit the issue, but let us revisit it on the right terms and let us know what we are talking about.

THE FAIR COMPETITION IN FEDERAL PROCUREMENT ACT OF 1997

Mr. KENNEDY. Mr. President, this is a matter of importance to my State. Senator KERRY and I are offering legislation to prevent a serious injustice in the Federal Government. Congressman JOHN OLVER is introducing identical legislation in the House of Representatives.

This issue has come to our attention in the context of the Bureau of Engraving and Printing contract for U.S. currency paper production, but it could arise in other contexts that would pose similar inequities.

A respected and longstanding family-owned business in Dalton, MA, Crane and Company, has supplied currency paper for the Treasury for the past 117 years. Crane has been a trusted supplier to the Federal Government, providing high-quality products on a timely basis. It has negotiated reasonable terms with the Government, keeping its price increases below the rate of inflation, and has made substantial investments over the years to ensure the sophisticated equipment needed to produce the currency, including the special security features now built into the paper itself.

This year, however, the Bureau of Engraving and Printing has proposed to go to extraordinary lengths to create alternative sources for the currency paper production. The Bureau has proposed subsidies to other companies to help them become competitive and buy the state-of-the-art equipment that Crane bought on its own.

This is not fair competition. It is a misguided policy that will give other companies an unfair advantage and create an unlevel playing field.

Our legislation is straightforward. It amends section 303 of the Federal Property and Administrative Services Act of 1949 to prohibit nondefense agencies in the executive branch from financing equipment or facilities to help a contractor compete against an existing contractor in Federal procurement.

With all the pressures of the deficit, we should not be spending taxpayers' money on this sort of sham competition. It is unfair to leading-edge firms like Crane that invested their own resources to obtain Government contracts. It is hard to see how any taxpayers will benefit. Crane is in a class by itself. There is no suggestion of antitrust problems. Crane wins these contracts fair and square against potential competitors, and it should not have to compete with Uncle Sam.

I urge the Congress to enact this legislation and prevent an extremely unfair and unwise policy from moving forward at the Treasury Department or at other Federal agencies.

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

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

S. 354

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

SECTION 1. PROHIBITION ON CERTAIN CONTRACT PROVISION FOR PURPOSE OF INCREASING COMPETITION BY ESTABLISHING ALTERNATIVE SOURCE OF SUPPLY.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended by adding at the end the following new subsection:

"(j) In conducting a procurement of property or services covered by this section, an executive agency may not award a contract that contains a provision allowing for the contractor to acquire, at Government expense, production, construction, or technical equipment or facilities to carry out the contract, if the principal purpose of such provision is to increase competition by establishing an alternative source of supply for that property or service.".

WANNAMAKERS AWARDED ORDER OF THE PALMETTO

Mr. THURMOND. Mr. President, sometimes we forget that it is the citizens of this Nation that serve as its bedrock, men and women who live in our communities and who are committed to making a difference. Today, I would like to share with you examples of two such people, Betty and the late Charles Wannamaker, who were recently honored by the Governor of South Carolina for their civic activities.

There is no higher award that can be given a South Carolinian than the Order of the Palmetto, and late last month, Gov. David Beasley presented two of these awards to this married couple who have done much to make the Charleston area of my State a place anyone would be proud to call home. Unfortunately, Dr. Wannamaker's award was presented posthumously, but given the active

role he took in local affairs, he was certainly worthy of this high tribute. An elected official in Charleston County for 32 years, Charles Wannamaker was the kind of man who epitomized the term "civic-minded."

His wife, Betty, was equally committed to making a difference in her community, and for two decades she served on the Charleston County Park and Recreation Commission. During her tenure, parks and open space in this Lowcountry county grew significantly, and countless families and visitors to the Charleston area have benefited from the many new and excellent parks that the commission approved and saw created. In a separate, but equally fitting tribute, I understand that a new park being built in north Charleston is going to be named in honor of the Wannamakers, a recognition of which they are deserving and one which is truly fitting.

Mr. President, the Wannamakers made an excellent team, and through their concerted efforts and service, they made many valuable contributions to the Trident area and to the State of South Carolina. It is my hope that other citizens of the Palmetto State will be inspired by the standard for community involvement these two people set. We would all benefit if there were more people as committed to making a difference as the Wannamakers.

WILLIAM F. "BUDDY" PRIOLEAU

Mr. THURMOND. Mr. President, for more than 150 years, the Citadel has been one of the most historic colleges in the State of South Carolina, and an institution that has produced not only a number of leading citizens, but interesting individuals as well. There is no question that the vast majority of Citadel alumni are passionately loyal to their alma mater, but every once in awhile, a particularly dynamic personality will emerge as a booster of the college. William F. "Buddy" Prioleau, Sr., was one such person, a man who was successful in life, possessed a distinctive personality, and an enthusiastic supporter of the Citadel. Sadly, he passed away late last month.

Known throughout South Carolina as Mr. Citadel, Buddy was a regular fixture at many of the athletic events, parades, and formal and informal functions associated with that college and the Bulldogs. His unflagging devotion to the school earned him a long tenure on the Citadel's board of visitors, including a term as its chairman, which began in 1969 and only ended in 1994 when he did not submit his name for reelection. In recognition of his long and almost unparalleled service, he was awarded the distinguished title of board member emeritus. Indeed, it is difficult to immediately think of a man more associated with the Citadel than Buddy was.

Entering the Citadel in 1939, it was a long road to the ring for young Cadet Prioleau, whose studies were interrupted by World War II. Before enlisting in the Army in 1942, Buddy was already demonstrating a distinguished amount of school spirit by managing the football team, being a member of the Block C Club, and serving as the president of the Bucanneer Club. Putting his education on hold, Buddy Prioleau traded the gray uniform of a Citadel cadet for that of a soldier and he found himself serving in the bloody Pacific theater with the 41st Division.

At the end of hostilities, Buddy was able to return to the infamous white barracks of the Citadel and complete his undergraduate education. As was so typical of the veterans of World War II, Buddy recognized the importance of an education, and with his bachelor's degree in hand, he moved from Charleston to Columbia, where he enrolled in the school of law at the University of South Carolina, and from which he graduated in 1949.

For almost the next 50 years, Buddy practiced law and enjoyed great success in the legal profession. He served as legal counsel to Governors Byrnes and Timmerman, as well as myself, when I held the office of Governor of South Carolina. Additionally, he served as an acting judge of the Richland County Family Court, was a partner in the firm of Prioleau & Walker, and was very active in the South Carolina and American Bar Associations.

All the years that he was working as an attorney, building a career, raising a family, rising to the rank of colonel in the National Guard, and becoming the owner of an inn on Pawley's Island, Buddy Prioleau still made abundant time for one of his true loves, his alma mater. There is not a graduate of the Military College of South Carolina who did not know of Buddy or had some humorous anecdote about him. Without question, he was much beloved by the entire Citadel family, and they paid tribute to him in a number of ways over the years. In 1981, the Citadel yearbook, the Sphinx, was dedicated in his honor, and last year he was awarded an honorary doctor of laws and his portrait was hung in Daniel Library. Two very high honors that are accorded to only a select few individuals.

Mr. President, I know that I speak for all of Buddy Prioleau's friends when I say that not only has the Citadel lost one of its most distinguished graduates, but that our State has lost a civic-minded and public-spirited man. My sympathies go out to Buddy's children, William, Mary, Roberta, and Elizabeth, as well as his five grandchildren. He will be missed.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, February 25, the Federal debt stood at $5,342,929,738,924.06.

Five years ago, February 25, 1992, the Federal debt stood at $3,825,891,000,000.

Ten years ago, February 25, 1987, the Federal debt stood at $2,241,482,000,000.

Fifteen years ago, February 25, 1982, the Federal debt stood at $1,047,910,000,000.

Twenty-five years ago, February 25, 1972, the Federal debt stood $426,919,000,000 which reflects a debt increase of nearly $5 trillion ($4,906,010,000,000) during the past 25 years.

HERE'S WEEKLY BOX SCORE ON U.S. FOREIGN OIL CONSUMPTION

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending February 21, the U.S. imported 7,250,000 barrels of oil each day, 1,156,000 barrels more than the 6,094,000 imported during the same week a year ago.

Americans relied on foreign oil for 53 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,250,000 barrels a day.

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 sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 17

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying

report; which was referred to the Committee on Armed Services.

To the Congress of the United States:

The National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201), title XIV, section 1411 requires the President to transmit a report to the Congress that assesses the capabilities of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction and to support State and local prevention and response efforts. In accordance with this provision, I transmit the attached report on the subject issue.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 26, 1997.*

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–1214. A communication from the Commandant of the U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, a report relative to the International Private-Sector Tug-of-Opportunity System; to the Committee on Commerce, Science, and Transportation.

EC–1215. A communication from the Acting Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the report of the 1997 Aviation System Capital Investment Plan; to the Committee on Commerce, Science, and Transportation.

EC–1216. A communication from the Vice President of Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, the annual report of Amtrak for calendar year 1996; to the Committee on Commerce, Science, and Transportation.

EC–1217. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, three rules including a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska" received on February 12, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1218. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, thirty-four rules including a rule entitled "Civil Monetary Penalty Inflation Adjustment" (RIN2105–AC63, 2137–AC97, 2120–AA65, 2120–AA64, 2120–AA66); to the Committee on Commerce, Science, and Transportation.

EC–1219. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, four rules including a rule entitled "Telemessaging, Electronic Publishing, and Alarm Monitoring Services"; to the Committee on Commerce, Science, and Transportation.

EC–1220. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Tomatoes Grown in Florida" (FV96–966–AFIR) received on February 24, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1221. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 95–09; to the Committee on Appropriations.

EC–1222. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 96–06; to the Committee on Appropriations.

EC–1223. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, the report with respect to transactions involving exports to Israel; to the Committee on Banking, Housing, and Urban Affairs.

EC–1224. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–1225. A communication from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of seven rules including one rule relative to approval and promulgation of plans, (FRL–5691–3, 5590–8, 5682–5, 5693–8, 5693–8, 5693–5, 5583–4, 5590–4) received on February 24, 1997; to the Committee on Environment and Public Works.

EC–1226. A communication from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to national emission standards (FRL–5695–9) received on February 25, 1997; to the Committee on Environment and Public Works.

EC–1227. A communication from the Regulations Unit Chief of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97–19, received on February 25, 1997; to the Committee on Finance.

EC–1228. A communication from the Regulations Unit Chief of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to per diem allowances, received on February 25, 1997; to the Committee on Finance.

EC–1229. A communication from the Regulations Unit Chief of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to cost depletion, received on February 25, 1997; to the Committee on Finance.

EC–1230. A communication from the Assistant Attorney General (Office of Legislative Affairs), transmitting, a draft of proposed legislation entitled "Anti-Gang and Youth Violence Act of 1997"; to the Committee on the Judiciary.

EC–1231. A communication from the Acting Director of the Office of Administration, Executive Office of the President, transmitting, pursuant law, the annual report under the Freedom of Information Act for 1996; to the Committee on the Judiciary.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. THURMOND, from the Committee on Armed Services:

Mr. THURMOND. Mr. President, Senate rule XXVI.8(b), which requires the submission by March 31 of this year of a report of activities of the committee for the previous Congress.

In accordance with the requirements, I am submitting the report of the activities of the Senate Committee on Armed Services during the 104th Congress. This report outlines the most noteworthy legislative and other achievements of our committee.

Special Report entitled "Report on the Activities of the Committee on Armed Services of the United States During the 104th Congress First and Second Sessions" (Rept. No. 105–6).

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. DEWINE (for himself and Mr. GRAHAM):

S. 358. A bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. THOMAS (for himself, Mr. GRASSLEY, Mr. BURNS, Mr. KEMPTHORNE, Mr. GRAMS, and Mr. ROBERTS):

S. 359. A bill to amend title XVIII of the Social Security Act to change the payment system for health maintenance organizations and competitive medical plans; to the Committee on Finance.

By Mr. CRAIG:

S. 360. A bill to require adoption of a management plan for the Hells Canyon National Recreation Area that allows appropriate use of motorized and nonmotorized river craft in the recreation area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS:

S. 361. A bill to amend the Endangered Species Act of 1973 to prohibit the sale, import, and export of products labeled as containing endangered species, and for other purposes; to the Committee on Environment and Public Works.

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

S. 362. A bill to deter and punish serious gang and violent crime, promote accountability in the juvenile justice system, prevent juvenile and youth crime, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. INOUYE, and Mr. DORGAN):

S. 363. A bill to amend the Communications Act of 1934 to require that violent video programming is limited to broadcast after the hours when children are reasonably likely to comprise a substantial portion of the audience, unless it is specifically rated on the basis of its violent content so that it is blockable by electronic means specifically on the basis of that content; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself, Mr. MCCAIN, Mr. LOTT, Mr. ASHCROFT, Mr. GORTON, Mrs. FEINSTEIN, Mr. GREGG, and Mr. FRIST):

S. 364. A bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices; to the Committee on Commerce, Science, and Transportation.

By Mr. COVERDELL:

S. 365. A bill to amend the Internal Revenue Code of 1986 to provide for increased accountability by Internal Revenue Service agents and other Federal Government officials in tax collection practices and procedures, and for other purposes; to the Committee on Finance.

By Mr. COVERDELL (for himself, Mrs. HUTCHISON, Mr. MCCAIN, Mr. FAIRCLOTH, Mr. KYL, Mr. THOMAS, and Mr. INHOFE):

S. 366. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to prohibit the consideration of retroactive tax increases; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. WELLSTONE:

S. 367. A bill to amend the Family and Medical Leave Act of 1993 to allow leave to address domestic violence and its effects, and for other purposes; to the Committee on Finance.

By Mr. COVERDELL (for himself, Mr. ABRAHAM, Mrs. HUTCHISON, Mr. MCCAIN, Mr. KYL, Mr. FAIRCLOTH, and Mr. INHOFE):

S.J. Res. 17. A joint resolution proposing an amendment to the Constitution of the United States to prohibit retroactive increases in taxes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DEWINE (for himself and Mr. GRAHAM):

S. 358. A bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes; to the Committee on Labor and Human Resources.

THE RICKY RAY HEMOPHILIA RELIEF FUND ACT

Mr. DEWINE. Mr. President, I introduce, along with my distinguished colleague Senator BOB GRAHAM, the Ricky Ray Hemophilia Relief Fund Act of 1997. This legislation will serve as the counterpart to similar legislation that will be introduced in the House of Representatives by Representative PORTER GOSS.

Mr. President, the purpose of this legislation is to offer some measure of relief to families that have suffered serious medical and financial setbacks because of their reliance on the Federal Government's protection of the blood supply.

In 1995, the Institute of Medicine released the findings of a major investigation into how America's hemophilia community came to be decimated by the HIV virus.

According to that report, the Federal agencies responsible for blood safety did not show the appropriate level of diligence in screening the blood supply.

The Federal agencies did not move as quickly as they should have to approve blood products that were potentially safer.

And the Federal Government did not warn the hemophilia community, when the Government knew—or should have known—that there were legitimate concerns that the blood supply might not be safe.

The Government's failure caused serious harm to real people—people who were counting on the Government to meet its responsibilities.

Mr. President, this legislation is about trust. A substantial number of citizens trusted the Government to exercise due vigilance, and the Government let them down. It's only right that the Government try to offer them some measure of relief.

Mr. President, I recognize the budgetary realities we have to confront. As we move through the process, we will have to address the issue of compensation. I think it's absolutely essential that we begin this process—now.

By Mr. CRAIG:

S. 360. A bill to require adoption of a management plan for the Hells Canyon National Recreation Area that allows appropriate use of motorized and nonmotorized river craft in the recreation area, and for other purposes; to the Committee on Energy and Natural Resources.

HELL'S CANYON NATIONAL RECREATION AREA AMENDMENTS

Mr. CRAIG. Mr. President, Public Law 94–199, designating the Hells Canyon National Recreation Area, was signed into law December 31, 1975.

Section 10 of the act recognizes that the use of both motorized and nonmotorized river craft are valid activities on the Snake River within the recreation area.

The language seems clear. However, assurances by the Congress and the Forest Service 22 years ago that the long-established and traditional use of motorized river craft would be continued are now being callously disregarded by the agency.

The most recent indication of this attitude has arisen during a review and revision of the river management plan for the NRA. Despite the lack of any demonstrable resource problems, and in the face of overwhelming public support for motorized river craft, the agency has again decided to close part of the river to powerboats. The new river management plan would close the heart of the canyon to motorized river craft for 21 days during the peak of the recreation season. Such a closure would also prohibit traditional motor use of the wild river segment to reach privately owned lands within the scenic river segment of the NRA.

The revised management plan is still in dispute as the result of appeals filed by commercial motorized river users. The vast majority of people, over 80 percent, who recreate in the Hells Canyon segment of the Snake River do so by motorized river craft. Some are private boaters, but most travel with commercial guides on scenic tours. This popular form of recreation is accomplished with a minimum of impact to the river, the land, or other resources.

Most river users, motorized and nonmotorized, are willing to share the river. However, a small group of nonmotorized users objects to seeing powered craft even though they have a rich choice of nonmotorized alternatives in this geographic area, such as the Selway and Middle Fork of the Salmon Rivers. Motorized users, however, don't have that luxury. The only other white water rivers open to them in the entire Wild and Scenic River System are portions of the Rogue and Salmon Rivers. Without a single doubt, the Hells Canyon portion of the Snake River is our Nation's premier whitewater power boating river.

Mr. President, the Snake River is different from most rivers in the Wild and Scenic System. It is a high-volume river with a long and colorful history of use by motorized river craft. The first paying passengers to traverse its rapids on a motor boat made their journey on the 110-foot *Colonel Wright* in 1865. Later, the 136-foot *Shoshone* made its plunge through the canyon from Boise to Lewiston in 1870 and was followed by the 165-foot *Norma* in 1895. Gasoline-powered craft began hauling people, produce, and supplies in and out of the canyon in 1910, and the first contract for regular mail delivery was signed in 1919, continuing today. The Corps of Engineers began blasting rocks and improving channels in 1903. They worked continuously until 1975 to make the river safer for navigation.

Mr. President, as you can see, the use of motorized river craft is deeply interwoven in the history, traditions, and culture of Hells Canyon. That is why Congress deliberately created a nonwilderness corridor for the entire length of the river in the authorizing legislation. During debate, Congress tried to make it clear that use of both motorized and nonmotorized river craft would be valid uses of the river within the recreation area—the entire river for the entire year. It was not their intent in 1975 to allow the managing agency to decide that one valid use would prevail to the exclusive use over the other.

Quite clearly, the issue of power boating's validity will not be settled unless decided by the courts or unless Public Law 94–199 is clarified by Congress. The courts are already burdened by too many cases of this type, resulting in a waste of time, energy, and financial resources for both the United States and its citizens. The only practical and permanent resolution of this issue is to clarify congressional intent in a manner that will not allow any future misunderstanding. This is what I propose to do with this legislation.

By Mr. JEFFORDS:

S. 631. A bill to amend the Endangered Species Act of 1973 to prohibit the sale, import, and export of products labeled as containing endangered species, and for other purposes; to the Committee on Environment and Public Works.

THE RHINO AND TIGER PRODUCT LABELING ACT

Mr. JEFFORDS. Mr. President, the bill I am introducing today works to end the illegal killing of rare and endangered species that are close to extinction. These species include rhinos, tigers, bears, and many other animals that are slaughtered for senseless reasons. The bill, titled the Rhino and Tiger Product Labeling Act, seeks to amend the Endangered Species Act of 1973 to prohibit the sale of products labeled as containing endangered species.

Since 1970, the world's population of rhinos has declined by 90 percent. Among the 5 species of rhinos, fewer than 11,000 individual rhinos exist in the wild. Tigers are facing a similar fate. At the turn of the century, as many as 100,000 tigers lived in the wild. Today, less than 5,000 tigers remain. Three subspecies are already extinct, and the remaining five subspecies are found only in sparse pockets of Asia.

The greatest threat to the existence of rhinos and tigers in the wild continues to be the high demand for products containing rhino horn and tiger parts. The prohibition of the illegal trade in endangered species parts has not been well enforced in most Asian countries, where rhino and tiger products are valued for their medicinal value. Although the primary market for these illegal products continues to be in Asia, a large market has developed here in America.

Investigators have found that in the United States, the trade in endangered species continues to be widely practiced. Many pharmacies in Los Angeles and New York offer rhino and tiger products for sale—a strong indication that it is time for the United States to concentrate on its role as a consumer nation of endangered species parts and products. In a recent survey, investigators found that 80 percent of pharmacies and supermarkets in New York's Chinatown district had tiger products openly for sale. Many of these products were imported from China. Demand for such products here in the United States is leading directly to the elimination of these species in their native habitat overseas. This trade must end.

To curb this trade we need effective labeling laws and we must ban all products containing or claiming to contain ingredients derived from endangered species. Many products which advertise ingredients such as rhino horn or tiger parts do not even contain trace amount of these endangered species. However, the mere fact that they are on store shelves leads to increased demand for the real stuff. In addition, these products have been tested in the United States by the Food and Drug Administration and have been found to contain toxic metals that are harmful to human health if taken in the doses found in many traditional medicines. A ban on products containing ingredients from endangered species as well as those claiming to contain endangered species parts is vital to protect human health and to maintain the few remaining rhinos, tigers and bears in their wild habitat.

My legislation will make it illegal to even intend to sell a product containing an endangered species. Today, Fish and Wildlife investigators are overwhelmed trying to control the illegal sale of endangered species parts and products. This bill will allow investigators to completely halt the sale of products labeled as containing endangered species.

I am a strong proponent of the protection and conservation of endangered species. If we do not act now, future generations will not be able to enjoy many of the species of wildlife now in existence. Currently there are insufficient legal mechanisms enabling the U.S. Fish and Wildlife Service to forcefully interdict and confiscate products that are labeled as containing endangered species and to prosecute the merchandisers once the products are on store shelves. This bill seeks to close a significant loophole in the illegal trade in products containing or claiming to contain ingredients from endangered species. My hope is that this legislation, when passed in the 105th Congress, will help curb the escalating trade in wildlife and endangered species parts and stem the decrease in the populations of some of the Earth's most magnificent animals.

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

S. 362. A bill to deter and punish serious gang and violent crime, promote accountability in the juvenile justice system, prevent juvenile and youth crime, and for other purposes; to the Committee on the Judiciary.

THE ANTI-GANG AND YOUTH VIOLENCE CONTROL ACT OF 1997

Mr. LEAHY. Mr. President, I rise to introduce the Anti-Gang and Youth Violence Control Act of 1997. This is the President's juvenile justice bill, and I am pleased to introduce it on behalf of the administration.

Like the Democratic leadership bill, S. 15, the President's Anti-Gang and Youth Violence Control Act includes important provisions to address the increases in juvenile crime and gang violence that we have seen over the past decade.

Just as we proposed measures in S. 15 to streamline the procedures for prosecuting violent juveniles, the President's bill would take steps to ensure that serious juvenile offenses are addressed quickly and efficiently by the courts.

In addition, the President's bill targets many of the same problems we addressed in S. 15, such as increasing the penalties for witness intimidation—a particular problem for prosecutors in gang cases—and improving the rights of the victims of juvenile crime to include restitution, notification of disposition, and greater public access to juvenile proceedings.

The President's bill also addresses the Federal Government's grant authority in the area of juvenile justice and delinquency prevention. I applaud the President for his reform-minded effort for improving the Federal Government's role in helping State and local authorities prevent juvenile crime and juvenile victimization. I look forward to working with the President and my colleagues on both sides of the aisle on this issue. It is important that we reach a bipartisan agreement on the role the Federal Government should play in this area as we move forward into the next century.

Certain sections of the administration's bill differ from S. 15, and I look forward to sorting out this and other differences in the proposals.

I commend President Clinton and the Department of Justice on their efforts to address the problems of gang and youth violence with the concrete proposals in this bill. I urge my colleagues to put partisan politics aside, to work together on finding constructive solutions to these problems. Our challenge is to resolve any differences in approach in ways that make sense and will work to reduce youth and gang violence.

As we proceed to meet this challenge, I know we will depend heavily on Senator BIDEN, our former chairman and ranking member of the Judiciary Committee and now the ranking member on the Youth Violence Subcommittee of the Judiciary Committee. He has worked hard and effectively on these issues in the past and, I thank him in advance for continuing to share his expertise on these important issues.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

ANTI-GANG AND YOUTH VIOLENCE ACT OF 1997—SECTION-BY-SECTION ANALYSIS

The Anti-Gang and Youth Violence Act of 1997 is a comprehensive federal effort to address the nation's youth and juvenile crime problem. This legislation contains many of the proposed amendments to the federal code that were contained in legislation introduced, but not enacted into law during the 104th Congress. This legislation also redesigns, refocuses, and enhances the federal government's role in relation to state, local and Indian tribal governments in combating

and preventing juvenile and youth crime, violence, gang involvement, and drug use. Additionally, this legislation includes the authorization for several programs submitted by the President in his fiscal year 1998 budget request.

TITLE I—FINDINGS, POLICIES, AND PURPOSES

This title enumerates findings regarding juvenile crime and violence, as well as purposes tied to the various provisions of the legislation. Additional definitions are provided as needed.

TITLE II—TARGETING VIOLENT GANG, GUN AND DRUG CRIMES

SUBTITLE A—FEDERAL PROSECUTIONS TARGETING VIOLENT GANGS, GUN CRIMES AND ILLICIT GUN MARKETS, AND DRUGS

Part 1—Targeting Gang and Other Violent Crimes

Section 2111. Increased penalties under the RICO law for gang and violent crimes.

This amendment would boost the penalty for certain crimes typically committed by gangs and other violent crime groups by eliminating an anomaly in the penalty provisions of the federal Racketeering Influenced and Corrupt Organizations statute (18 U.S.C. 1963(a)). Specifically, the amendment would increase the maximum penalty from twenty years to the greater of twenty years or the maximum term applicable to a racketeering activity on which the defendant's violation is based. This principle already applies under the RICO statute where the predicate racketeering activity carries a maximum life sentence. The present twenty-year maximum applicable to all other predicate racketeering offenses is anomalous in light of the fact that several of the predicate offenses that constitute "racketeering activity" themselves carry more than twenty-year (but less than life) maximum prison terms, *e.g.*, 18 U.S.C. 1344 (bank fraud) and 21 U.S.C. 841(b)(1)(B) (large-scale drug trafficking).

Section 2112. Increased penalty and broadened scope of statute against violent crimes in aid of racketeering.

This amendment would close loopholes in 18 U.S.C. 1959, the law punishing violent crimes in aid of racketeering. The statute presently and anomalously reaches *threats to commit any* crime of violence (with the requisite intent) but only the actual commission of *some* such crimes. The amendment also would clarify that the term "serious bodily injury" in 18 U.S.C. 1959 shall be defined as provided in 18 U.S.C. 1365.

This proposal also would increase penalties for certain violent crimes in aid of racketeering in recognition of the serious nature of such crimes and to bring the penalties in line with other penalties for similar crimes in title 18. First, the amendment would increase from a maximum of ten years' imprisonment to a maximum of life imprisonment a conspiracy or attempt to commit murder or kidnapping, in violation of 18 U.S.C. 1959. That statute punishes various violent offenses committed in aid of racketeering activity. The present ten-year maximum penalty for a conspiracy or attempt to commit murder or kidnapping in aid of racketeering is clearly inadequate. The maximum penalty for a conspiracy to commit a murder within the special maritime and territorial jurisdiction of the United States is life imprisonment, 18 U.S.C. 1117, as is the maximum penalty for a conspiracy to commit kidnapping, 18 U.S.C. 1201(c). Such acts when performed with the additional intent of furthering racketeering activity deserve no lesser punishment. Moreover, an attempt warrants an equivalent sanction as a conspiracy. Second, the amendment would increase from five years to ten years the maximum penalty for committing or threatening to commit a crime of violence under paragraph (4). Finally, the amendment would increase from three years to ten years the maximum penalty for attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon or assault resulting in serious bodily injury under paragraph (6).

Section 2113. Facilitating the prosecution of car-jacking offenses.

This section would eliminate an unjustified and unique scienter element created for the offense of carjacking by the enactment of section 60003(a)(14) of the Violent Crime Control and Law Enforcement Act. The carjacking statute, 18 U.S.C. 2119, essentially proscribes robbery of a motor vehicle. It punishes the taking of a motor vehicle that has moved in interstate or foreign commerce "from the person or presence of another by force and violence or by intimidation." The basic penalty is up to fifteen years' imprisonment but rises if serious bodily injury or death results.

Prior to the enactment of VCCLEA, the offense applied only if the defendant possessed a firearm. Section 60003(a)(14) of that law appropriately deleted the firearm requirement, as had been proposed in the Senate-passed bill, but in conference a new scienter element was added that the defendant must have intended to cause death or serious bodily injury. This unique new element will inappropriately make carjackings difficult or impossible to prosecute in certain situations. Robbery offenses typically require only what the carjacking statute formerly required by way of scienter, *i.e.*, that property be knowingly taken from the person or presence of another by force and violence or by intimidation. The Hobbs Act, 18 U.S.C. 1951, the quintessential federal robbery law which carries a higher maximum penalty than the carjacking statute, essential defines "robbery" in this manner. The new requirement of an intent to cause death or serious bodily harm will likely be a fertile course of argument for defendants in cases in which no immediate threat of injury occurs, such as where a defendant enters an occupied vehicle while it is stopped at a traffic light and physically removes the driver. Even when a weapon is displayed, the defendant may argue that although it was designed to instill fear, he had no intent to harm the victim had the victim in fact declined to leave the car.

Carjacking is one of the most serious types of robbery precisely because, unlike other person property, a car is a place where people are accustomed to feel safe and where they and their family spend hours of their lives. To give defendants who take cars from the person or presence of their occupants by force and violence or intimidation a new legal tool with which to resist their prosecution is unjustified. This new element should be eliminated as soon as possible from Section 2119. The proposed amendment would do so.

Section 2114. Facilitation of RICO prosecutions.

This amendment is intended to overcome decisions in the First and Second Circuits that require proof that a RICO conspiracy defendant agreed personally to commit at least two acts of racketeering activity. *United States* v. *Ruggiero*, 726 F. 2d 913, 921 (2d Cir.), *cert. denied*, 469 U.S. 831 (1984); *United States* v. *Winter*, 663 F. 2d 1120, 1136 (1st Cir. 1981), *cert. denied*, 460 U.S. 1011 (1981). *See also United States* v. *Sanders*, 929 F. 2d 1466, 1473 (10th Cir.), *cert. denied*, 112 S. Ct. 143 (1991). Virtually all other circuits have more recently rejected these holdings and have concluded that it is sufficient to show that the defendant joined the conspiracy and agreed that two or more racketeering acts would be committed by some conspirators on behalf of the enterprise. *See, e.g.*, *United States* v. *Pryba*, 900 F. 2d 748, 759–60 (4th Cir. 1990); *United States* v. *Traitz*, 871 F. 2d 368, 395–96 (3 d Cir.), *cert. denied*, 493 U.S. 821 (1989); *United States* v. *Neapolitan*, 791 F. 2d 489, 491–98 (7th Cir. 1986), *cert. denied*, 479 U.S. 1101 (1987); *United States* v. *Joseph*, 781 F. 2d 549, 554–55 (6th Cir. 1986; *United States* v. *Tille*, 729 F. 2d 615, 619 (9th Cir.), *cert. denied*, 469 U.S. 845 (1984); *United States* v. *Carter*, 721 F. 2d 1514, 1528–31 (11th Cir.), *cert. denied*, 469 U.S. 819 (1984).

There is no reason to require that a defendant charged with RICO conspiracy personally commit racketeering acts. Standard conspiracy law does not contain such a requirement. *See, e.g.*, *Pinkerton* v. *United States*, 328 U.S. 640, 645–48 (1946). It should be sufficient to show that the defendant joined the overall conspiracy and agreed to the commission of a pattern of racketeering activity by others on behalf of the conspiracy. This amendment resolves this conflict in the circuits.

Section 2115. Elimination of the statute of limitations for murder and Class A felonies.

This section makes important changes in federal law and will enhance the ability of federal prosecutors to bring serious offenders to justice. The first proposal relates to the prosecution of certain murders. Current law provides that no statute of limitations shall apply for the commission of a federal crime punishable by death. 18 U.S.C. §3281. This statute should be amended to further eliminate the statute of limitations for any federal offense involving murder, even if the crime does not carry the death penalty. The rationale behind this proposal is straightforward. Most states have no statute of limitations for murder. Moreover, the act of killing another person is so serious that no murderer should go unpunished simply because the government was unable to develop a case for many years.

By virtue of the 1994 Crime Act, most murders committed during the course of a federal offense are now punishable by the death penalty—and thus already have no statute of limitations. The 1994 Crime Act only applies, however, to murders committed on or after the Crime Bill was passed on September 13, 1994. The proposed legislation will help bridge this gap by eliminating the statute of limitations for murders committed within five years of the date of passage of the legislation and September 13, 1994. Furthermore, the Crime Act did not provide for the death penalty for murders committed in violation of the RICO statute. 18 U.S.C. §§1961 *et seq.* The proposed legislation would bridge another important gap by eliminating the statute of limitations for RICO offenses when murders are committed in furtherance of a racketeering enterprise.

The second proposal relates to the prosecution of certain violent crimes and drug trafficking crimes. Current law provides that the general federal five-year statute of limitations applies to non-capital crimes of violence and drug trafficking crimes. 18 U.S.C. §3282. This proposal extends to 10 years the statute of limitations for all crimes of violence and drug trafficking crimes (except for cases involving murder) currently classified

as Class A felonies. Pursuant to 18 U.S.C. §3559, Class A felonies are the most serious federal crimes, which carry a maximum sentence of life imprisonment or death.

This proposal is necessary for several reasons. First, evidence of gang-related and other violent crimes, as well as drug trafficking crimes, often develops years after the crimes were committed because the organizations, gangs, and racketeering enterprises that typically perpetrate such crimes enforce strict codes of silence—through violence and threats of violence—on their members. Thus, some violent crimes and drug trafficking crimes are not solved until imprisoned defendants begin to cooperate after spending years behind bars—years in which the five-year statutes of limitations may have lapsed. Second, society's interest in repose and fairness to prospective defendants is greatly outweighed by society's interest in punishing those individuals who commit crimes that are so serious that Congress has imposed a maximum sentence of life imprisonment or death. Under current law, theft of major art work carries a 20-year statute of limitations (18 U.S.C. §3294), and most white-collar crimes involving financial institutions (*e.g.*, theft of money by a bank teller) carry a 10-year statute of limitations (18 U.S.C. §3293). Given that Class A crimes of violence and drug trafficking crimes generally are at least as harmful to society as these offenses, there is no reason for these Class A felonies to carry such a relatively short statute of limitations.

Section 2116. Forfeiture for crimes of violence, racketeering, and obstruction of justice.

This section extends the forfeiture statutes to cover all crimes of violence plus the racketeering crimes set forth in Chapter 95 (18 U.S.C. §1951–60), including extortion, murder-for-hire, and violent crimes in aid of racketeering, and the obstruction of justice offenses set forth in Chapter 73 (18 U.S.C. §1501–17). Presently, there is no forfeiture authority for such offenses except when they are included in a RICO prosecution.

Part 2—Targeting Serious Gun Crimes and Protecting Children from Gun Violence

Section 2121. Gun ban for dangerous juvenile offenders.

This amendment would make it unlawful for any person adjudicated a juvenile delinquent for serious violent felonies or drug crimes to receive or possess firearms. It would also make it unlawful for any person to sell or otherwise dispose of any firearm to any person knowing or having reasonable cause to believe that the recipient has been adjudicated a juvenile delinquent for such crimes. Under current law, persons adjudicated juvenile delinquent, even for the most serious crimes, *e.g.*, murder, may receive and possess firearms as adults. This amendment will ensure that such juveniles will be ineligible to possess firearms after the finding of juvenile delinquency.

The disability will only apply to the most serious drug offenses and violent crimes, as enumerated in the recently enacted "three-strikes" law (but because it would otherwise be impossible to administer, the proposed statutory reference incorporates the basic offenses enumerated in paragraph (c)(2) of section 3559, without the exceptions set forth in paragraph (3)). In addition, this amendment will only apply to findings of acts of juvenile delinquency that occur after the effective date of the statute. Thus, persons who have acted or been adjudicated delinquent prior to the effective date will not be subject to this disability. Adjudicated delinquents would be permitted under the proposal to have their firearms rights restored based upon an individualized determination by an appropriate authority of the state of their suitability for such restoration.

The proposal also would make a conforming change to the restoration of rights statute affecting adult convictions. One of the most serious problems today hindering enforcement of a federal firearms statutes arises from the definition of "conviction" in 18 U.S.C. 921(a)(20). Under 18 U.S.C. 922(g), it is unlawful for a convicted felon to possess a firearm. Section 922(g) violations also serve as the basis for the mandatory penalties applicable under the Armed Career Criminal Act, 18 U.S.C. 924(e), for 922(g) violators with three or more crime of violence or serious drug trafficking convictions. What is a "conviction" is therefore vital to the enforcement of these important provisions.

Prior to the 1986 Firearms Owners' Protection Act, a conviction for purposes of federal firearms prohibitions was a question of federal, not state, law. Federal law provided that once an individual was convicted of a felony, that person remained under a federal firearms disability irrespective of state laws purporting to restore the person's rights to possess firearms. Offenders could apply for relief from firearms disabilities to the Secretary of the Treasury. The 1986 Act, however, changed this policy and provided, in 18 U.S.C. 921(a)(20), that a conviction for which a person has had civil rights restored generally "shall not be considered a conviction" under federal firearms statutes.

The 1986 amendment has had adverse effects from the standpoint of public safety. This results from the fact that about half the states have laws that provide for some form of automatic firearms rights restoration, including several states that provide for such restoration after a waiting period, and at least one state that automatically restores firearms possession rights immediately upon completion of a felon's sentence, so that the felon is enabled to walk directly out of prison into a gun dealer's establishment and legally arrange to purchase a firearm. Other states make restoration of rights automatic except for certain categories of felons (typically those convicted of violent crimes), while still other states make restoration automatic for some types of firearms but not others.

Under the proposed amendment, state laws restoring firearms rights would continue to be recognized for federal firearms enforcement purposes, but only if the restoration of rights was done on an individualized rather than an automatic basis, including a determination that the circumstances of the person's conviction, and his or her record and reputation, make it unlikely that the person will endanger public safety. The Federal Government should not give effect to state restoration of rights statutes that provide for no individualized consideration of the offender's likelihood of committing future crimes. About half the states currently restore firearms rights only after such an individualized review. The remaining states need not change their laws if they do not wish to do so, but the Congressional policy underlying the federal felon-in-possession prohibition in 18 U.S.C. 922(g) should not be deemed superseded by a state law that automatically restores a felon's firearms rights. Such automatic restoration laws insufficiently protect the public safety, not only in the states that provide for such automatic restoration but in other states to which the convicted felon may travel.

The proposed amendment also includes a provision, in the final sentence, that would reverse the outcome in *United States v. Indelicato*, 97 F.3d 627 (1st Cir. 1996). The Court there held, contrary to other courts of appeals, that where a state had never deprived a convicted felon of his or her civil rights as a result of the conviction, that person was to be considered as if the state had "restored" such rights. Whether or not this interpretation is deemed correct under the current law, as a matter of policy it makes sense to require a state to make an individualized determination of suitability to possess firearms in every case involving a conviction of a state crime punishable by more than one year in prison.

Section 2122. Locking devices for firearms.

The amendment would require Federal firearms licensees, other than licensed collectors, to provide a locking device with every firearm sold to a nonlicensee. The term "locking device" would be defined as a device that can be installed on a firearm that prevents the firearm from being discharged without removing the device. It would also include firearms being developed which can "identify" their lawful possessor by the use of a personal electronic "key", palmprint, or other identifier. The provision is intended to provide added safety to gun owners and to prevent accidental discharges that can result when children gain access to firearms.

Section 2123. Enhanced penalties for discharging or possessing a firearm during a crime of violence or drug trafficking crime.

In *Bailey v. United States*, ___ U.S. ___, 116 S. Ct. 501, 133 L. Ed. 2nd 472 (1995), the Supreme Court put a restrictive interpretation of the verb "use" in relation to a firearms violation under 18 U.S.C. §924(c), finding that an offender only "uses" a firearm if the weapon is "actively employed" in connection with a criminal act. The legislative proposal makes it clear that the statute punishes possession of a firearm, as well as its "use." Under the proposal, possession of a firearm during the commission of a violent crime or drug felony will result in a 5-year mandatory minimum penalty. Offenders will receive a 10-year mandatory minimum penalty if during the commission of a drug felony or violent crime, the offender discharges the firearm or uses it to inflict bodily harm.

Section 2124. Juvenile handgun possession.

This proposal would increase the penalties for violations of 18 U.S.C. 922(x), which makes it unlawful for a person to transfer a handgun to a juvenile or for a juvenile to possess a handgun. Existing law provides a penalty of not more than one year for violations of Sec. 922(x) and, if the person transferring the handgun to the juvenile knew that the handgun would be used in a crime of violence, a penalty of not more than 10 years. Existing law also provides for probation by juvenile offenders, unless the juvenile has been previously convicted of certain offenses or adjudicated as a juvenile delinquent.

The proposal would eliminate probation as a mandatory sentence for juveniles. Thus, juveniles would be sentenced to a penalty of not more than one year or, if previously convicted under this section or adjudicated delinquent for an act that would be a serious violent felony under 18 U.S.C. 3559(c) if committed by an adult, sentenced to up to five years' imprisonment. The proposal also increases the penalty for adults who transfer handguns to juveniles knowing that they intend to use it in the commission of a crime

of violence to not less than three years nor more than 10 years (currently only the ten-year maximum applies).

Section 2125. Increased penalty for firearms conspiracy.

This section would amend the firearms chapter of title 18 to provide that a conspiracy to commit any violation of that chapter is punishable by the same maximum term as that applicable to the substantive offense that was the object of the conspiracy. An identical amendment was enacted to the explosives chapter of title 18 by section 701 of the Anti-Terrorism and Effective Death Penalty Act of 1996 (P.L. 104–132). This also accords with several other recent congressional enactments, including 21 U.S.C. 846 (applicable to drug conspiracies) and 18 U.S.C. 1956(h) (applicable to money laundering conspiracies). This trend in federal law, which is emulated in the penal codes of many States, recognizes that, as the Supreme Court has observed, "collective criminal agreement—partnership in crime—presents a greater potential threat to the public than individual delicts." *Callanan* v. *United States*, 364 U.S. 587, 593 (1961); *accord, United States* v. *Feola*, 420 U.S. 671, 693–94 (1975).

Part 3—Targeting Illicit Gun Markets

Section 2131. Certain gang-related firearms offenses as RICO predicates

The proposed amendment would add a number of title 18 firearms offenses that are related to gang activity to the RICO statute. A brief description of the covered offenses is as follows: 922(a)(1) (illegally engaging in business of dealing in firearms); (922(a)(6) (knowingly making false statement to a licensee in order to acquire a firearm); 922(i) (transporting a firearm in interstate or foreign commerce knowing it to have been stolen); 922(j) (possession or disposition of a firearm or ammunition knowing it to have been stolen); 922(k) (transporting or receiving a firearm interstate with an obliterated serial number); 922(o) (unlawful possession or transfer of a machinegun); 922(g) (unlawful possession of a firearm that affects or has moved in interstate commerce in a school zone); 922(u) (theft from a licensee of a firearm that has moved in interstate commerce; 922(v) (illegal transfer or possession of a semiautomatic assault weapon); (922(x)(1) sale or transfer of a firearm to a person known to be a juvenile); 924(b) (transporting or receiving a firearm in interstate commerce with intent to commit therewith a felony); 924(g) (traveling interstate to acquire a firearm, with intent to commit a crime of violence, drug trafficking offense, or other enumerated felony); (24(h) (transferring a firearm with knowledge it will be used to commit a crime of violence or drug trafficking offense); 924(k) (smuggling a firearm into the United States with intent to commit a crime of violence or drug trafficking offense); 924(l) (theft of a firearm from a licensee); and 924(m) (traveling in interstate or foreign commerce to acquire a firearm, with intent to engage illegally in business of dealing in firearms).

Section 2132. Felony treatment for offenses tantamount to aiding and abetting unlawful purchases

This proposal would increase the punishment for the most serious record keeping violations committed by federal licensees, which are tantamount to aiding and abetting unlawful deliveries or purchases of firearms, to the same level of offense as that committed by the unlawful provider or receiver. Sections 922(b) (1) and (3) proscribe sales of firearms known to be juveniles or to reside out of State, respectively. Each carries a five-year maximum sentence for a willful violation under 18 U.S.C. 924(a)(1)(D). Sections 922(a)(6) and (d) proscribe, respectively, making false statements to a licensee in relation to the acquisition of a firearm, and knowingly selling a firearm to a convicted felon or other prohibited category of firearm recipient. Each is punishable by up to ten years' imprisonment.

At present, all record keeping violations by licensees are misdemeanors carrying a maximum of one year in prison. This is insufficient in the above situations, where the knowingly false record keeping entry is very serious and closely associate with or in the nature of aiding and abetting a violation involving the provision of a firearm to a person not entitled to obtain it. Accordingly, the amendment would increase the penalty for such record keeping violations to the same as that would attach to the underlying violation.

Section 2133. Secure storage of firearms inventories

This amendment would require Federal firearms licensees other than collectors and gunsmiths to store their firearms inventory in accordance with regulations issued by the Secretary. The purpose of the amendment is to provide security requirements for the firearms industry. Thefts of firearms from dealers is a growing problem and contributes to the number of firearms available to juvenile youth gangs and other criminals. In issuing the storage regulations, the Secretary would be required to consider the standards of safety and security used by the firearms industry. The industry, as well as other interested persons, could participate in the rulemaking process and have input into the regulations.

Section 2134. Suspension of federal firearms licenses and civil penalties for willful violations of the Gun Control Act

Under current law, the only available administrative remedies to deal with licensees' violations are the extreme measures of denying license renewal applications and license revocation. There may be certain minor violations of the Gun Control Act, *e.g.*, failure to timely record information in required records, that may not warrant license revocation or license denial. This amendment provides new administrative sanctions, less severe than current administrative remedies, including license suspension, civil money penalties, and authority to accept monetary offers in compromise of violations of the law and regulations.

Section 2135. Transfer of firearm to commit a crime of violence

Present 18 U.S.C. 924(h) makes it unlawful to transfer a firearm "knowing" that the firearm will be used to commit a crime of violence or drug trafficking crime. However, 18 U.S.C. 924(b) makes it unlawful to transport or receive a firearm in interstate commerce "with knowledge or reasonable cause to believe" that any felony is to be committed therewith. Both statutes carry the same maximum penalty.

There is no plausible reason why section 924(h) is limited to instances in which the actor has knowledge that a crime of violence or drug trafficking crime will be committed, as opposed to having "reasonable cause to believe" that such is the case. Indeed, the offenses covered by section 924(h)—violent felonies and drug trafficking felonies—are inherently more serious than the offenses covered by section 924(b), which extends to all felonies. Accordingly, this section would conform the scienter element in section 924(h) by adding "reasonable cause to believe" to that statute.

Section 2136. Increased penalty for knowingly receiving firearm with obliterated serial number.

The current maximum penalty for knowingly receiving a firearm with an obliterated or altered serial number in violation of 18 U.S.C. 922(k) is five years. This offense is tantamount to that of receiving a firearm known to be stolen. However, the latter carries a maximum penalty of ten years. Accordingly, this amendment would increase the maximum penalty for receiving a firearm with an obliterated or altered serial number to ten years.

Section 2137. Amendment to the Sentencing Guidelines for transfers of firearms to prohibited persons.

The proposed amendment would require the United States Sentencing Commission to provide an increase in the base offense level for certain firearms violators under sentencing guideline section 2K2.1. The increase should assure that the base offense level for a person who transfers firearms or ammunition with knowledge or reasonable cause to believe that the transferee is a convicted felon or otherwise in a prohibited category is the same as that for the transferee. Under Federal law the offense of selling or disposing of a firearm or ammunition to any person knowing or having reasonable cause to believe that the person is in a prohibited category is punishable by a maximum term of imprisonment of 10 years—the same penalty that applies to the transferee. *See* 18 U.S.C. §§922(d), 922(g) and 924(a)(2).

The sentencing guidelines provide that a prohibited person who engages in a firearm offense is subject at least to offense level 14. Thus, for example, a convicted felon who unlawfully acquires a firearm in violation of section 922(g) of title 18, United States Code, would face a sentencing range of 18–24 months of imprisonment if his past conviction resulted in a sentence of imprisonment of 60 days or more. However, the transferor currently faces a guideline offense level of just 12 (10–16 months of imprisonment for a first offender, which can result in five months of imprisonment and five months of supervised release with home confinement). The transferor in this case should be subject to offense level 14, like the transferee.

Guideline section 2K2.1 also provides an offense level of 20 for a prohibited person whose offense involved a machinegun or certain other dangerous firearms. The proposed directive would require the Sentencing Commission to make this offense level applicable to the transferor of such a weapon if the transferor knows or has reasonable cause to believe that the transferee is in a prohibited category. However, the sentencing guidelines currently provide additional base offense level increases in the case of defendants who have prior felony convictions of either a crime of violence or controlled substance offense, §2K2.1(a)(1), (2), (3), and (4)(A). The directive to the Sentencing Commission specifically exempts these additional increases from its requirements.

Section 2138. Forfeiture of firearms used in crimes of violence and felonies.

The amendment adds the authority to forfeit firearms used to commit crimes of violence and all felonies to 18 U.S.C. §§981 and 982. This authority would be in addition to the authority already available to Treasury agencies under 18 U.S.C. §924(d).

The purpose of the amendment is (1) to provide for criminal as well as civil forfeiture of firearms; and (2) to permit forfeiture actions to be undertaken by Department of Justice law enforcement agencies who have authority to enforce the statutes governing crimes of violence but who do not have authority to pursue forfeitures of firearms under the existing statutes.

Section 924(d) of title 18 already provides for the civil forfeiture of any firearm used or involved in the commission of any "criminal law of the United States." The statute, however, is enforced only by the Treasury Department and its agencies; it provides no authority for the FBI, for example, to forfeit a gun used in the commission of an offense over which it has sole jurisdiction. Moreover, §924(d) provides for civil forfeiture only.

Subsection (d) adds a provision to 18 U.S.C. §924(d) intended to permit the Bureau of Alcohol, Tobacco and Firearms to forfeit property that otherwise would have to be forfeited by another agency. Under §924(d), ATF is presently authorized to forfeit a firearm used or carried in a drug trafficking crime. Property involved in the drug offense itself, such as drug proceeds, may also be forfeitable under the Controlled Substances Act, 21 U.S.C. §881, but ATF does not presently have authority to forfeit property under that statute and has to turn the forfeitable property over to another agency. The amendment does not expand the scope of what is forfeitable in any way, but does allow the forfeiture to be pursued by ATF when the agency is already involved in the forfeiture of a firearm in the same case.

Finally, subsection (e) clarifies an ambiguity in the present statute relating to the 120-day period in which a forfeiture action must be filed. Presently, the statute says that a forfeiture proceeding must be filed within 120 days of the seizure of the property. This was intended to force the government to initiate a forfeiture action promptly. In one case, however, where the government did initiate an administrative forfeiture action within the 120-day period, the claimant filed a claim and cost bond which required the government to begin the forfeiture action over again by filing a formal civil judicial proceeding in federal court. The claimant then moved to dismiss the judicial proceeding because the complaint was filed outside the 120-day period.

The court granted the motion to dismiss because the literal wording of §924(d) requires *any* forfeiture action against the firearm to be filed within 120 days of the seizure. *United States* v. *Fourteen Various Firearms*, ___ F. Supp. ___, 1995 WL 368761 (E.D. Va. June 19, 1995). This interpretation, however, leads to unjust results in cases where the government promptly commences an administrative forfeiture action but the claimant waits the full time allotted to him to file a claim. (Under Section 101 of this Act, the claimant would have 30 days from the date of publication of notice of the administrative forfeiture action to file a claim, which is likely to be several months after the seizure even if the government initiated the administrative forfeiture almost immediately after the seizure.) In such cases, Congress could not have intended the 120-day period for filing a *judicial* complaint to count from the date of the seizure; indeed, it is often the case that the claimant doesn't even file the claim until more than 120 days have passed. Thus, the amendment clarifies the statute to make clear that the government must initiate its *administrative forfeiture* proceeding within 120 days of the seizure and then will have 120 days from the filing of a claim, if one is filed, to file the case in federal court. The amendment also tolls the 120-day period during the time a related criminal indictment or information is pending.

Section 2139. Forfeiture for gun trafficking

This section provides for the forfeiture, under 18 U.S.C. §§981 and 982, of vehicles used to commit gun trafficking, such as transporting stolen firearms, and for the proceeds of such offenses. The provision is limited to instances in which five or more firearms are involved, thus making it clear that it is not intended to be used in instances where an individual commits a violation involving a small number of firearms in his or her personal possession.

Part 4—Targeting Serious Drug Crimes and Protecting Children From Drugs

Section 2141. Increased penalties for using minors to distribute drugs

This provision would amend Section 420 of the Controlled Substances Act (21 U.S.C. 861) to increase the current mandatory minimum penalty for using or employing minors to distribute drugs from one year to three years. Similarly, the provision would increase the mandatory minimum penalty for a second or subsequent violation of this statute from one year to five years. The proposed increases are necessary to punish persons who use or employ minors to distribute illegal drugs and to deter others from engaging in such reprehensible conduct.

Section 2142.1 Increased penalties for distributing drugs to minors

This provision would amend Section 418 of the Controlled Substances Act (21 U.S.C. 859) to increase the minimum penalty for distributing drugs to minors from one year to three years for a first offense, and from one year to five years for a second or subsequent offense. The proposal would also alter the age of the minor that triggers these penalties. Under the proposed amendment, the penalties would apply whenever a person at least eighteen years of age distributes drugs to a person under eighteen. Presently, the statute punishes a person at least eighteen who distributes drugs to a person under twenty-one, thus reaching some transactions in which the buyer is significantly older than the seller. This makes little sense and is inconsistent with the companion statute, 21 U.S.C. 861, which punishes persons who employ minors to distribute drugs. The proposed amendment would bring section 859 into conformity with section 861.

Section 2143.1 Increased penalties for drug trafficking in or near a school or other protected location

This provision would amendment Section 419 of the Controlled Substances Act (21 U.S.C. 860) to increase the mandatory minimum penalty for distributing drugs in or near a school or other protected location. The provision also would increase the mandatory minimum penalty for second and subsequent offenses from one to five years. The increased penalties for drug trafficking in or near schools or other protected locations are consistent with the other proposed penalty increases in this legislation and are aimed at protecting children from drug trafficking and abuse, punishing drug dealers who target children, and deterring others who might engage in such conduct.

Section 2144.1 Serious juvenile drug trafficking offenses as Armed Career Criminal Act predicates

This section would amend the Armed Career Criminal Act (ACCA), 18 U.S.C. §924(e)(2)(A), to permit the use of an adjudication of juvenile delinquency based on a serious drug trafficking offense as a predicate offense under that Act. The ACCA targets for a lengthy period of at least 15 years' imprisonment those felons found in unlawful possession of a firearm who have proven records of involvement in serious acts of misconduct involving drugs and violence.

Section 2145. Attorney General authority to reschedule certain drugs posing imminent danger to public safety.

Under existing law, the Attorney General is empowered to add temporarily a substance to Schedule I of the Controlled Substances Act when necessary to respond to an imminent danger to public safety. *See* 21 U.S.C. 811(h). However, the Attorney General is not authorized to reschedule a substance that already has been placed on one of the schedules of the Controlled Substances Act. Once a substance has been added to one of the schedules, any rescheduling of that substance must be done pursuant to the standard procedures for scheduling or rescheduling a substance. Under the standard procedures, the rescheduling of a substance can take several years.

The proposal would extend the Attorney General's existing authority to schedule a substance on an emergency basis to include the *re*scheduling of an already scheduled drug to Schedule I. This authority will give the Attorney General to respond to public health crises involving scheduled substances, such as the rapidly escalating abuse of rohypnol, a Schedule IV drug with no approved medical uses in the United States.

The proposal contains the same limitations and procedures as apply to the Attorney General's existing emergency scheduling authority. The Attorney General could temporarily reschedule a substance only for one year, with the possibility of a one-time six month extension under certain circumstances. In addition, the Secretary of Health and Human Services would continue to have a formal role in advising the Attorney General in any proposed rescheduling.

Section 2146. Increased penalties for using federal property to grow or manufacture controlled substances.

This provision would increase the penalty for cultivating or manufacturing a controlled substance on federally owned or leased land. A significant amount of the domestic marijuana crop is grown on federal lands and a substantial number of methamphetamine laboratories also have been discovered on federal lands. Federal law enforcement agencies believe that the use of federal lands for cultivating and manufacturing controlled substances has increased because there is no possibility that the land will be forfeited as is the case if the cultivation or manufacture took place on private property.

Section 2147. Clarification of length of supervised release terms in controlled substance cases.

This section resolves a conflict in the circuits as to the permissible length of supervised release terms in controlled substance cases. Under 18 U.S.C. 3583(b), "[e]xcept as otherwise provided," the maximum authorized terms of supervised release are 5 years for Class A and B felonies, 3 years for Class C and D felonies, and 1 year for Class E felonies and certain misdemeanors. The drug trafficking offenses in 21 U.S.C. 841 prescribe special supervised release terms, however, that are longer than those applicable generally under section 3583(b). Those longer

terms, which may include lifetime supervised release, were enacted in 1986 in the same Act which inserted the introductory phrase "Except as otherwise provided" in section 3583(b). Because of this clear legislative history and intent, two courts of appeals have held that section 3583(b) does not limit the length of supervised release that may be imposed for a violation of 21 U.S.C. 841 when a greater term is there provided. *United States v. LeMay*, 952 F.2d 995, 998 (8th Cir. 1991); *United States v. Eng*, 14 F.3d 165, 172–3 (2d Cir. 1994. One court of appeals, however, has reached the opposite result, holding that the length of a supervised release term that can be imposed for controlled substance cases is limited by 18 U.S.C. 3583(b). *United States v. Gracia*, 983 F.2d 625, 630, (5th Cir. 1993); *United States v. Kelly*, 974 F.2d 22, 24–5 (5th Cir. 1992).

Although the issue has not arisen with frequency, the conflict is entrenched and should be dealt with definitively. Accordingly, the amendment would add the words "Notwithstanding section 3583 of title 18" to the title 21 controlled substance offenses in the parts of those statutes dealing with supervised release to make clear that the longer terms there prescribed control over the general provision in section 3583.

Section 2148. Technical correction to assure compliance of sentencing guidelines with provisions of all federal statutes.

This section would amend 28 U.S.C. 994(a) to assure that sentencing guidelines promulgated by the United States Sentencing Commission are consistent with the provisions of all federal statutes. Currently, section 994(a) contains a requirement of consistency only with statutes in titles 28 and 18 of the United States Code. No discussion of this somewhat peculiar limitation appears in the legislative history, see S. Rep. No. 98–225, 98th Cong., 1st Sess., p. 163 (1983). The limitation seems to have been based on the mistaken assumption that all provisions pertinent to the promulgation of sentencing guidelines were contained in those two titles. However, other provisions, such as mandatory minimum sentences in title 21, are relevant and clearly are meant to act as constraints on the guidelines. This amendment will insure that guidelines are not created that are inconsistent with the provisions of any relevant enactment of Congress.

Section 2149. Drug testing, treatment, and supervision of incarcerated offenders.

This section amends Section 20105(b) of the Violent Offender Incarceration/Truth-In-Sentencing (VOI/TIS) grant program of the Violent Crime Control and Law Enforcement Act of 1994 by adding the language at Section 20105(b)(1)(B) and Section 20105(b)(2). The victims' rights language at Section 20105(b)(A) is current law as Section 20105(b).

The amendment adds several requirements to the conditions a state must meet in order to receive funding under the VOI/TIS program. First, the state must by September 1, 1998, have a plan for drug testing/monitoring and treatment for violent offender housed in their corrections facilities. This plan needs to include sanctions for inmates who test positive. Second, the language at (2) would permit the state to use funds received under the VOI/TIS program to pay the costs of the testing and treatment required under (B). Currently the provisions at (B) are found in the Conference Report H. Rpt. 104–863 that accompanies the Department's fiscal year 1997 appropriations act. The language at (2) is not included. The goal of the amendment is to make the language at (B) permanent and add the language at (2) by amending the underlying law.

SUBTITLE B—GRANTS TO PROSECUTORS' OFFICES TO TARGET GANG CRIME AND VIOLENT JUVENILES

This subtitle amends Section 31702, "Community-Based Justice Grants for Prosecutors," of Title III of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) to respond to the increase of violent juvenile offenders and the rate of gang-related juvenile crime. This subtitle provides needed resources for state and local prosecutors to facilitate the prosecution of violent and serious juvenile offenders. There is no existing comparable legislative text and programs previously authorized to assist prosecutors have not been appropriated. As part of the President's fiscal year 1998 budget proposal, this program is authorized for appropriations of $100,000,000 for fiscal year 1998 and $100,000,000 for fiscal year 1999.

Specifically, the legislation expands authority to: hire additional prosecutors to reduce prosecutorial backlogs; enable prosecutors to more effectively prosecute youth drug, gang, and violence problems; supply the technology, equipment, and training to assist prosecutors in reducing the rate of youthful violent crime while increasing the rate of successful identification and rapid prosecution of young violent offenders; and assist prosecutors in their efforts to engage in community-based prosecutions, problem solving, and conflict resolution techniques through collaborative efforts with law enforcement officials, school officials, probation officers, social service agencies, and community organizations.

There is also a two percent set aside of all funds appropriated under this Part to be set aside for "training and technical assistance" consistent with the above-mentioned purposes. Similarly, 10 percent is taken "off the top" of all funds appropriated under this Part to be set aside for research, statistics, and evaluation" consistent with these purposes. Numerous jurisdictions have requested training and technical assistance as a priority need. Additionally, through the introduction of various bills, Congress has evidenced its support for enhanced research, statistics, and evaluation.

SUBTITLE C—GRANTS TO COURTS TO ADDRESS VIOLENT JUVENILES

Subtitle C establishes federal grant funding for states, units of local government, and Indian tribal governments to use in developing and implementing innovative initiatives to increase levels of efficiency, expediency, and effectiveness with which juvenile and youths are processed and adjudicated within the criminal and juvenile justice system. This is a new grant authority to assist state, local, and tribal courts, including probation and parole offices, public defenders, and victim/witness service providers, to respond to violent and serious youthful offenders.

This subtitle amends Section 21062 of Subtitle F of Title XXI of the "Violent Crime Control and Law Enforcement Act of 1994" (42 U.S.C. 14161), that currently provides assistance to state and local courts. This subtitle reintroduces the Administration's State and Local Courts Assistance Program Act to authorize the establishment of the juvenile gun courts, drug courts, other specialized courts, and innovative programs to better deal with the adjudication and prosecution of juveniles. As part of the President's fiscal year 1998 budget proposal), this program is authorized for appropriations of $50,000,000 for fiscal year 1998.

TITLE III—PROTECTING WITNESSES TO HELP PROSECUTE GANGS AND OTHER VIOLENT CRIMINALS

Section 3001. Interstate travel to engage in witness intimidation or obstruction of justice.

This section would amend the Travel Act (18 U.S.C. 1952) to add witness bribery, intimidation, obstruction of justice, and related conduct in State criminal proceedings to the list of predicates under the Travel Act (18 U.S.C. 1952). Recent studies demonstrate that witness intimidation is one of the most serious impediments to the prosecution of violent street gangs and drug trafficking organizations in State courts. This amendment responds to the growing witness intimidation problem by authorizing federal prosecution of persons who travel in interstate commerce with the intent to bribe or intimidate a witness, obstruct a criminal proceeding, or engage in related conduct.

Section 3002. Expanding pretrial detention eligibility for serious gang and other violent criminals.

This section would make three amendments to the pretrial detention statutes designed to enhance the ability, in appropriate circumstances, to use these statutes in prosecutions against gang members and against other violent criminals. Under the Bail Reform Act, 18 U.S.C. 3141 et seq., defendants charged with certain offenses can be detained pretrial if the court concludes there is clear and convincing evidence that no condition or combination of conditions of release will adequately assure the safety of any other person and the community. See 18 U.S.C. 3142 (e) and (f). The kinds of charges that permit such detention on grounds of the defendant's dangerousness include certain serious drug trafficking offenses and a "crime of violence". They also include any felony if the defendant has previously been convicted of two or more crimes of violence or serious drug trafficking offenses.

The first proposal would add a definition of the term "convicted" to include adjudications of juvenile delinquency. Thus, it would permit pretrial detention, upon the requisite showing, of persons charged with any felony, e.g., interstate transportation of a stolen automobile, who had two or more prior violent or drug convictions, including juvenile delinquency adjudications for such conduct. This should facilitate the use of pretrial detention when appropriate against young career offenders such as gang members.

The second proposed amendment relates to the definition of "crime of violence" in 18 U.S.C. 3156(a)(4). That definition reaches offenses: (A) that have as an element the use or attempted or threatened use of physical force, (B) any other felony offenses that, by their nature, involve a substantial risk that physical force may be used in the course of their commission, and (C), by virtue of an amendment in the 1994 crime bill, any felony under chapter 109A or 110 (which proscribe sex offenses and child pornography).

It is not clear whether the offenses of possession of explosives or firearms by convicted felons qualify as "crimes of violence" under the second or (B) branch of the definition. What little case law exists suggests that they do. *See United States* v. *Sloan*, 820 F. Supp. 1133, 1136–41 (S.D. Ind. 1993); *United States* v. *Aiken*, 775 F. Supp. 855 (D. Md. 1991). See also, *United States* v. *Dodge*, 846 F. Supp. 181 (D. Conn. 1994). The *Sloan* court noted that, although the Supreme Court held in *United States* v. *Stinson*, 113 S. Ct. 1913 (1993), that a similar definition of "crime of violence" in the sentencing guidelines did not

encompass the felon-in-possession statutes, because the Sentencing Commission had promulgated a policy statement to that effect, the bail statutes serve a very different purpose from sentencing enhancements and should be more broadly construed to protect the public from continued endangerment by convicted felons charged with a new offense of weapon possession. (Prior to the Commission's policy statement, the courts were divided as to whether a violation of 18 U.S.C. 922(a) was a crime of violence for sentencing purposes). This proposed amendment would codify the result reached in *Sloan*. It would not mandate pretrial detention but would permit the government to show, in the case of a convicted felon such as a gang member charged with violating the certain explosives or firearms statutes, that no one or more conditions of release would be adequate to safeguard society.

The third proposed amendment would make membership or participation in a criminal street gang, racketeering enterprise, or other criminal organization a factor to be considered by courts in making bail determinations. Presently, many other personal history and characteristics of the individual charged are required to be considered in making bail decisions, such as prior convictions, drug abuse, and whether the alleged offense was committed while on parole, probation, or other form of release pending criminal trial. Clearly, gang or organized crime group membership is a relevant factor that bears both on dangerousness and risk of flight and that courts should take into account in making bail determinations. The amendment is not intended to impinge on rights of freedom of association but rather to reach membership or participation in those organizations that exist, at least in part, for the purpose of committing crimes or depriving third parties of their lawful rights. See *Madsen* v. *Women's Health Center, Inc.* 114 S. Ct. 2516, 2530 (1994).

Section 3003. Conspiracy penalty for obstruction of justice offenses involving victims, witnesses, and informants.

Increasingly typical of many criminal gangs is violence directed at silencing or retaliating against witnesses or potential witnesses and informants. 18 U.S.C. 1512 and 1513 set forth offenses and penalties that, generally speaking, adequately deter and punish such offenses. However, a conspiracy to engage in witness intimidation or retaliation in violation of these statutes is punishable only under the catchall conspiracy statute, 18 U.S.C. 371, which carries a maximum prison term of only five years. This is clearly inadequate to vindicate an offense that involves, for example, a conspiracy to kill a witness or potential witness in a federal criminal proceeding. Such a conspiracy, if perpetrated upon the special maritime and territorial jurisdiction, would be punishable by up to life imprisonment. 18 U.S.C. 1117. This is consistent with the principle, recognized in some federal statutes and prevalent in modern State criminal codes, that a conspiracy warrants the same maximum penalty as the offense which was its object. This principle is reflected in several recently enacted federal statutes, including 21 U.S.C. 846 (drug conspiracies), 18 U.S.C. 1856(h) (money laundering conspiracies), and 18 U.S.C. 844(n) (explosives conspiracies). The proposed amendment in this section would apply this principle to 18 U.S.C. 1512 and 1513 and thus provide better protection from gang violence to witnesses and informants.

TITLE IV—PROTECTING VICTIM'S RIGHTS

Title IV contains two Sections that expand the rights and protections afforded to the victims of crime, particularly crimes committed by juvenile offenders and crimes committed against children. It should be noted that a number of other provisions of the Anti-Gang and Youth Violence Act of 1997 expand the rights and protections of crime victims. For example, the proposed Section 5002, which amends 18 U.S.C. 5032, would establish a rebuttable presumption that juvenile proceedings shall be open to victims and members of the public, with special protections and access afforded to crime victims. In addition, proposed Section 5037 would expand the allocution rights of crime victims, including the right to have input into the predisposition report prepared by the probation officer and the right to appear before the judge and be heard prior to an order of disposition.

Section 4001. Records of crimes committed by juvenile offenders.

The proposed Section 40001 would amend 18 U.S.C. 5038(a)(6) to correct an oversight in current law. The amendment affirmatively provides for a victim's or a victim's official representative's allocation at the dispositional phase of the juvenile proceeding. In addition, the new statutory language clarifies that communication is allowable with the victim about "the status or disposition of the [juvenile] proceeding in order to effectuate any other provision of [state or federal] law". This language clears up any ambiguity in current law by explicitly extending to victims of juvenile offenders the right to information about the juvenile proceeding that they might need or be entitled to under any other state or federal law, such as the victim's rights set out in 42 U.S.C. 10606. Thus, under this new language, victims of juvenile offenders would be treated like victims of adult offenders. For example, victims would be able: to know about the status of the proceedings and the release status of the offenders; to consult intelligently with the prosecutor; and to make a knowledgeable victim impact statement at the time of the disposition. In addition, if state law allows victim compensation or grants any other rights, this provision allows communication about the federal delinquency proceeding in order to effectuate those provisions.

Fingerprints and photographs of adjudicated delinquents found to have committed the equivalent of an adult felony offense or a violation of 18 U.S.C. 922(x) and 924(a)(6) (possession of a handgun by a juvenile) would be sent to the Federal Bureau of Investigation (FBI) and made available in the manner applicable to adult defendants.

The limited availability of juvenile criminal records is a serious concern in connection with violent and firearms offenses. In order to address this problem, the Department of Justice amended its regulations in 1992 to expand the ability of the FBI to receive and retain records from State courts for "serious and/or significant adult and juvenile offenses." 28 C.F.R. 2032. The proposed bill would further alleviate this problem by making corresponding changes in the statutory rules for reporting offenses by juveniles who are prosecuted federally. This amendment was passed in substance by the Senate in the 103rd Congress as Section 618 of H.R. 3355.

Further disclosure of records relating to a juvenile or a delinquency proceeding would be authorized if it would be permitted under the law of the State in which the delinquency proceeding took place. The proposal will allow for the development of State systems of graduated sanctions by making it possible for the court to take into account a juvenile's criminal history when imposing sentence. The records could also be used for analysis by the Department of Justice if so requested by the Attorney General.

Finally, the new Section 5038(c) would be amended to allow the disclosure of "necessary docketing data". This is necessary because the nationwide military justice system cannot process traffic tickets without disclosing some docketing information.

Section 4002. Victims of Child Abuse Act extension of authorizations.

This section extends the authorization of appropriations for programs under Subchapter I of the Victims of Child Abuse Act (42 U.S.C. 13001 *et seq.*). The programs authorized under VOCA include regional children's advocacy centers, local children's advocacy centers, and specialized training and technical assistance for state and local practitioners dealing with the prosecution of child abuse cases. These programs currently are administered by the Office of Juvenile Justice and Delinquency Prevention.

TITLE V—FEDERAL PROSECUTION OF SERIOUS AND VIOLENT JUVENILE OFFENDERS

Section 5001. Short title.

The amendments made in this title are designed to provide protection for the community and hold juveniles accountable for their actions. They will help ensure that prosecution of serious juvenile offenders is more swift and certain, and that punishment of juvenile offenders will be commensurate with the seriousness of the crimes committed.

Section 5002. Delinquency proceeding or criminal prosecutions in district courts.

Under current law, the decision to charge a juvenile as an adult for specified crimes is made by the United States district court as a result of a motion by the United States to transfer the juvenile for criminal prosecution. The offenses subject to this transfer authority are limited. Even more restrictive are the list of violent offenses for which a juvenile under 15 years of age can be transferred.

There is virtually universal agreement among federal prosecutors that the present system is cumbersome and has frequently inhibited them for seeking adult prosecution. Prosecutors who have sought the transfer of juveniles to adult status have experienced many difficulties in the application of an outmoded statute or have encountered judges personally opposed to the transfer of juveniles, even in cases involving very serious crimes. Moreover, there is a presumption under present law in favor of a juvenile adjudication, and a district court's decision to decline transfer to adult status may be reversed only upon a finding of abuse of discretion. *United States v. Juvenile Male #1*, 47 F.3d 68 (2d Cir. 1995). The result is a juvenile justice system which fails to provide an effective deterrent to juvenile crime and fails adequately to protect the public.

The proposed statute would amend 18 U.S.C. §5032 to greatly strengthen and simplify the process for prosecuting the most dangerous juveniles as adults in federal court. The legislation would bring federal law into conformity with that of many states by giving prosecutors, rather than the courts, the discretion to charge a juvenile alleged to have committed certain serious felonies as an adult or as a juvenile.

The proposed statute would retain the minimum age in existing law for prosecution of a juvenile as an adult but would expand the list of offenses with serious violent, gun or drug felonies. A number of states have similar statutes.

The legislation would, however, create a distinction between juveniles 16 years of age and older and those who are younger. Prosecution of juveniles 13 to 15 years of age at the time of the offense would require approval of the Attorney General or his or her designee at a level not lower than Deputy Assistant Attorney General. This internal Justice Department approval requirement (which would not be litigable) has been used in other types of particularly sensitive cases and would ensure that careful scrutiny and uniform standards are used in determining whether to bring criminal charges against very young juveniles. Prosecutors would retain the discretion to proceed against anyone under age 18 as a juvenile delinquent. In those cases, the current requirement for prosecutorial certification would apply, thus assuring that most such cases are handled at the state or local level.[1]

The proposed bill would amend section 5032, to expand the list of serious felonies for which a juvenile can be prosecuted as an adult to include additional violent crimes, firearms charges and drug offenses. Under the amended statutes, a juvenile could be prosecuted as an adult for the following offenses:

(1) a serious violent felony or a serious drug offense as described in section 3559 (c)(2) or (c)(3) or a conspiracy or attempt under section 406 of the Controlled Substances Act or under section 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 846 or 963) to commit an offense described in section 3559(c)(2); and

(2) the following offenses if they are not described in paragraph (1): (A) a crime of violence (as defined in section 3156(a)(4)) that is a felony; (B) an offense described in section 844(d), (k), or (l), or paragraph (a)(6) or subsection (b), (g), (h), (j), (k), or (l), of section 924; (C) a violation of section 922(o) that is an offense under section 924(a)(2); (D) a violation of section 5861 of the Internal Revenue Code of 1986 that is an offense under section 5871 of such Code (26 U.S.C. 5871);

(E) a conspiracy to violate an offense described in any of subparagraphs (A) through (D); or

(F) an offense described in section 401 or 408 of the Controlled Substances Act (21 U.S.C. 841, 848) or a conspiracy or attempt to commit that offense which is punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846), or an offense punishable under section 409 or 419 of the Controlled Substances Act (21 U.S.C. 849, 860), or an offense described in section 1002, 1003, 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952, 953, 955 or 959), or a conspiracy or attempt to commit that offense which is punishable under section 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 963).

To ensure the prosecution in one trial of all offenses charged, a juvenile tried as an adult for one of the designated offenses could also be prosecuted as an adult for any other offenses properly joined under the Federal Rules of Criminal Procedure. With these amendments, juveniles convicted as adults could receive substantially higher sentences than under current law, commensurate with their crimes and criminal histories.

The existing statute excludes younger juveniles in Indian country charged with certain crimes from prosecution unless the tribal government opts to have the provision apply. The proposal would continue this provision.

The proposed bill allows, in certain limited circumstances, the district court to order that a juvenile charged as an adult be tried under the juvenile delinquency procedures. This is sometimes referred to as a "reverse waiver." Any juvenile charged with one of the offenses listed in 3(A)–(F) or a juvenile under the age of 16 would be able to request a "reverse waiver" hearing. A motion making such a request would have to be filed within 20 days of the juvenile first being charged as an adult. At the hearing, the juvenile charged as an adult would have the burden of establishing that it would be in the interest of justice that the case be tried under the juvenile delinquency provisions of 5032(a). The criteria by which the court should make its determination are listed in the proposed statute. The procedure for appellate review of the court's ruling would be similar to that presently used after a motion to suppress evidence. If the trial court determined that the juvenile should be tried as a juvenile delinquent, the government would have the right to seek an expedited appeal. In the event the court determined that the juvenile had not carried his or her burden of establishing that it was in the interests of justice that there be a reverse waiver, then the case would proceed to trial as an adult prosecution and the juvenile could appeal in the event of a guilty verdict.

Juveniles under the age of 16 charged as adults, but who have not previously been adjudicated delinquent of a serious violent felony, and who are charged with certain limited offenses would be sentenced under the sentencing guidelines but would not be subject to mandatory minimums.

Section 5032(a)(4) is amended to make clear that federal juvenile proceedings are normally open to the public but may be closed in the interests of justice or for good cause shown. It also includes a provision allowing victims, their relatives and guardians to be included when the public is otherwise excluded, unless the same two tests applied for exclusion of the public also independently require exclusion.

Section 5003. Custody prior to appearance before judicial officer.

Minor changes have been made to make clear that the procedures applicable to the arrest of a juvenile prior to the formal filing of charges apply whether or not it is anticipated that the juvenile will be charged as a juvenile or as an adult.

Section 5004. Technical and conforming amendments to Section 5034.

This section is amended to clarify that it applies to juvenile proceedings only.

Section 5005. Speedy trial.

The proposed status would require that for a juvenile in custody juvenile delinquency proceedings begin within 45 days, rather than the current 30 days. Exclusions in the Speedy Trial Act (18 U.S.C. §3161(h)) would also be made applicable for the first time in juvenile delinquency proceedings. This additional time is necessary, particularly in cases involving both adult and juvenile defendants such as in the prosecution of gangs, to protect witnesses and critical evidence by ensuring that the trial of a juvenile does not proceed before the case against the adults. The time within which a disposition hearing must be held after an adjudication of delinquency would also be increased from 20 to 40 days. Within the 40 days, the probation office would prepare a predisposition report which would include victim impact information. Forty days is consistent with federal court practice generally and will provide the time necessary to prepare a comprehensive report.

Section 5006. Disposition; availability of increased detention, fines and supervised release for juvenile offenders.

The legislation would amend section 5037 to make fines and supervised release—not presently sentencing options—available for adjudicated delinquents in addition to probation and detention. The maximum period of official confinement for an adjudicated delinquent would be increased to ten years or through age 25 to give judges increased sentencing flexibility for juveniles who are adjudicated delinquent. The maximum period for probation would be increased to the same period applicable to an adult. To strengthen the accountability of juveniles to victims, mandatory restitution would also apply to adjudicated delinquents.

Section 5007. Technical amendment of Sections 5031 and 5034.

This section makes technical and confirming amendments to Sections 5031 and 5034.

TITLE VI—INCARCERATION OF JUVENILES IN THE FEDERAL SYSTEM

Section 6001. Detention prior to disposition or sentencing.

Sections 6001 and 6002 relate to the detention of juvenile offenders prior to disposition or sentencing. Specifically, the bill would amend 18 U.S.C. 5035, to provide that juvenile offenders less than 16 years of age being prosecuted as adults but not yet convicted must be placed in an available, suitable juvenile facility located within, or a reasonable distance from, the district in which the juvenile is being prosecuted. If such a suitable juvenile facility is not available, the juvenile could be placed in any other suitable facility located within, or a reasonable distance from, the district in which the juvenile is being prosecuted. Only if neither of these types of facilities is available could a juvenile less than 16 years old be placed in some other suitable facility. In order to protect the safety of these younger offenders, the bill would require that, to the maximum extent feasible, juveniles not be detained prior to sentencing in any institution in which they have regular contact with adult prisoners.

The requirement in current Section 5035, that a juvenile charged with juvenile delinquency has regular contact with adult prisoners would generally be retained in the proposed legislation. However, the proposed bill would permit juveniles adjudicated delinquent, once they reach the age of 18, to be placed with adults in a correctional facility. This recommended change is consistent with recent regulatory changes to state requirements under the Juvenile Justice and Delinquency Prevention Act, 42 U.S.C. 5601 *et seq.*

Section 5039 of title 18, United States Code, would also be amended to permit juveniles adjudicated delinquent to be placed with adults in community-based facilities in order to provide transition services for juveniles moving from incarceration to the community and to allow juveniles to be housed in their home communities. These changes would help protect younger juveniles 13 or 14 years old, from 19 or 20 year-olds who, although adjudicated delinquent, may be as dangerous as adults.

The legislation would also amend Sections 5035 and 5039 to give the Attorney General discretion to confine with adults a serious

[1] The federal prosecutor would be required to certify that (A) the appropriate State does not have or declines to assume jurisdiction over the juvenile, or (B) the offense is one specified in the statute, and (C) there is a substantial federal interest in the case of the offense to warrant the exercise of federal jurisdiction. 18 U.S.C. §5032(a).

juvenile offender 16 years of age or older who is charged as an adult, both before and after conviction. As under present law, only those juveniles charged as adults whom a judicial officer has found would, if released, endanger the safety of another person or the community or would pose a substantial risk of flight could be detained prior to trial.

The current requirement in Section 5039 that every juvenile under 18 years of age who is in custody be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other care and treatment would continue to apply to every juvenile charged as an adult who is detained prior to trial and sentencing and would be expanded to provide for reasonable safety and security as well.

These changes are consistent with current practice in many states and are proposed to ensure that the most violent juvenile criminal offenders are not detained or incarcerated with juvenile delinquents. By providing the discretion to house older juveniles prosecuted as adults, adjudicated delinquents once they reach the age of 18 and all juveniles convicted as adults in adult facilities, this proposal would also solve practical problems reported by the U.S. Marshals Service and the U.S. Attorneys, who have experienced great difficulty in finding suitable juvenile facilities for older and violent juvenile offenders.

Section 6002. Rules governing the commitment of juveniles.

The legislative analysis for the amendments made in this discussion are discussed in the analysis accompanying Section 5005.

TITLE VII—OFFICE OF JUVENILE CRIME CONTROL AND PREVENTION

Title VII establishes within the Office of Justice Programs the "Office of Juvenile Crime Control and Prevention," the "Juvenile Crime Control and Prevention Formula Grant Program," the "Indian Tribal Grant Programs," and "At-Risk Children Grants Program," and "Developing, Testing, and Demonstrating Promising Programs Program," the "Incentive Grant Programs," the "Research, Statistics, and Evaluation" grants, and the "Training and Technical Assistance" grants.

Subtitle A of Title VII creates the "Office of Juvenile Crime Control and Prevention" to replace the Office of Juvenile Justice and Delinquency Prevention. The new Office of Juvenile Crime Control and Prevention responds to the changing nature of juvenile and youth crime and represents a more focused, efficient, and effective office. Fundamental protections safeguarding juveniles and youth within the juvenile justice system have been maintained, while operations within this new office have been streamlined to better coordinate and integrate juvenile and youth crime initiatives with other Department of Justice activities, particularly activities within the Office of Justice Programs, the National Institute of Justice and the Bureau of Justice Statistics, as well as with states, units of local government, Indian tribal governments, and local communities.

Section 7001. Short title.

This section provides that Title VII of the Anti-Gang and Youth Violence Act may be cited as the "Juvenile Crime Control and Prevention State and Local Assistance Act of 1997."

SUBTITLE A—CREATION OF THE OFFICE OF JUVENILE CRIME CONTROL AND PREVENTION

Section 7101. Establishment of Office.

Section 2701 establishes the "Office of Juvenile Crime Control and Prevention" under the general authority, and the "supervision and direction" of the Assistant Attorney General for the Office of Justice Programs, United States Department of Justice. The words "supervision and direction" are used to describe the line of authority and reporting relationship between the Director of the Office of Juvenile Crime Control and Prevention and the Assistant Attorney General for the Office of Justice Programs in the same way the words "supervision and direction" are used to describe the line of authority and reporting relationship between the Secretary of the Department of Health and Human Services and the Assistant Secretary of Health as cited at 42 United States Code Section 202. This section continues the Department of Justice's efforts in maintaining coordination and cooperation among those federal agencies whose jurisdictions involve the health, welfare, education or general well-being of youths and/or juveniles. There are numerous transitional elements to provide for the continuity between the Office of Juvenile Justice and Delinquency Prevention and the new Office of Juvenile Crime Control and Prevention, including a specific transfer for the current Administrator of the Office of Juvenile Justice and Delinquency Prevention to become the Director of the Office of Juvenile Crime Control and Prevention.

Section 7102. Conforming amendments.

Section 7102 makes minor and technical conforming amendments.

Section 7103. Authorization of appropriations.

Section 7103 provides for the authorization of appropriations to carry out the functions of the Office of Juvenile Crime Control and Prevention.

SUBTITLE B—JUVENILE CRIME ASSISTANCE

Subtitle B of Title VII of the Act maintains and establishes numerous federal grant programs and initiatives—the "Juvenile Crime Control and Prevention Formula Grant Program," the "Indian Tribal Grant Program," the "Incentive Grant Program," the "Developing, Testing, and Demonstrating Promising Programs" program, the "At-Risk Children Grants Program," and two initiatives that provide additional funding for research, statistics, evaluation, and training and technical assistance.

Section 7201. Formula grant assistance.

Section 7201 amends the Omnibus Crime Control and Safe Streets Act of 1968 by maintaining but revising the formula grant program.

This federal grant program has fewer state planning requirements, specifically allocates ten percent of all grants funds appropriated to be set aside and used for research activities (including program evaluations, data collection efforts, and studies to identify initiatives that reduce juvenile and youth crime and violence), and specifically allocates two percent of all grant funds appropriated to be set aside and used for providing training and technical assistance to states and local communities for the implementation of initiatives and programs that have demonstrated a high likelihood of success.

Under a new formulation, all states receive 50 percent of their allocation. To receive the remaining funds a state must continue to follow established practices and procedures for protecting juveniles within the juvenile justice system. These provisions are reflected in the Department of Justice's newly issued regulations, 28 CFR Part 31, governing this section. Should a state fail to meet the requirements of this section, the unallocated funds may be redistributed within the state.

Section 7202. Indian tribal grants.

Section 7202 establishes for the first time a direct federal grant program whereby funding goes directly from the Office of Juvenile Crime Control and Prevention to Indian tribal governments without utilizing state pass-through procedures. Grant funds under this section shall be used for initiatives designed to reduce, control, and prevent juvenile and youth crime on Indian lands. This method of direct funding is expected to better address and respond to the needs and concerns of Indian tribes as well as increase funding for these tribes. Also included is language amending the Violent Crime Control and Law Enforcement Act of 1994 to substantially increase funding targeted for correctional facilities on Indian tribal lands.

Section 7203. At-risk children grant programs.

The "At-Risk Children Grants Program" is a new federal grant program administered by the Office of Juvenile Crime Control and Prevention that provides federal assistance to states, for distribution by states to local units of government and locally-based organizations to combat truancy, school violence, and juvenile crime by providing funding for local crime prevention and intervention strategies. Programs and initiatives funded with these grants are designed to address youth within the juvenile justice system who, with some focused supervision, direction, and discipline, can go forward to lead-crime-free, productive lives. This program is an expansion of what is currently known as Title V of the Juvenile Justice and Delinquency Prevention Act.

Grants awarded pursuant of this Part may be used for: supporting locally based efforts for assisting high-risk juveniles and juveniles within the juvenile justice system; preventing and reducing truancy and school drop outs; enforcing juvenile curfews; supporting school safety programs, juvenile mentoring, violence reduction programs, intensive supervision services, jobs and life skills training, family strengthening interventions, early childhood services, after-school programs for juveniles, tutoring programs, recreation and parks programs, parent training initiatives, health services, alcohol and substance abuse services, restitution and community services activities, leadership development, accountability and responsibility education, and other such efforts designed to prevent or reduce truancy, school violence, and juvenile crime.

Local units of government that participate under this Part must utilize a local planning board to develop a three-year plan.

Section 7204. Developing, testing, and demonstrating promising programs.

Section 7204 establishes new federal discretionary grant programs for states, units of local government, and Indian tribal governments administered by the Office of Juvenile Crime Control and Prevention to develop, test, and demonstrate initiatives and programs that have a high probability of preventing, controlling, and/or reducing juvenile crime. These grants were developed to motivate states, units of local government, and Indian tribal governments to independently generate innovative initiatives to combat juvenile crime and youth violence.

This section replaces the current multiple discretionary-categorical grant programs currently established by the Juvenile Justice

and Delinquency Prevention Act of 1974, by consolidating several categorical grant programs into a single, flexible, broad program.

Section 7205. Incentive grant program.

This section establishes new federal formula grant programs for states, units of local government, and Indian tribal governments to develop and advance initiatives to prevent, control, reduce, evaluate, adjudicate, or sanction juvenile or youthful crime.

The state agency that receives a formula grant is eligible to apply for a grant under this Part. Every applicant must submit assurances to the Director of the Office of Juvenile Crime Control and Prevention that they have or will have within one year of submittal of an application:

(1) implemented a system of accountability-based graduated sanctions; and/or

(2) implemented a system of information collaboration and dissemination regarding acts of juvenile delinquency and adjudication of the same.

Grants authorized under this section may be used to:

Achieve paragraphs (1) and/or (2) above; advance initiatives that prevent or intervene in the unlawful possession, distribution, or sale of a firearm by or to a juvenile; implement initiatives that facilitate the collection, dissemination, and use of information regarding juvenile crime; implement new initiatives that assist state and local jurisdictions in tracking, intervening with, and controlling serious, violent, and chronic juvenile offenders; implement comprehensive program services in juvenile detention and correction facilities; implement procedures designed to prevent and reduce juvenile disproportionate minority confinement; or for any other purpose related to juvenile crime reduction, control, and prevention as determined by the Director of the Office.

Section 7206. Research, statistics and evaluation.

Better research, evaluation, and statistical analysis is critical to understanding and addressing the causes of juvenile and youth crime. Under this section, increased funding is combined with a collaboration between the Director of the Office of Juvenile Crime Control and Prevention and the Directors of the National Institute of Justice and the Bureau of Justice Statistics to better direct and expand these functions.

Section 7207. Training and technical assistance.

This section provides for specific federal grant funding for much-needed technical and training assistance for individuals in the fields of juvenile justice and juvenile and youth crime. Funding under this section will enable more communities to implement effective programs and initiatives that reduce, control, and prevent juvenile and youth crime. While this is a new federal grant program, training and technical assistance have been established functions of the Office of Juvenile Justice and Delinquency Prevention.

In further recognition of the importance of high quality and focused research, statistical analysis, evaluation, training, and technical assistance, Title VII includes specific provisions within each funded program setting aside a percentage of grant funds appropriated for the above-mentioned functions. These monies are in addition to funding appropriated for these functions in Sections 409 and 410 of Title VII. Specifically, Sections 403, 404, 405, 406, 407, and 408 of Title VII of this Act provide that 2 percent of all funds appropriated for each funded program shall be set aside for training and technical assistance consistent with Title VII. Similarly, Sections 403, 404, 405, 406, 407, and 408 provide that 10 percent of all funds appropriated for each funded program shall be set aside for research, statistics and evaluation activities consistent with Title VII.

SUBTITLE C—MISSING AND EXPLOITED CHILDREN

This subtitle amends the "Missing Children's Assistance Act" (42 U.S.C. 5771 *et seq.*) by extending its authorization to the year 2001 and by setting aside funds appropriated under this subtitle to be used for research, statistics, evaluation, and training. Additionally, conforming language is added to the Act to reflect the replacement of the Office of Juvenile Justice and Delinquency Prevention with the new Office of Juvenile Crime Control and Prevention.

Mr. BIDEN. Mr. President, today I am pleased to join Senator LEAHY in introducing on behalf of the administration, President Clinton's Anti-Gang and Youth Violence Act, which the President announced last week in Boston.

Three years ago Congress passed the Biden crime bill into law. Today, the verdict is in—the law is working to reduce adult crime. For example, the projected violent crime rate is the lowest since 1991 and the projected murder rate is the lowest since 1971.

But we all know that, unlike adult crime, juvenile crime is on the rise. The statistics are all too familiar: Violent juvenile crime increased by 69 percent from 1987 to 1994; from 1983 to 1994 the juvenile homicide rate jumped 169 percent; and just recently, the Center for Disease Control has reported that the United States has the highest rate of childhood homicide, suicide, and firearm related deaths of 26 industrialized countries. We can and must do better than that.

The President's program is based in large part, on success stories from cities like Boston, MA, which developed a comprehensive community-based strategy to both prevent at-risk youth from becoming criminals and deal harshly with those already in the criminal justice system.

Boston's Operation Night Light sends probation officers on patrol with police to ensure that youth with criminal records stay out of trouble and to assist in the investigation of new crimes. And Boston's police force has joined with Federal law enforcement to target the illegal gun markets that supply most of the guns to gangs and violent youth.

The results have been dramatic: Youth homicides have dropped 80 percent citywide; violent crime in public schools dropped 20 percent in just 1 school year; and most impressively—not a single youth died from a firearm homicide during 1996. Now that is a record we could be proud of.

We are taking the same balanced approach to juvenile crime and drug abuse as we did in the 1994 Crime Act—tough sanctions, certain punishment and protection of vulnerable kids.

Like the Democratic crime bill I, Along with Senators DASCHLE, LEAHY, and many others introduced earlier this year—S. 15—the President's juvenile crime initiative cracks down on violent juvenile offenders and youth gangs, takes concrete steps toward preventing drug and gun violence, and invests in programs that will get kids off the streets and into supervised programs during the after-school hours when they are most likely to be the victims of gangs and criminals or the customers of drug pushers.

The Anti-Gang and Youth Violence Act proposes to use Federal law enforcement where its expertise and resources can best contribute to fighting crime and the spread of gangs. The act also seeks assistance for local police and criminal justice systems to help them address matters that we all know are local law enforcement challenges that they handle the best.

On the Federal level the President's bill: contains tough new Federal penalties applicable to gang activities such as racketeering, witness intimidation, car-jacking, and interstate firearms and drug trafficking; cracks down on juvenile gun use by extending the Brady bill to juveniles and requiring the sale of gun locks; makes juvenile records more accessible to police and educators; and targets abuse of drugs popular among youths by giving the Attorney General emergency rescheduling authority.

But in recognition that the battle against youth crime and drug abuse is fought primarily in our communities and schools, the President's bill provides over $325 million annually to support State and local governments to: hire additional prosecutors to target gang and youth violence; create special drug and gun courts to handle violent juveniles more effectively; create safe-havens for at-risk youth; initiate systems of graduated sanctions so youth receive certain punishment for their first offense instead of a mere slap on the wrist; and promote use of curfews and put truants back in school where they belong.

The President also proposes to recraft the Federal Juvenile Justice Office by eliminating bureaucracies, streamlining programs, providing additional flexibility to States and localities, and sharpening the Office's focus on research and development. These are reforms that I have long advocated.

However, the President's reform proposal reaffirms our commitment to a few core principles that have worked well over the past 23 years—juveniles should not be housed in adult jails or lockups; juveniles in custody should be separated from adult criminals; status offenders should not be incarcerated; and where it exists, the disproportionate confinement of minorities must be addressed.

With the introduction of this legislation the administration, Senate Republicans, and Senate Democrats have now all made it a priority to address the problem of youth violence. Of course, there are other proven, effective crime control programs that I would like to pursue—such as extending the 100,000 Cops Program to put another 25,000 cops on the beat. I am sure there are initiatives which others would want to push.

But, instead of trying to pass an omnibus bill—which we all know will be difficult, if not impossible—I think that we should keep our focus on a targetted, specific bill which keeps our focus on the most immediate concern: youth violence and the criminal victimization of youth.

I look forward to working with the administration and my Republican colleagues to craft responsible legislation that will address the pressing concerns of the American public and be signed into law during this session of Congress.

By Mr. HOLLINGS (for himself, Mr. INOUYE, and Mr. DORGAN):

S. 363. A bill to amend the Communications Act of 1934 to require that violent video programming is limited to broadcast after the hours when children are reasonably likely to comprise a substantial portion of the audience, unless it is specifically rated on the basis of its violent content so that it is blockable by electronic means specifically on the basis of that content; to the Committee on Commerce, Science, and Transportation.

THE CHILDREN'S PROTECTION FROM VIOLENT PROGRAMMING ACT

Mr. HOLLINGS. Mr. President, I rise to offer legislation that will help parents limit the amount of television violence coming into their homes. As my colleagues know well, Congress has been studying this issue for 40 years and the issues have not changed. Recent press reports continue to validate my concerns that all the talk and promises have yielded nothing but the status quo, and efforts to encourage the industry to police itself continue to yield meager results.

Enactment of the Telecommunications Act of 1996 marked the second time Congress has passed legislation to encourage the entertainment industry to limit the amount of violence seen on television. The first time was the effort in the late 1980's led by our former colleague from Illinois, Paul Simon. Senator Simon's approach, the Television Program Improvement Act, was designed to grant the industry a 3-year antitrust exemption to work together to adopt voluntary guidelines that would lead to reducing violence depicted in television programs. The result of this industry collaboration was announced in December 1992 with a statement of joint standards regarding the broadcasting of excessive television violence. In June 1993, the networks made a commitment that, before and during the broadcasting of programs that might contain excessive violence, the following announcement would be made: "Due to some violent content, parental discretion is advised." The Independent Television Association, the trade group representing many of the television stations not affiliated with one of the networks, adopted a similar voluntary code. Subsequent studies detailed, however, that despite these voluntary guidelines, violence continued to rise.

In 1993, therefore, I introduced my safe harbor bill for the first time. The Commerce Committee held one hearing in the 103d Congress and a second hearing during the 104th. The Commerce Committee reported my bill, S. 470, by a vote of 16 to 1. The hearing record substantiates the constitutionality of my safe harbor approach, with both Attorney General Reno and Federal Communications Commission [FCC] Chairman Hundt on record as testifying that the safe harbor approach is constitutional. My efforts to bring my bill to the floor for a vote were repeatedly blocked.

The second time, Congress legislated in this area was last year when the so-called V-Chip provision was incorporated into the Telecommunications Act of 1996. I voted for this provision but had my doubts about its effectiveness. Once again, Congress relied on the industry to help parents limit the amount of violence. To make the V-chip work, the 1996 act encouraged the video programming industry to "establish voluntary rules for rating video programming that contains sexual, violent or other indecent material about which parents should be informed before it is displayed to children," and to broadcast voluntarily signals containing these ratings.

Pursuant to the 1996 act, all segments of the entertainment industry created the TV ratings implementation group—ratings group, headed by the Motion Picture Association of America [MPAA] president Jack Valenti. The group devised an age-based ratings system—not a content-based system. The proposal has been met with widespread criticism as being too broad and vague for parents. I recommend that my colleagues read this past Saturday's New York Times February 22, 1997, to understand the confusion surrounding this issue. The age-based ratings system does not give parents sufficient information. Parents want the ability and the choice to block out specific content they find unsuitable for their children.

So, here we are. Congress passes legislation designed to limit the amount of television violence, again relying on the industry to act responsibly. The voluntary ratings system proposed by the industry, called the TV parental guidelines, consists of the following six age-based ratings:

TV-Y

All Children. This program is designed to be appropriate for all children. Whether animated or live action, the themes and elements in this program are specifically designed for a very young audience, including children from ages 2 through 6. This program is not expected to frighten younger children.

TV-Y7

Directed to older children. This program is designed for children age 7 and above. It may be more appropriate for children who have acquired the developmental skills needed to distinguish between make-believe and reality. Themes and elements in this program may include mild physical or comedic violence, and may frighten children under the age of 7. Therefore, parents may wish to consider the suitability of this program for their very young children.

TV-G

General Audience. Most parents would find this program suitable for all ages. Although this rating does not signify a program designed specifically for children, most parents may let younger children watch this program unattended. It contains little or no violence, no strong language and little or no sexual dialog or situations.

TV-PG

Parental Guidance Suggested. This program may contain some material that some parents would find unsuitable for younger children. Many parents may want to watch it with their younger children. The theme itself may call for parental guidance. The program may contain infrequent coarse language, limited violence, some suggestive sexual dialog and situations.

TV-14

Parents Strongly Cautioned. This program may contain some material that many parents would find unsuitable for children under 14 years of age. Parents are strongly urged to exercise greater care in monitoring this program and are cautioned against letting children under the age of 14 watch unattended. This program may contain sophisticated themes, sexual content, strong language, and more intense violence.

TV-M

Mature Audience Only. This program is specially designed to be viewed by adults and therefore may be unsuitable for children under 17. This program may contain mature themes, profane language, graphic violence, and explicit sexual content.

I ask my colleagues, how will parents be able to block out a specific violent program based on this system?

There are several problems with this approach.

The 1996 Act envisioned that the ratings system, and consequently, the encoded programming, would allow parents to block specific programming content they found objectionable. Under the proposed age-based ratings system, parents are unable to block specific violent programming. The proposed age-based ratings place the entertainment industry in the position of making the judgment about program suitability—not the parent. Moreover, one of the biggest problems with the proposed age-based ratings system is that it intermingles three types of programming content: violence, sexual material, and adult language. Thus it prevents parents from gaining any specific information about whether or not a show actually contains any violent depictions.

The National PTA, the American Medical Association [AMA], the American Academy of Pediatrics [AAPA], the National Education Association [NEA], Children Now, the American Psychological Association [APA], the Coalition for America's Children, the Children's Defense Fund, the American Academy of Child & Adolescent Psychiatry [AACAP], the Family Research Council, the Foundation to Improve Television, and the Center for Media Education all have criticized the age-based ratings systems. Instead, they advocate ratings based on specific program content. These groups have criticized the proposed age-based ratings as too vague and broad for parents to decide what is right for their child to watch in their own home. In addition, the groups state that the ratings raise more questions than they answer.

The AACAP was particularly critical of the ratings system, stating that:

> Programs portraying graphic and realistically appearing violence, sex, horror, adult language, and illegal behavior without social consequences increase the risk of dangerous behaviors and aberrant emotional and intellectual development by children and adolescents. . . . An age-based system, such as the one now being proposed, carries the risk of missing significant developmental variations in young people.

The V-chip legislation was intended to empower parents with the ability to block out objectionable content-specific programming. The ratings system does not accomplish this objective. To correct this, I have decided to reintroduce my safe harbor legislation with the addition of a new provision. The new version requires confining the distribution of violent programming to hours of the day when children are not likely to comprise a substantial portion of the audience unless the broadcasters adopt a content-specific ratings system that allows parents to block out violent programming. If the industry continues to insist upon the age-based ratings, then my safe harbor would apply for violent programming. It's a very simple proposition. Either the intent of the 1996 law is met and parents can block out objectionable content, or my safe harbor will ensure that violent programming is aired at hours later in the day to protect children from the harmful effects of violent programming.

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. 363

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 "Children's Protection from Violent Programming Act".

SEC. 2. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PROGRAMMING.

Title VII of the Communications Act of 1934 (47 U.S.C. 701 et seq.) is amended by adding at the end the following:

"SEC. 718. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PROGRAMMING NOT SPECIFICALLY BLOCKABLE BY ELECTRONIC MEANS.

"(a) UNLAWFUL DISTRIBUTION.—It shall be unlawful for any person to distribute to the public any violent video programming not blockable by electronic means specifically on the basis of its violent content during hours when children are reasonably likely to comprise a substantial portion of the audience.

"(b) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding to implement the provisions of this section and shall promulgate final regulations pursuant to that proceeding not later than 9 months after the date of enactment of the Children's Protection from Violent Programming Act. As part of that proceeding, the Commission—

"(1) may exempt from the prohibition under subsection (a) programming (including news programs and sporting events) whose distribution does not conflict with the objective of protecting children from the negative influences of violent video programming, as that objective is reflected in the findings in section 551(a) of the Telecommunications Act of 1996;

"(2) shall exempt premium and pay-per-view cable programming; and

"(3) shall define the term 'hours when children are reasonably likely to comprise a substantial portion of the audience' and the term 'violent video programming'.

"(c) REPEAT VIOLATIONS.—If a person repeatedly violates this section or any regulation promulgated under this section, the Commission shall, after notice and opportunity for hearing, immediately revoke any license issued to that person under this Act.

"(d) CONSIDERATION OF VIOLATIONS IN LICENSE RENEWALS.—The Commission shall consider, among the elements in its review of an application for renewal of a license under this Act, whether the licensee has complied with this section and the regulations promulgated under this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) BLOCKABLE BY ELECTRONIC MEANS.—The term 'blockable by electronic means' means blockable by the feature described in section 303(x).

"(2) DISTRIBUTE.—The term 'distribute' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite.".

SEC. 3. ASSESSMENT OF EFFECTIVENESS.

(a) REPORT.—The Federal Communications Commission shall—

(1) assess the effectiveness of measures undertaken under section 718 of the Communications Act of 1934 (47 U.S.C. 718) and under subsections (w) and (x) of section 303 of that Act (47 U.S.C. 303(w) and (x)) in accomplishing the purposes for which they were enacted; and

(2) report its findings to the Committee on Commerce, Science, and Transportation of the United States and the Committee on Commerce of the United States House of Representatives, with 18 months after the date on which the regulations promulgated under section 718 of the Communications Act of 1934 (as added by section 2 of this Act) take effect, and thereafter as part of the biennial review of regulations required by section 11 of that Act (47 U.S.C. 161).

(b) ACTION.—If the Commission finds at any time, as a result of its assessment under subsection (a), that the measures referred to in subsection (a)(1) are insufficiently effective, then the Commission shall initiate a rulemaking proceeding to prohibit the distribution of violent video programming during the hours when children are reasonably likely to comprise a substantial portion of the audience.

(c) DEFINITIONS.—Any term used in this section that is defined in section 718 of the Communications Act of 1934 (47 U.S.C. 718), or in regulations under that section, has the same meaning as when used in that section or in those regulations.

SEC. 4. SEPARABILITY.

If any provision of this Act, or any provision of an amendment made by this Act, or the application thereof to particular persons or circumstances, is found to be unconstitutional, the remainder of this Act or that amendment, or the application thereof to other persons or circumstances shall not be affected.

SEC. 5. EFFECTIVE DATE.

The prohibition contained in section 718 of the Communications Act of 1934 (as added by section 2 of this Act) and the regulations promulgated thereunder shall take effect 1 year after the regulations are adopted by the Commission.

By Mr. LIEBERMAN (for himself, Mr. MCCAIN, Mr. LOTT, Mr. ASHCROFT, Mr. GORTON, Mrs. FEINSTEIN, Mr. GREGG and Mr. FRIST):

S. 364. A bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices; to the Committee on Commerce, Science, and Transportation.

THE BIOMATERIALS ACCESS ASSURANCE ACT OF 1997

Mr. LIEBERMAN. Mr. President, I am introducing today, together with Senator MCCAIN and a number of other Senators from both sides of the aisle, the Biomaterials Access Assurance Act of 1997. This bipartisan bill responds to a looming crisis affecting more than 7 million patients annually who rely on implantable life-saving or life-enhancing medical devices such as pacemakers, heart valves, artificial blood vessels, hydrocephalic shunts, and hip and knee joints. These patients are at

risk of losing access to the devices on which their lives and well-being depend because, as a result of actual and potential skyrocketing legal costs, the companies that supply the raw materials without which those devices cannot be made are simply refusing to sell their raw materials to device manufacturers. If we do not act soon, makers of the life-saving medical devices that we take for granted today may no longer able to buy the raw materials and components necessary to produce their products, and the public health may be seriously jeopardized. By taking the small step Senator MCCAIN and I propose today, millions of Americans will no longer have to worry about losing access to the life-saving medical devices on which they depend.

The reason for this impending crisis is an all too common one: an out-of-control product liability system. During hearings I held in 1994, as chairman of the Subcommittee on Regulation and Government Information, and again during hearings held by the Commerce Committee last Congress, we heard the same story from witness after witness. They all explained that the current legal system makes it too easy to bring lawsuits against raw materials suppliers and too expensive for those suppliers to defend themselves—even when the suppliers are not at fault and end up winning, as they virtually always do. According to one study, only three out of hundreds of liability cases brought against a raw material supplier led to a finding of wrongdoing against the supplier. Nevertheless, in all of those cases, the suppliers had to spend enormous amounts of money to defend themselves—often much more than the supplier ever profited from its sale of the raw materials. Many suppliers consequently have made the entirely rational decision that the costs of defending these lawsuits are just too high to justify selling raw materials to the makers of implantable medical devices. In short, for those suppliers, it just isn't worth it.

How could this happen? A study by Aranoff Associates paints a clear, but dismal, picture. That study surveyed the markets for polyester yarn, resins such as DuPont's Teflon, and polyacetal resin such as DuPont's Delrin. The study showed that sales of these raw materials for use in manufacturing implantable medical devices was just a tiny percentage of the overall market—$606,000 out of total sales of over $11 billion, or just 0.006 percent. In return for that extra $606,000 in total annual sales, however, that raw material supplier, like others, faced potentially huge liability related costs, even if they never lost a lawsuit.

To take one example, a company named Vitek manufactured an estimated 26,000 jaw implants using about 5-cents worth of DuPont Teflon in each device. The device was developed, designed, and marketed by Vitek, which was not related to DuPont. When those implants failed, Vitek declared bankruptcy, its founder fled to Switzerland, and the patients sued DuPont. DuPont has won virtually all these cases, but the cost has been staggering. The study estimated that DuPont spent at least $8 million per year over 6 years to defend these suits. To put this into perspective, DuPont's estimated legal expenses in these cases for just 1 year would have bought over a 13-year supply of DuPont's Dacron polyester, Teflon, and Delrin for all U.S. makers of implantable medical devices, not just makers of jaw implants. Faced with this overwhelming liability, DuPont decided to stop selling its products to manufacturers of permanently implanted medical devices.

One supplier's decision alone might not be troublesome, but it is not just one supplier that has reached that decision. When I rose during the debate over the product liability bill last year, I put in the record the names of twelve suppliers who had withdrawn from the biomaterials market. Since then, I have learned that at least two more suppliers have done the same. There is no reason to believe that the economics will be different for other suppliers around the world. One of the witnesses at our 1994 hearing testified that she contacted 15 alternate suppliers of polyester yarn worldwide. All were interested in selling her raw materials—except for use in products made and used in the United States. By itself, this is a powerful statement about the nature of our American product liability laws, and it makes a powerful case for reform.

What's at stake here, let me be clear, is not protecting suppliers from liability and not even just making raw materials available to the manufacturers of medical devices. What's at stake is the health of millions of Americans who depend on medical devices for their everyday survival. What's at stake is the health of children like Thomas Reilly from Houston, TX, who suffers from hydrocephalus, a condition in which fluid accumulates around the brain. A special shunt enables him to survive. But continued production of that shunt is in doubt because the raw materials' suppliers are concerned about the potential lawsuit costs. At our hearing in 1994, Thomas' father, Mark Reilly, pleaded for Congress to move forward quickly to assure that the supply of those shunts will continue.

What's at stake is the health of adults like Peggy Phillips of Falls Church, VA, whose heart had twice stopped beating because of fibrillation. Today, she lives an active, normal life because she has an implanted automatic defibrillator. Again, critical components of the defibrillator may no longer be available because of potential product liability costs. Ms. Phillips urged Congress to move swiftly to enact legislation protecting raw materials and component part suppliers from product liability.

The scope of this problem affects young and old alike. Take a pacemaker. Pacemakers are installed in patients whose hearts no longer generate enough of an electrical pulse to get the heart to beat. To keep the heart beating, a pacemaker is connected to the heart with wires. These wires have silicone rubber insulation. Unfortunately, the suppliers of the rubber have begun to withdraw from the market. With this pacemaker, thousands of Americans can live productive and healthy lives for decades.

Take another example, a heart valve. Around the edge of a heart valve is a sleeve of polyester fabric. This fabric is what the surgeon sews through when he or she installs this valve. Without that sleeve, it would be difficult, if not impossible, to install the valve. Without that valve, patients die prematurely.

In short, this developing product liability crisis will have widespread and serious effects. We cannot simply allow the over 7 million people who owe their health to medical devices to become casualties of an outmoded legal liability system. Because product liability litigation costs make the economics of supplying raw materials to the implantable medical device makers very unfavorable, it is imperative that we act now. We cannot rationally expect raw materials suppliers to continue to serve the medical device market out of the goodness of their hearts, notwithstanding the liability related costs. We need to reform our product liability laws, to give raw material suppliers some assurance that unless there is real evidence that they were responsible for putting a defective device on the market, they cannot be sued simply in the hope that their deep pockets will fund legal settlements.

I have long believed that liability reform could be both proconsumer and probusiness. I believe the testimony we heard on this subject during the past two Congresses proved this once again. When fear of liability suits and litigation costs drives valuable, lifesaving products off the market because their makers cannot get raw materials, consumers are the ones to suffer. When companies divert money from developing new lifesaving products to replace old sources of raw materials supplies, consumers are again the ones to suffer. When one company must spend millions just to defend itself in lawsuits over a product it did not even design or make—for which it simply provided a raw material worth 5 cents—it is the consumer that suffers the most.

Based on the testimony we heard in 1994, I, along with my distinguished

colleague from Arizona, committed to forging a solution to remedy this immediate threat to our national public health. That year, and again in the 104th Congress, we introduced the Biomaterials Access Assurance Act, which we reintroduce again today. This bill will establish clear national rules to govern suits against suppliers of raw materials and component parts for permanently implantable medical devices. Under this bill, a supplier of raw materials or component parts could be sued only if the materials they supplied do not meet contractual specifications, or if they properly can be classified as a manufacturer or seller of the whole product. They could not, however, be sued for deficiencies in the design of the final device, the testing of that device, or for inadequate warnings with respect to that device.

Our colleagues recognized the need for that bill last year, and so passed it as part of the 104th Congress' product liability reform bill. Unfortunately, President Clinton vetoed that bill, but in his message to Congress, he made clear that he viewed the biomaterials provision portion of it as, in his words, "a laudable attempt to ensure the supply of materials needed to make lifesaving medical devices." We hope that he continues to see the provision in that light.

I believe that enactment of this bill would help ensure that America's patients continue to have access to the best lifesaving medical devices in the world. We must act now, however. This piece of legislation is preventative medicine at its best and is just the cure the patients need.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 364

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 "Biomaterials Access Assurance Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR OR INCOMPETENT.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional health care services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services;

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier; or

(iii) a person alleging harm caused by either the silicone gel or the silicone envelope utilized in a breast implant containing silicone gel, except that—

(I) neither the exclusion provided by this clause nor any other provision of this Act may be construed as a finding that silicone gel (or any other form of silicone) may or may not cause harm; and

(II) the existence of the exclusion under this clause may not—

(aa) be disclosed to a jury in any civil action or other proceeding; and

(bb) except as necessary to establish the applicability of this Act, otherwise be presented in any civil action or other proceeding.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant non-implant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 4. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this Act, a biomaterials supplier may raise any defense set forth in section 5.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this Act is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 6.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this Act applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this Act; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this Act establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this Act and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 5. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 6(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 6, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 6(c)(3)(B)(ii) finds, on the basis of affidavits submitted in accordance with section 6, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 6. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this Act, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action against it on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 5(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 5(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 5(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 5(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 5(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 5 on the grounds that the defendant is not a manufacturer subject to such section 5(b) or seller subject to section 5(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 5(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 5(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 5(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 5(d).

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 5(d) or the failure to establish the applicable elements of section 5(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 5(b)(3)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this Act shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

SEC. 7. APPLICABILITY.

This Act shall apply to all civil actions covered under this Act that are commenced on or after the date of enactment of this Act, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this Act.

Mr. MCCAIN. Mr. President, Senator LIEBERMAN and I are here to announce the introduction of bipartisan legislation to address a health care crisis facing over 7 million Americans who each year receive life-saving or life-enhancing medical implants. The availability of these implants is jeopardized because the suppliers of raw materials used in the implants can no longer afford to expose themselves to the ridiculous and unjust litigation costs that

can result from doing business with implant makers.

The problem is that, in the quest for a deep pocket, biomaterials suppliers are roped into product liability lawsuits concerning the implant even though those suppliers are not involved in the design, sale or manufacture of the implant. Biomaterials suppliers just provide raw materials used in the production of vital medical devices such as brain shunts, pacemakers, and artificial joints.

In virtually every case, biomaterials suppliers are not found liable in these lawsuits. Unfortunately, the massive cost of defending these lawsuits often overwhelms the relatively small amount of revenue biomaterials suppliers receive through the sale of their product to implant makers. As one might expect, biomaterials suppliers are deciding they cannot risk financial ruin to supply biomaterials.

This bill, the Biomaterials Access Assurance Act of 1997, shields biomaterials suppliers from the crushing costs of unwarranted litigation. The bill simply permits suppliers of biomaterials to be quickly dismissed from a lawsuit if they did not manufacture or sell the implant and if they met the contract specifications for the biomaterial. This bill will not prohibit someone who has been injured from filing a lawsuit and recovering damages.

This legislation is critically important to saving lives. In 1995, Tara Ransom, a young girl from Arizona, wrote me a letter indicating her concern that she would die because a new brain shunt would not be available for her. Tara has a life-threatening condition called hydrocephalus where excess fluid builds up on the brain. Without a silicone-based brain shunt to drain the fluid build-up, the pressure would likely kill Tara.

The supplier of the silicone for Tara's brain shunt has indicated they must withdraw from the biomaterials market due to the risk of unwarranted litigation. Thirteen other companies have also indicated they will no longer supply biomaterials due to concerns about unwarranted litigation.

We cannot let this insanity continue. Lives are at stake, and we have a moral duty to Tara and the thousands of others whose lives are at stake to pass this litigation.

Mr. LOTT. Mr. President, I am pleased today to join with my colleagues, Senator MCCAIN and Senator LIEBERMAN, in supporting biomaterials access assurance legislation to confront a looming health care crisis in our country.

This legislation is of vital importance to the 8 million Americans who require life-saving and life-enhancing implantable medical devices. Most of us have a family member or friend who has benefitted from these wondrous products. The availability of the biomaterials necessary for medical device production is critical to the health of millions of Americans. The ramifications of unavailability are severe and, in the end, it is those in need of the devices who will suffer the most.

This bill helps to curtail the impending health crisis by encouraging suppliers of raw materials and component parts to re-enter the medical implant market. Under the bill's provisions, a supplier of raw materials and/or component parts cannot be sued for design or manufacturing deficiencies of the final product unless the supplier can properly be classified as the designer, manufacturer or seller of the product as a whole.

In recent years, and due in no small part to the prospect of derivative participation in broad-based lawsuits, major biomaterial suppliers have expressed their intent to limit or cease their shipments to manufacturers in the medical implant device market. Often, such a supplier has minimal or no knowledge or control of the design, manufacture or sale of an implant device. Nonetheless, under current product liability law, such a supplier can be named as a defendant in a product liability lawsuit based on the design, manufacture and sale of the device itself. And, although suppliers have been found not liable in the overwhelming number of such lawsuits, they must give great consideration to potential damage verdicts and the oppressive financial burden of lawsuit defense costs before deciding to supply manufacturers with raw materials and component parts.

The detrimental effects of the biomaterials shortage are beginning to take their toll.

Although the United States has been a leader in the medical implant field, that may change as our ability to focus on new technologies and to contribute funds to research and development is impaired by the diversion of available resources now directed to the search for and qualification of alternative biomaterials suppliers.

As medical device manufacturers find it increasingly difficult to obtain needed raw materials and component parts, the industry's research and development resources, otherwise devoted to improving existing health care technologies, are drained and redirected to ensure material availability to meet current production demand. In some instances, no alternative sources for materials are found to exist.

Just as many suppliers cannot afford the risk of liability suits, many manufacturers cannot afford the terms of indemnification contracts required by suppliers. Consider the case of Baxter Healthcare Corp., which operates a manufacturing plant in Cleveland, MS, employing approximately 1,000 people. A major manufacturer of life-saving and life-enhancing implantable medical devices such as heart valves, sewing rings, and left ventricular assist devices, Baxter is highly dependent upon medical-grade biomaterials for production.

In facing a future based upon operation within this shortage scenario, Baxter is now diverting millions of dollars from research and development to fund its quest for finding alternative materials. Like manufacturers in other parts of the country, Baxter is dealing with suppliers that are faced with product liability risks that far exceed the benefit gained in dealing with a medical device manufacturer.

For example, Baxter needed to purchase resin—less than 10 pounds a year—with a cost on the open market of less than $3 per pound. The supplier required an iron-clad indemnification contract before the materials could be sold to Baxter, and also demanded an annual fee of nearly $100,000 over and above normal material costs for continued use of the material—in other words, a surcharge for the risk associated with potential liability.

This drain on manufacturers, as well as the uncertainty of obtaining any materials for the manufacture of their products, is directly attributable to the biomaterials shortage.

Mr. President, the stability of the manufacturing process is in constant peril, and patients' lives hang in the balance. Let's act to limit liability to instances of genuine fault, and not encourage more frivolous lawsuits where they are, in fact, so often detrimental to consumer interests.

It is my hope that the Senate will recognize the seriousness of the biomaterials shortage and that we will support this effort to encourage suppliers to re-enter the medical device market and to ensure that patients have available these critical, often life-saving options.

Thank you, Mr. President, for the opportunity to articulate the urgency and criticality of this legislation.

By Mr. COVERDELL:

S. 365. A bill to amend the Internal Revenue Code of 1986 to provide for increased accountability by Internal Revenue Service agents and other Federal Government officials in tax collection practices and procedures, and for other purposes; to the Committee on Finance.

By Mr. COVERDELL (for himself, Mrs. HUTCHISON, Mr. MCCAIN, Mr. FAIRCLOTH, Mr. KYL, Mr. THOMAS, and Mr. INHOFE):

S. 366. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to prohibit the consideration of retroactive tax increases; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one Committee reports, the other Committee have 30 days to report or be discharged.

By Mr. COVERDELL (for himself, Mr. ABRAHAM, Mrs. HUTCHISON, Mr. MCCAIN, Mr. KYL, Mr. FAIRCLOTH, and Mr. INHOFE):

S.J. Res. 17. A joint resolution proposing an amendment to the Constitution of the United States to prohibit retroactive increases in taxes; to the Committee on the Judiciary.

TAX REFORM LEGISLATION

Mr. COVERDELL. Mr. President, today I rise to offer a tax reform package to provide greater tax fairness and to protect citizens from Internal Revenue Service—IRS—abuses. This package includes three initiatives: a constitutional amendment called the retroactive tax ban amendment, a bill to establish a new budget point of order against retroactive taxation, and the Internal Revenue Service Accountability Act.

The first, the retroactive tax ban amendment, is a constitutional amendment, to prevent the Federal Government from imposing any tax increase, retroactively. The amendment states simply "No Federal tax shall be imposed for the period before the date of enactment." We have heard directly from the taxpayers, and looking backward for extra taxes is unacceptable. It is not a fair way to deal with taxpayers.

In addition, I am introducing a bill that would create a point of order under the Budget Act against retroactive tax increases. Because amending the Constitution can be a very long prospect—just look at the decades-long effort on behalf of the balanced budget amendment—I believe this legislation is necessary to provide needed protection for American families from the destabilizing effects of retroactive taxation.

It was clear to Thomas Jefferson that the only way to preserve freedom was to protect its citizens from oppressive taxation. Even the Russian Constitution does not allow you to tax retroactively. Retroactive taxation is wrong, and it is morally incorrect.

Families and businesses and communities must know what the rules of the road are and that those rules will not change. They have to be able to plan their lives, plan their families, and plan their tax burdens in advance. They cannot come to the end of a year and have a Congress of the United States and a President come forward and say, "All your planning was for naught, and we don't care."

Mr. President, my third proposal is the Internal Revenue Service Accountability Act. It is wide-ranging and deals with a number of faults within the IRS that I have become aware through my constituent services work and through discussions with everyday Americans. Whenever I travel through my State, or across the Nation for that matter, concerns inevitably are raised about the IRS. This agency seems to believe the vast majority of American taxpayers are looking to cheat the Government. Instead, I believe American taxpayers are honest and hard-working, and they deserve to be treated accordingly.

Our Nation suffers under an unfair and incomprehensible Tax Code that takes far too much of what we earn. Even worse, the organization responsible for enforcement of the Tax Code—the IRS—often seeks to intimidate and frighten honest citizens. We cannot tolerate a Tax Code that punishes families, and we cannot tolerate an IRS eager to bully and harass taxpayers.

Let me briefly outline my proposal. First, the IRS Accountability Act would make agents of the IRS responsible for their actions. My legislation would make it a crime for an agent to use extortion-like tactics when collecting a tax. Agents must know there are real consequences for their actions. When they abuse their authority by maliciously and willfully disregarding the statutory procedures established for collecting taxes from honest taxpayers, they must be held accountable.

In addition, this legislation would lift the current shield protecting IRS agents from holding any personal liability for their actions in the course of collecting a tax. I was surprised to learn that this shield remains in place even when their abusive actions result in judgments against the United States for hundreds of thousands of dollars. How ironic that American taxpayers end up footing the bill for the abuses they suffer. My legislation would end this intolerable arrangement.

My legislation also protects the privacy of taxpayers. A few years back, I was shocked to learn that nearly 370 employees of the Atlanta IRS office were caught accessing the tax returns and return information of friends, neighbors, and celebrities without proper authorization. They were file snooping. The IRS Accountability Act would make this activity a crime and allows the offender to be held personally liable.

Further, my legislation requires notification of any taxpayer who suffers this abuse. Unfortunately, what should seem to be a simple matter of decency must be required of the IRS. In response to suggestions taxpayers be notified when their privacy has been invaded by file snoopers, IRS Commissioner Margaret Richardson stated, "I'm not sure there would be serious value to that in terms of protecting the taxpayers' rights." With all respect, such sentiment is typical of a Washington status quo mentality that is out-of-touch with the rest of America.

Recent reports in the press suggesting the IRS has been conducting audits for political reasons, add weight to the need for limitations on this activity. The IRS Accountability Act requires that all audits be reasonably justified. It also prohibits random audits and reauditing of returns or issues of a return unless approved by court order in the course of a criminal investigation. Further, the IRS will be limited explicitly to 3 years from the time a return is filed in which to conduct an audit unless approved by court order in the course of a criminal investigation.

The IRS Accountability Act also would extend the time responsible taxpayers have to pay a tax without suffering a penalty. I could not say how often I hear complaints about the inaccessibility of the IRS. Time and time again, taxpayers cannot get answers from the IRS or even speak with a customer service agent.

According to the IRS Taxpayer Advocate's recent report, one of the most common complaints against the IRS is its failure to acknowledge taxpayer correspondence.

The IRS's only responses seems to be more threats and higher penalties. The IRS Accountability Act will help taxpayers by offering some needed relief.

This legislation also preserves the integrity of judicial decisions against the IRS. This section grants a Federal court the authority to dismiss a case of controversy involving the IRS if it is shown that a similar or identical case already has been decided within the court's jurisdiction or circuit. The IRS places itself above our Federal judiciary and will choose to disregard a court decision in subsequent cases when it believes the court's decision is in error. This arrogance must be held in check.

Mr. President, this legislation would place limits I believe are needed on the IRS when it seizes or levies assets. How many times have we heard press reports that a child's earnings from a paper route has been seized or that a child's pennies have been taken to pay the tax bill of a relative.

In Georgia, I recently learned of an instance where the care and health of an elderly nursing home patient was jeopardized by the IRS when it seized her account to pay the tax bill of a relative. Even though it was well documented that the account contained only her Social Security benefits and were used to pay for her care, the IRS refused to relent until my office interceded. In addition, we have heard numerous examples where assets have been taken erroneously. My legislation would ensure that all levies and seizures are proper under the law and are warranted by requiring the IRS to obtain prior court approval.

My legislation also places what I believe are reasonable limits on the accrual of interest and penalties. Specifically, it would decouple the two, preventing interest from accruing on the penalty portion of an unpaid tax bill.

Keep in mind the IRS' track record on responding to taxpayers. According to the IRS Taxpayer Advocate, it isn't

good. Now add the following to the mix: interest on the unpaid tax, penalties on the unpaid tax, and interest on the penalty on the unpaid tax. If a hardworking taxpayer is unfortunate enough to run afoul of the IRS, before he or she knows it, the tax bill has doubled, even tripled. For too many taxpayers, when they become aware a problem exists, their bill has turned into a burden they cannot hope to pay.

Further, this legislation would equalize the interest rates charged by the IRS and against the IRS. Current law gives the IRS an advantage in interest charges over taxpayers. I believe this is predicated on the assumption that the Federal Government is more entitled to a taxpayer's income than the taxpayer. Nothing should be farther from the truth. Requiring equal rates to be charged will provide equity and bring to a close another instance where Washington thinks it knows best with what to do with families' income.

Finally, the IRS Accountability Act provides fairness in cases of mathematical and clerical errors. For honest mistakes, the taxpayer should have an opportunity to correct it without getting slapped by a tax bill full of interest and penalty charges. Under my legislation, a taxpayer would have a 60-day grace period after notification in which to pay the unpaid tax or to file an abatement request without incurring penalty or interest charges. However, should the 60-day period elapse without the taxpayer selecting either option, penalties and interest would be owed in full.

In closing, Mr. President, let me say what I have stated many times before on the floor of the Senate. American families already send 55 percent of their income to government in the form of taxes and other costs. Out of the remaining 45 percent, we expect them to clothe, feed, house, educate, and otherwise raise America.

We also know that if things do not change, future generations will face a lifetime tax rate of 84 percent. Already, families are bullied and harassed by an agency eager to intimidate. How much farther would the IRS be willing to go to collect an 84 percent tax burden? The time has come to bring reason to the IRS. I invite my colleagues to join me in this effort.

By Mr. WELLSTONE:

S. 367. A bill to amend the Family and Medical Leave Act of 1993 to allow leave to address domestic violence and its effects, and for other purposes; to the Committee on Finance.

BATTERED WOMEN'S EMPLOYMENT PROTECTION ACT

Mr. WELLSTONE. Mr. President, while we have begun to make important progress toward seriously addressing the devastating physical and emotional effects of domestic violence, little attention has been paid to the severe economic consequences of domestic abuse. The Battered Women's Employment Protection Act, which I am introducing today, will ensure eligibility for unemployment compensation to women who are separated from their jobs as a direct result of domestic violence. Several new studies illustrate the need for the legislation I am introducing today. The evidence is irrefutable, domestic violence dramatically affects women's ability to work and support themselves and their children.

According to New York City's Victims Service, one-quarter of battered women recently surveyed who have survived abuse had lost their jobs due to the effects of domestic violence.

Abusive husbands and partners harass 74 percent of employed battered women at work, either by showing up at the workplace or calling them at work. It is not unusual for women in abusive relationships to be late for work at least 5 times a month, to leave early at least 5 times a month, and to miss at least 3 full days of work a month—National Work-place Resource Center on Domestic Violence.

There have been cases brought to my attention in my home State of Minnesota where the women trying to escape abusive relationships could have benefited from this legislation, and we know that, sadly, there are many more such stories throughout the country.

On February 12, 1997, a woman came into the Women's Rural Advocacy Program in Marshall, MN, after her partner had emotionally, verbally, and physically assaulted her. After many years of fighting, her abuser finally let her get a drivers license and a car. His motivation for allowing her to do this was that she could get a job, resulting in more money for himself. Three months into her job, her partner assaulted her and she was in need of safe housing and constant protection. Because of the fear of her abuser finding her and her child, it was not safe for her to take their child to daycare, so she was unable to get to work. Seeing that this was a new job, she did not have any vacation days she could use.

Her abuser soon found out where she was located. She panicked and took her child and left the shelter, presumably the city, her friends, and her job. The shelter advocate we spoke to had no idea where she went, but was sure she had no money, very little clothes, and no car.

A woman, known as Sarah, is a 34-year-old college educated mother of 5 children, all under the age of 12. Sarah and her husband of 15 years had a successful market research company. Their combined salaries totaled over $225,000. The husband was the president of the company, Sarah the vice president. They were equal shareholders in the company until Sarah came in contact with law enforcement and the Lewis House Shelter due to her hospitalization for extensive injuries suffered at the hands of her abusive husband.

Sarah admits that the abuse has gone on for years. She filed for an order of protection, filed assault charges, and filed for divorce. Her husband then fired Sarah from the company they started. Her lawyer tells Sarah that she can sue for her position to be reinstated in the company. Sarah knows she is not safe and that nothing can protect her or her children from the repeated pattern of abuse. She is faced with the loss of her position, her income, legal fees, medical bills, as well as the foundation of her children's lives.

It took Sarah 6 months to find a full-time position. She has supported herself by using credit cards she maintained in her own name. She begins her new life with $30,000 of new debt. Her batterer maintains his company today, with no loss of position and an increase in income.

For women attempting to escape a violent environment, this legislation can be a lifeline.

There has been great progress in the last few years in societal and legislative response to violence within the home. One area that has not been sufficiently addressed, in my opinion, is the economic cost of domestic abuse.

The Bureau of National Affairs recently estimated that domestic violence costs employers between 3 and 5 billion dollars per year. Domestic violence results in lower productivity, greater absenteeism, and increased health costs.

The National Institute for Justice estimates that from 1987 to 1990, domestic violence cost Americans $67 billion a year.

According to annual estimates for reported domestic violence injuries, family violence exacts a significant economic toll on the well-being of the family, and the United States.

Forty-four million, three hundred ninety-three thousand, seven hundred dollars total annual medical costs, 21,000 hospitalizations, 28,700 emergency room visits, and 175,000 days lost from work.

In addition—50 to 80 percent of women on AFDC are victims or past victims of domestic violence (Taylor Institute Study, 1996). One year after divorce, women's incomes average only 67 percent of their pre-divorce incomes compared to 90 percent for men (Report of the American Psychological Association Presidential Task Force on Violence and the Family, 1996).

The Battered Women's Employment Protection Act will help women retain employment and financial independence by ensuring that employed victims of domestic violence can have time off from work to make necessary court appearances, seek legal assistance, and get help with safety planning, without penalty from the employer.

This bill enables employees to use their family, medical, sick, and other leave in order to deal with circumstances arising from domestic abuse.

Circumstances that would allow an employee to take leave include going to the doctor for injuries caused by domestic violence, seeking legal remedies such as going to court, seeking orders of protection, or meeting with a lawyer.

Current Federal and State laws fail to address the negative economic consequences domestic violence can cause. Today, battered women are not expressly allowed to take leave from work to address the consequences of family violence—both the physical and legal effects. This bill will help women to escape abusive situations by helping them retain employment and financial independence. And, by requiring employers to provide leave to employees for the purpose of dealing with domestic violence and its aftermath—it does not increase costs to employers, it permits employees to use their existing leave to deal with domestic violence.

Furthermore, to ensure that battered women can retain the independence necessary to leave their abusers without having to rely on welfare, the bill requires that States provide unemployment benefits to women who are forced to leave work as a result of domestic abuse. The bill ensures eligibility for unemployment compensation to women who are separated from their jobs as a direct result of domestic violence. For example, victims of abuse could not be denied unemployment if they were forced to leave their jobs because they had to relocate for safety reasons. Similarly, a woman would be eligible for unemployment compensation if she was fired from her job because she repeatedly showed up late for work with physical signs of abuse or was excessively absent from work as a result of abuse. In addition, the bill provides for specialized training of personnel in assessing unemployment compensation claims based on domestic violence.

All of us here today are committed to doing what we can to help battered women and their children escape domestic violence. I urge my colleagues to join in this effort by cosponsoring the Battered Women's Employment Protection Act.

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. 367

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

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Battered Women's Employment Protection Act ".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) violence against women is the leading cause of physical injury to women, and the Department of Justice estimates that intimate partners commit more than 1,000,000 violent crimes against women every year;

(2) approximately 95 percent of the victims of domestic violence are women;

(3) in the United States, a woman is more likely to be assaulted, injured, raped, or killed by a male partner than by any other type of assailant;

(4) the Bureau of Labor Statistics predicts that women will account for two-thirds of all new entrants into the workforce between now and the year 2000;

(5) violence against women dramatically affects women's workforce participation, insofar as one-quarter of the battered women surveyed had lost a job due at least in part to the effects of domestic violence, and over one-half had been harassed by their abuser at work;

(6) a study by Domestic Violence Intervention Services, Inc found that 96 percent of employed domestic violence victims had some type of problem in the workplace as a direct result of their abuse or abuser;

(7) the availability of economic support is a critical factor in a women's ability to leave abusive situations that threaten them and their children, and over one-half of the battered women surveyed stayed with their batterers because they lacked resources to support themselves and their children;

(8) a report by the New York City Victims Services Agency found that abusive spouses and lovers harass 74 percent of battered women at work, 54 percent of battering victims miss at least 3 days of work per month, 56 percent are late for work at least 5 times per month, and a University of Minnesota study found that 24 percent of women in support groups for battered women had lost a job partly because of being abused;

(9) a survey of State unemployment insurance agency directors by the Federal Advisory Council on Unemployment Compensation found that in 31 States battered women who leave work as a result of domestic violence do not qualify for unemployment benefits, in 9 States the determination often varies depending on the facts and circumstances, and in only 13 States are they usually considered qualified for unemployment benefits;

(10) a study by the New York State Department of Labor found that, when filing for unemployment insurance benefits, domestic violence victims frequently hide their victimization and do not disclose the domestic violence as a reason for their problems with the job or need to separate from employment;

(11) 49 percent of senior executives recently surveyed said domestic violence has a harmful effect on their company's productivity, 47 percent said domestic violence negatively affects attendance, and 44 percent said domestic violence increases health care costs, and the Bureau of National Affairs estimates that domestic violence costs employers between $3,000,000,000 and $5,000,000,000 per year; and

(12) existing Federal and State legislation does not expressly authorize battered women to take leave from work to seek legal assistance and redress, counseling, or assistance with safety planning and activities.

(b) PURPOSES.—Pursuant to the affirmative power of Congress to enact this Act under section 5 of the Fourteenth Amendment to the Constitution, as well as under clause 1 of section 8 of Article I of the Constitution and clause 3 of section 8 of Article I of the Constitution, the purposes of this Act are—

(1) to promote the national interest in reducing domestic violence by enabling victims of domestic violence to maintain the financial independence necessary to leave abusive situations, to achieve safety and minimize the physical and emotional injuries from domestic violence, and to reduce the devastating economic consequences of domestic violence to employers and employees, by—

(A) providing unemployment insurance for victims of domestic violence who are forced to leave their employment as a result of domestic violence; and

(B) entitling employed victims of domestic violence to take reasonable leave under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) to seek medical help, legal assistance, counseling, and safety planning and assistance without penalty from their employer;

(2) to promote the purposes of the Fourteenth Amendment by protecting the civil and economic rights of victims of domestic violence and by furthering the equal opportunity of women to employment and economic self-sufficiency;

(3) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, health care costs, and employer costs from domestic violence; and

(4) to accomplish the purposes described in paragraphs (1) , (2) and (3) in a manner that accommodates the legitimate interests of employers.

SEC. 3. UNEMPLOYMENT COMPENSATION.

(a) UNEMPLOYMENT COMPENSATION.—Section 3304(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking "and" at the end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting "; and";

(3) by adding after paragraph (19) the following:

"(20) compensation is to be provided where an individual is separated from employment due to circumstances directly resulting from the individual's experience of domestic violence.";

(4) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively, and

(5) by inserting after subsection (a) the following:

"(b) CONSTRUCTION.—

"(1) DIRECTLY RESULTING FROM VIOLENCE.—For the purpose of determining, under subsection (a)(20), whether an employee's separation from employment is 'directly resulting' from the individual's experience of domestic violence, it shall be sufficient if the separation from employment resulted from—

"(A) the employee's reasonable fear of future domestic violence at or en route to or from her place of employment;

"(B) the employee's wish to relocate to another geographic area in order to avoid future domestic violence against the employee or the employee's family;

"(C) the employee's need to recover from traumatic stress resulting from the employee's experience of domestic violence;

"(D) the employer's denial of the employee's request for the temporary leave from

employment to address domestic violence and its effects authorized by section 102 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612); or

"(E) any other respect in which domestic violence causes the employee to reasonably believe that termination of employment is necessary for the future safety of the employee or the employee's family.

"(2) REASONABLE EFFORTS TO RETAIN EMPLOYMENT.—For purposes of subsection (a)(20), where State law requires the employee to have made reasonable efforts to retain employment as a condition for receiving unemployment compensation, it shall be sufficient that the employee—

"(A) sought protection from or assistance in responding to domestic violence, including calling the police or seeking legal, social work, medical, clergy, or other assistance;

"(B) sought safety, including refuge in a shelter or temporary or permanent relocation, whether or not the employee actually obtained such refuge or accomplished such relocation; or

"(C) reasonably believed that options such as a leave, transfer, or alternative work schedule would not be sufficient to guarantee the employee or the employee's family's safety.

"(3) ACTIVE EMPLOYMENT SEARCH.—For purposes of subsection (a)(20), where State law requires the employee to actively search for employment after separation from employment as a condition for receiving unemployment compensation, such requirement shall be deemed to be met where the employee is temporarily unable to actively search for employment because the employee is engaged in seeking safety or relief for the employee or the employee's family from domestic violence, including—

"(A) going into hiding or relocating or attempting to do so, including activities associated with such relocation or hiding, such as seeking to obtain sufficient shelter, food, schooling for children, or other necessities of life for the employee or the employee's family;

"(B) actively pursuing legal protection or remedies, including meeting with the police, going to court to make inquiries or file papers, meeting with attorneys, or attending court proceedings; or

"(C) participating in psychological, social, or religious counseling or support activities to assist the employee in ending domestic violence.

"(4) REQUIREMENT TO PROVIDE DOCUMENTATION OR OTHER EVIDENCE.—In determining if an employee meets the requirements of paragraphs (1), (2), and (3), the employer of an employee may require the employee to provide—

"(A) documentation of the domestic violence, such as police or court records, or documentation of the domestic violence from a shelter worker, attorney, clergy, or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects; or

"(B) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim, or physical evidence of domestic violence, such as photographs, torn or bloody clothes, or other similar evidence.

All evidence of domestic violence experienced by an employee, including an employee's statement, any corroborating evidence, and the fact that an employee has applied for or inquired about unemployment compensation available under subsection (a)(20) shall be retained in the strictest confidence of the employer, except to the extent consented to by the employee where disclosure is necessary to protect the employee's safety.".

(b) SOCIAL SECURITY PERSONNEL TRAINING.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)(4)) is amended by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively, and by inserting after paragraph (3) the following:

"(4) Such methods of administration as will ensure that claims reviewers and hearing personnel are adequately trained in the nature and dynamics of domestic violence and in methods of ascertaining and keeping confidential information about possible experiences of domestic violence, so that employment separations stemming from domestic violence are reliably screened, identified, and adjudicated and full confidentiality is provided for the employee's claim and submitted evidence.".

(c) DEFINITIONS.—Section 3306 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(u) DOMESTIC VIOLENCE.—The term 'domestic violence' includes abuse committed against an employee or a family member of the employee by—

"(1) a current or former spouse of the employee;

"(2) a person with whom the employee shares a child in common;

"(3) a person who is cohabitating with or has cohabitated with the employee as a romantic or intimate partner; or

"(4) a person from whom the employee would be eligible for protection under the domestic violence, protection order, or family laws of the jurisdiction in which the employee resides or the employer is located.

"(v) ABUSE.—The term 'abuse' includes—

"(1) physical acts resulting in, or threatening to result in, physical injury;

"(2) sexual abuse, sexual activity involving a dependent child, or threats of or attempts at sexual abuse;

"(3) mental abuse, including threats, intimidation, acts designed to induce terror, or restraints on liberty; and

"(4) deprivation of medical care, housing, food or other necessities of life.".

SEC. 4. ENTITLEMENT TO LEAVE FOR DOMESTIC VIOLENCE.

(a) AUTHORITY FOR LEAVE.—Section 102(a)(1) (29 U.S.C. 2612(a)(1)) is amended by adding at the end the following:

"(E) In order to care for the child or parent of the employee, if such child or parent is addressing domestic violence and its effects.

"(F) Because the employee is addressing domestic violence and its effects, the employee is unable to perform any of the functions of the position of such employee.".

(b) DEFINITION.—Section 101 (29 U.S.C. 2611) is amended by adding at the end the following:

"(14) ADDRESSING DOMESTIC VIOLENCE AND ITS EFFECTS.—The term 'addressing domestic violence and its effects' means—

"(A) experiencing domestic violence;

"(B) seeking medical attention for or recovering from injuries caused by domestic violence;

"(C) seeking legal assistance or remedies, including communicating with the police or an attorney, or participating in any legal proceeding related to domestic violence;

"(D) attending support groups for victims of domestic violence;

"(E) obtaining psychological counseling related to experiences of domestic violence;

"(F) participating in safety planning and other actions to increase safety from future domestic violence, including temporary or permanent relocation; and

"(G) any other activity necessitated by domestic violence which must be undertaken during hours of employment.".

(c) INTERMITTENT OR REDUCED LEAVE.—Section 102(b) (29 U.S.C. 2612(b)) is amended by adding at the end the following:

"(3) DOMESTIC VIOLENCE.—Leave under subparagraph (E) or (F) of subsection (a)(1) may be taken by an employee intermittently or on a reduced leave schedule. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.".

(d) PAID LEAVE.—Section 102(d)(2)(B) (29 U.S.C. 2612(d)(2)(B)) is amended by striking "(C) or (D)" and inserting "(C), (D), (E), or (F)".

(e) CERTIFICATION.—Section 103 (29 U.S.C. 2613) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

"(e) DOMESTIC VIOLENCE.—In determining if an employee meets the requirements of subparagraph (E) or (F) of section 102(a)(1), the employer of an employee may require the employee to provide—

"(1) documentation of the domestic violence, such as police or court records, or documentation of the domestic violence from a shelter worker, attorney, clergy, or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects; or

"(2) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim, or physical evidence of domestic violence, such as photographs, torn or bloody clothes, etc.".

(f) CONFIDENTIALITY.—Section 103 (29 U.S.C. 2613), as amended by subsection (e), is amended—

(1) in the title by adding before the period the following: **"; CONFIDENTIALITY"**; and

(2) by adding at the end the following:

"(f) CONFIDENTIALITY.—All evidence of domestic violence experienced by an employee or the employee's child or parent, including an employee's statement, any corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing domestic violence and its effects, shall be retained in the strictest confidence by the employer, except to the extent consented to by the employee where disclosure is necessary to protect the employee's safety.".

SEC. 5. ENTITLEMENT TO LEAVE FOR FEDERAL EMPLOYEES FOR DOMESTIC VIOLENCE.

(a) AUTHORITY FOR LEAVE.—Section 6382 of title 5, United States Code is amended by adding at the end the following:

"(E) In order to care for the child or parent of the employee, if such child or parent is addressing domestic violence and its effects.

"(F) Because the employee is addressing domestic violence and its effects, the employee is unable to perform any of the functions of the position of such employee.".

(b) DEFINITION.—Section 6381 of title 5, United States Code is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) the term 'addressing domestic violence and its effects' means—

"(A) experiencing domestic violence;

"(B) seeking medical attention for or recovering from injuries caused by domestic violence;

"(C) seeking legal assistance or remedies, including communicating with the police or an attorney, or participating in any legal proceeding related to domestic violence;

"(D) attending support groups for victims of domestic violence;

"(E) obtaining psychological counseling related to experiences of domestic violence;

"(F) participating in safety planning and other actions to increase safety from future domestic violence, including temporary or permanent relocation; and

"(G) any other activity necessitated by domestic violence which must be undertaken during hours of employment.".

(c) INTERMITTENT OR REDUCED LEAVE.—Section 6382(b) of title 5, United States Code, is amended by adding at the end the following:

"(3) Leave under subparagraph (E) or (F) of subsection (a)(1) may be taken by an employee intermittently or on a reduced leave schedule. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.".

(d) OTHER LEAVE.—Section 6382(d) of title 5, United States Code, is amended by striking "(C) or (D)" and inserting "(C), (D), (E), or (F)".

(e) CERTIFICATION.—Section 6383 of title 5, United States Code, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

"(e) DOMESTIC VIOLENCE.—In determining if an employee meets the requirements of subparagraph (E) or (F) of section 6382(a)(1), the employer of an employee may require the employee to provide—

"(1) documentation of the domestic violence, such as police or court records, or documentation of the domestic violence from a shelter worker, attorney, clergy, or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects; or

"(2) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim, or physical evidence of domestic violence, such as photographs, torn or bloody clothes, etc.".

(f) CONFIDENTIALITY.—Section 6383 of title 5, United States Code, as amended by subsection (e), is amended—

(1) in the title by adding before the period the following: **"; Confidentiality"**, and

(2) by adding at the end the following:

"(g) CONFIDENTIALITY.—All evidence of domestic violence experienced by an employee or the employee's child or parent, including an employee's statement, any corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing domestic violence and its effects, shall be retained in the strictest confidence by the employer, except to the extent consented to by the employee where disclosure is necessary to protect the employee's safety.".

SEC. 6. EFFECT ON OTHER LAWS AND EMPLOYMENT BENEFITS.

(1) MORE PROTECTIVE.—Nothing in this Act or the amendments made by this Act shall be construed to supersede any provision of any Federal, State or local law, collective bargaining agreement, or other employment benefit program which provides greater unemployment compensation or leave benefits for employed victims of domestic violence than the rights established under this Act or such amendments.

(2) LESS PROTECTIVE.—The rights established for employees under this Act or the amendments made by this Act shall not be diminished by any collective bargaining agreement, any employment benefit program or plan, or any State or local law.

SEC. 7. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect upon the expiration of 180 days from the date of the enactment of this Act.

(b) UNEMPLOYMENT COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by section 3 shall apply in the case of compensation paid for weeks beginning on or after the expiration of 180 days from the date of the enactment of this Act.

(2) MEETING OF STATE LEGISLATURE.—In the case of a State with respect to which the Secretary of Labor has determined that the State legislature is required in order to comply with the amendments made by section 3, the amendments made by section 3 shall apply in the case of compensation paid for weeks which begin on or after the expiration of 180 days from the date of the enactment of this Act and after the end of the first session of the Sate legislature which begins after the date of the enactment of this Act or which began prior to the date of the enactment of this Act and remained in session for at least 25 calendar days after such date of enactment. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. THURMOND, the names of the Senator from New Hampshire [Mr. GREGG] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 72

At the request of Mr. KYL, the names of the Senator from Georgia [Mr. COVERDELL] and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors 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. 73

At the request of Mr. KYL, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 73, a bill to amend the Internal Revenue Code of 1986 to repeal the corporate alternative minimum tax.

S. 74

At the request of Mr. KYL, the names of the Senator from Georgia [Mr. COVERDELL] and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors 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. 75

At the request of Mr. KYL, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 75, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 76

At the request of Mr. KYL, the names of the Senator from Georgia [Mr. COVERDELL] and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of S. 76, a bill to amend the Internal Revenue Code of 1986 to increase the expensing limitation to $250,000.

S. 184

At the request of Mr. D'AMATO, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Connecticut [Mr. DODD], and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 184, a bill to provide for adherence with the MacBride Principles of Economic Justice by United States persons doing business in Northern Ireland, and for other purposes.

S. 228

At the request of Mr. MCCAIN, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 228, a bill to amend title 31, United States Code, to provide for continuing appropriations in the absence of regular appropriations.

S. 239

At the request of Mr. DASCHLE, the names of the Senator from Nevada [Mr. BRYAN] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of S. 239, a bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather-related conditions.

S. 249

At the request of Mr. D'AMATO, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 249, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.

S. 269

At the request of Mr. ABRAHAM, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 269, a bill to provide that the Secretary of the Senate and the Clerk of the House of Representatives shall include an estimate of Federal retirement benefits for each Member of Congress in their semiannual reports, and for other purposes.

S. 277

At the request of Mr. COCHRAN, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 277, a bill to amend the Agricultural Adjustment Act to restore the effectiveness of certain provisions regulating Federal milk marketing orders.

S. 348

At the request of Mr. MCCONNELL, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 348, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes.

AMENDMENTS SUBMITTED

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

FEINSTEIN AMENDMENT NO. 11

Mrs. FEINSTEIN (for herself, Mr. DURBIN, Mr. TORRICELLI, and Mr. CLELAND) proposed an amendment to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States to require a balanced budget; as follows:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a roll call vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless a majority of the whole number of each House shall provide by law for such an increase by a roll call vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a roll call vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"The provisions of this article may be waived for any fiscal year in which the United States is experiencing a national economic emergency or major natural disaster, which is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal. Effective one year after the effective date of this article, the receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors and Disability Insurance Trust Funds (as and if modified to preserve the solvency of the Funds) used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of complying with this article.

"SECTION 8. Nothing in this article shall preclude the authority to enact and implement a separate capital budget for those major capital improvements which require multi-year Federal funding, and which would be excluded from the requirements of section 7 of this article.

"SECTION 9. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.".

BUMPERS (AND FEINGOLD) AMENDMENT NO. 12

Mr. BUMPERS (for himself and Mr. FEINGOLD) proposed an amendment to the motion to refer the joint resolution (S.J. Res. 1), supra; as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. POINT OF ORDER AGAINST BUDGET RESOLUTIONS THAT FAIL TO SET FORTH A GLIDE PATH TO A BALANCED BUDGET.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

"(j) It shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that fails to set forth appropriate levels for all items described in subsection (a)(1) through (7) for all fiscal years through 2002."

SECTION 2. PROHIBITION ON BUDGET RESOLUTIONS THAT FAIL TO SET FORTH A BALANCED BUDGET.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

"(k) CONGRESSIONAL ENFORCEMENT OF A BALANCED BUDGET.—

"(1) Beginning in 2001, it shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that sets forth a level of outlays for fiscal year 2002 or any subsequent fiscal year that exceeds the level of receipts for that fiscal year.

"(2) The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this subsection."

SECTION 3. POINT OF ORDER AGAINST BUDGET RESOLUTIONS THAT FAIL TO ESTABLISH A GLIDE PATH FOR A BALANCED BUDGET BY 2002 AND BEYOND.—

(a) Section 904 of the Congressional Budget Act of 1974 is amended by inserting "301(j)," after "301(I)," in both places it appears.

(b) Add the following new section immediately following Section 904 of the Congressional Budget Act of 1974:

"SEC. ____. Section 301(k) may be waived (A) in any fiscal year by an affirmative vote of three-fifths of the whole number of each House; (B) in any fiscal year in which a declaration of war is in effect; or (C) in any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

SECTION 4. TECHNICAL CHANGES.—Section 306 of the Congressional Budget Act of 1974 is amended as follows:

(a) Immediately following "SEC. 306." insert the following:

"(a) Except for bills, resolutions, amendments, motions or conference reports, which would amend the congressional budget process,".

(b) Add the following at the end of subparagraph (a):

"(b) No bill, resolution, amendment, motion, or conference report, which would amend the congressional budget process shall be considered by either House."

FEINGOLD AMENDMENT NOS. 13–14

Mr. FEINGOLD proposed two amendments to the joint resolution (S.J. Res. 1) supra; as follows:

AMENDMENT NO. 13

On page 2, line 7, strike "seven" and insert "3".

AMENDMENT NO. 14

On page 2, line 15, after "vote" insert "or unless Congress shall provide by law that an accumulated budget surplus shall be available to offset outlays to the extent necessary to provide that outlays for that fiscal year do not exceed total receipts for that fiscal year".

TORRICELLI (AND OTHERS) AMENDMENT NO. 15

Mr. TORRICELLI (for himself, Mr. LAUTENBERG, Ms. LANDRIEU, Mr. KOHL, and Mrs. BOXER) proposed an amendment to the joint resolution (S.J. Res. 1) supra; as follows:

On page 3, strike lines 4 through 11, and insert the following:

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"The provisions of this article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, which becomes law.

"The provisions of this article may be waived for any fiscal year in which the United States is in a period of economic recession or significant economic hardship and is so declared by a joint resolution, which becomes law."

On page 3, strike lines 15 through 19, and insert the following:

"SECTION 7. Total receipts shall exclude those derived from net borrowing and the disposition of major public physical capital assets. Total outlays shall include all outlays of the United States Government except those for repayment of debt principal and those dedicated to a capital budget. The capital budget shall include only investments in major public physical capital that provides long-term economic benefits."

BOXER AMENDMENT NO. 16

Mrs. BOXER proposed an amendment to the joint resolution (S.J. Res. 1) supra; as follows:

At the end of Section 5, add the following: "The provisions of this article may be waived for any fiscal year in which there is a declaration made by the President (and a designation by the Congress) that a major disaster or emergency exists, adopted by a majority vote in each House of those present and voting."

DORGAN (AND OTHERS) AMENDMENT NO. 17

Mr. DORGAN (for himself, Mr. DASCHLE, Mr. FORD, Mr. REID, Mr. HOLLINGS, Mrs. FEINSTEIN, Mr. WYDEN, Ms. LANDRIEU, and Mr. JOHNSON) proposed an amendment to the joint resolution (S.J. Res. 1) supra; as follows:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal. The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds (as and if modified to preserve the solvency of the Funds) used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article.

"SECTION 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.".

ROCKEFELLER AMENDMENT NO. 18

Mr. CONRAD (for Mr. ROCKEFELLER) proposed an amendment to the joint resolution (S.J. Res. 1) supra; as follows:

Beginning on page 3, strike lines 12 through 14 and insert the following:

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts. Medicare outlays shall not be reduced in excess of the amount necessary to preserve the solvency of the Medicare Health Insurance Trust Fund."

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Wednesday, March 5, 1997, at 9:30 a.m. to hold an oversight hearing to review the budget and operations of the Secretary of the Senate, Sergeant at Arms, Architect of the Capitol, and the National Gallery of Art.

For further information concerning this hearing, please contact Ed Edens of the committee staff on 224-6678.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, February 26, 1997, at 9 a.m. in SR-328A to discuss the impact of capital gains taxes on farmers.

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

COMMITTEE ON ARMED SERVICES

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, February 26, 1997 in open session, to receive testimony in review of the defense authorization request for fiscal year 1998 and the future years defense program.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, February 26, 1997, to conduct a hearing on the oversight on the Monetary Policy Report to Congress pursuant to the Full Employment and Balanced Growth Act of 1978. The witness will be: the Honorable Alan Greenspan, Chairman, Board of Governors of the Federal Reserve System.

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

COMMITTEE ON INDIAN AFFAIRS

Ms. SNOWE. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, February 26, 1997 at 9:30 a.m. to conduct an Oversight Hearing on the President's Budget Request for fiscal year 1998 for the Bureau of Indian Affairs [BIA] and the Indian Health Service [IHS]. The hearing will be held in room 485 of the Russell Senate Office Building.

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 in executive session during the session of the Senate on Wednesday, February 26, 1997, at 9:30 a.m.

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

COMMITTEE ON SMALL BUSINESS

Ms. SNOWE. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing entitled "The President's Fiscal Year 1998 Budget Request for the United States Small Business Administration" on Wednesday, February 26, 1997, which will begin at 9:30 a.m. in room 428A of the Russell Senate Office Building.

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

COMMITTEE ON VETERANS' AFFAIRS

Ms. SNOWE. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on the President's proposed fiscal year 1998 budget for veterans programs. The hearing will he held on February 26, 1997, at 2 p.m. in room 418 of the Russell Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Ms. SNOWE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 26, 1997 at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY.

Ms. SNOWE. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 26, 1997, at 2 p.m. to hold a hearing.

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

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Ms. SNOWE. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to meet Wednesday, February 26, at 9:30 a.m., Hearing Room (SD-406), to conduct a hearing on the administration's proposal for reauthorization of the Intermodal Surface Transportation Efficiency Act [ISTEA] and the performance of ISTEA's programs.

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

ADDITIONAL STATEMENTS

HOMEOWNERS PROTECTION ACT OF 1997

• Mr. DOMENICI. Mr. President, today I am pleased to announce my support for S. 318, a bill introduced by the distinguished chairman of the Senate Banking Committee, Senator D'AMATO. This bill, the Homeowners Protection Act of 1997 will protect consumers across the country from paying millions of dollars in unnecessary private mortgage insurance PMI premiums. This bill corrects a serious inequity faced by many first-time, middle class homeowners, and I commend Senator D'AMATO for his thoughtful approach to this problem.

No one can argue that PMI has served a useful and admirable purpose by allowing middle class families a greater opportunity for home ownership. Traditionally, mortgage lenders expect home buyers to make a down payment of at least 20 percent. For credit-worthy borrowers who lack the cash to make such a large down payment, PMI enables them to purchase a home while protecting lenders from default until the borrower has built significant equity in the home. To that end, requiring the purchase of PMI is good policy.

The problem arises when homeowners make several years of mortgage payments and reach the point where they have built up enough equity, usually 20 percent of the original value of the loan, to virtually eliminate the risk of default. At that point, the need for continued PMI coverage disappears and borrowers should have the right to cancel their policies. Yet, according to many reports in the newspapers and on TV, many uninformed borrowers continue to pay unnecessary premiums which can cost additional hundreds or even thousands of dollars each year. Others who have sought to cancel their coverage have faced unbelievable red-tape and confusion.

Senator D'AMATO's bill will eliminate these problems and make home ownership more affordable and more attainable for all Americans. Under this bill, homeowners will have the right to cancel PMI when they have accumulated 20 percent equity in their homes, the value generally determined to be sufficient to protect lenders from default. The bill takes the reasonable step of allowing the Federal Reserve the ability to grant exceptions to this rule—either to protect consumer access to credit or to protect lenders from economic factors which may create unique default risks. The bill also will require that notice be provided to homeowners at closing and at least once a year thereafter of their right to cancel their PMI coverage once they have reached the equity threshold.

I commend my good friend, the distinguished Senator from New York and I am pleased to be a cosponsor of this thoughtful bill. I hope that Congress will work hard this year to pass it, so that we correct this flaw in the system and provide middle class borrowers with a greater opportunity to own a home.•

TRIBUTE TO SIDNEY W. DEAN

• Mr. MOYNIHAN. Mr. President, Sidney W. Dean was a man devoted at once to the public and to the private. Before he passed away last month at the age of 91, he had worked for 41 years toward the cause of good government in New York, while at the same time becoming one of the city's strongest advocates of free speech and the right to privacy.

He will doubtless be remembered as longtime trustee, president, and chairman of the City Club of New York, but perhaps as much so as an advocate of using the emerging technology of cable television as a way for those who are poor and ignored to be seen—and heard.

Long before most others, he saw the potential power of television pressing the city to require cable companies to provide public access channels. He met with some success, though perhaps not exactly what he had envisioned. Few things turn out that way.

His devotion to free speech was instilled in him by his father, a newspaper editor. A member of the American Civil Liberties Union and Americans for Democratic Action, he took up the cause, helping to keep New York what it has always been: the center of the world of ideas and the free exchange of information.

I ask that the full text of the New York Times obituary of February 3 be included in the RECORD.

The obituary follows:

[From the New York Times, Feb. 3, 1997]

SIDNEY W. DEAN IS DEAD AT 91; SERVED AS TRUSTEE OF CITY CLUB

(By David Cay Johnston)

Sidney W. Dean Jr., a longtime trustee of the City Club of New York and a strong advocate of free speech who fought for years to make cable television a positive force for the city, died on Jan. 24 at his Greenwich Village apartment.

He was 91 and died after suffering a stroke, his wife, Eugenia, said.

Mr. Dean was an advertising and marketing executive who in 1952 became a trustee of the City Club of New York, the city's oldest good-government organization. For the next 41 years he used his roles as trustee, president and chairman of the City Club, as well as volunteer positions with the American Civil Liberties Union and Americans for Democratic Action, to argue for municipal policies favoring free speech.

"He was on the forefront of telling us about the privacy and First Amendment issues and teaching us about communications and communications technologies," said Amy Isacs, national president of Americans for Democratic Action.

In 1970, when cable television franchises were first being proposed for New York City, Mr. Dean began pressing the city to require numerous public access channels and to prevent cable operators from having any financial interest in programs or channels they carry.

"So long as cable systems can control their content they will attempt to deny market access to all other producers and distributors of print and electronic communications," Mr. Dean wrote in a 1973 letter to The New York Times. Such issues persist today as Rupert Murdoch tries to get his new 24-hour news channel onto the cable system operated by Time Warner, his rival in the news and entertainment business and the owner of CNN.

Today Time Warner owns many of the channels on its system and so does Cablevision, the other cable franchise holder in the city.

In 1980 Mr. Dean criticized the city's process for awarding cable television franchises as a "blind man's bluff-purchasing agent act" in which the city was "settling for too little from the cable companies." He said that nothing in the city's franchise award plans "holds out any hope of cable reaching out to the poor, ghettoized and handicapped." Today, fewer than half the households in the city subscribe.

During the debates over awarding cable franchises, Mr. Dean was once invited to a private meeting of city officials and representatives of the franchise seekers, but declined. "I will never go into a backroom discussion," he told Sally Goodgold, another City Club trustee.

Mr. Dean was the son of a Boston newspaper editor who constantly preached the First Amendment's virtues to his son.

After graduating from Yale University in 1926, Mr. Dean joined J. Walter Thompson, the advertising agency, and later worked with other marketing companies.

During World War II, as an Army Air Force officer, he analyzed photographs of bomb damage. He volunteered to fly on some bombing runs because he felt it would make his analysis more accurate, his friend Peter Stanford said.

Mr. Dean is survived by his wife and a son, Ronald Stowe, who lives in the Philippines.•

RECOGNITION OF MINGO JOB CORPS

• Mr. BOND. Mr. President, it is a pleasure to recognize the Mingo Job Corps Civilian Conservation Center of

Puxico, MO, for service to its community. Established in 1965 as a vocational training center for disadvantaged youth, it is one of 30 centers designated by Congress to be a civilian conservation center.

Located on the Mingo National Wildlife Refuge, Mingo Job Corps provides a full-time year round residential program which gives students the opportunity to complete their secondary education and acquire a vocational skill.

The Mingo Job Corps Center has completed millions of dollars worth of community service projects, such as construction and painting for local schools and museums, and supporting Earth Day and Ecology Day projects. I wish Mingo the best of luck in all future endeavors and continued success in its service to others.●

THE DEATH OF WILCOMB WASHBURN

Mr. MOYNIHAN. Mr. President, on Saturday, February 1, Wilcomb Washburn, a champion of unfashionable truths and a scholar in the truest sense of the word, died here in Washington. He had retired as director of the Smithsonian's American Studies Program exactly a month before, on January 1, after almost 40 years at the institution. He was 72 years old.

He remained dedicated, most especially, to the integrity of academic life and to keeping the spirit of free inquiry from being compromised by politics. Perhaps more than anyone else, he recognized the grave threat posed by the politicization of scholarly professional associations.

Last year I had the honor to present him with the National Association of Scholars' Sidney Hook Award in recognition of his work. In his acceptance speech, he quoted the sociologist James Coleman, the first recipient of the Hook Award: "The greatest enemies of academic freedom in the university are the norms that exist about what kinds of questions may be raised in research." Coleman was nearly expelled from the American Sociological Association for his findings on the effect of home and neighborhood environment on learning. Wilcomb Washburn had a vision of the academy as a place that would live up to the ideal of the open society in which no claims on truth are more privileged than others. As he said in his acceptance speech that day "let us hope that those who have chosen to speak truth to power rather than power to truth will prevail."

Wilcomb Washburn was also a U.S. Marine, serving in both World War II and Korea. As both a scholar and a soldier, he combined the exacting rigor of the former with the tenacity of the latter to attack, often singlehandedly, the bastions of irrationality.

We honor his life and mourn his passing.

Mr. President, I ask that the obituary from the Washington Post of February 2 be printed in the RECORD.

The obiturary follows:

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

WILCOMB WASHBURN, SMITHSONIAN OFFICIAL, DIES

Wilcomb Edward Washburn, 72 a retired American studies program director of the Smithsonian Institution, past president of what is now the Historical Society of Washington and teacher of history at three area universities, died of prostate cancer Feb. 1 at his home in Washington. He also had a home in Princess Anne, Md.

He came to Washington and joined the Smithsonian in 1958 as acting curator of its political history division. From 1965 to 1968, he was chairman of the American studies department of the National Museum of History and Technology, now the National Museum of American History. In 1968, he became the Smithsonian's American studies program director, a post he held until retiring on Jan. 1, 1997.

He was president of the Historical Society of Washington from 1976 to 1980. He was a past national president of the American Society for Ethnohistory, the American Studies Association and the Society for the History of Discoveries. He had been an advisory editor of "Terrae Incognitae," the annals of the Society of American Historians, and had served on the commandant's advisory committee on Marine Corps history.

Over the years, while working for the Smithsonian, he had taught at the University of Maryland and at George Washington and American universities. He also wrote six books on subjects such as Colonial history, anthropology, architecture and museums.

He was the recipient of three honorary degrees as well as the National Association of Scholars' Sidney Hook Memorial Award.

Dr. Washburn was born in Kansas and raised in New Hampshire. He was a 1948 summa cum laude graduate of Dartmouth College, where he also was elected to Phi Beta kappa. He received his doctorate in the history of American civilization from Harvard University.

He served with the Marine Corps as a Japanese language officer in World War II and served on active duty again during the Korean War. He retired from the reserve as a colonel.

Before coming to Washington, he had been an information and education officer with the military government in Japan and spent a year as a teaching fellow in history and literature at Harvard.

From 1955 to 1958, he served on the history faculty of the College of William and Mary.

His marriage to Lelia Kanavarioti Washington ended in divorce.

Survivors include his wife, Katheryn Cousins Washburn, of Washington and Princess Anne; a son from his first marriage, Alexandros E., of New York; a brother, John, of Baltimore; and two granddaughters.●

TRIBUTE TO GEORGE T. ROBINSON

● Mr. SANTORUM. Mr. President, I rise today to pay tribute to a Pennsylvania constituent and a very dedicated public servant from Philadelphia, PA.

On January 11, George Robinson was honored upon his retirement from the Philadelphia Fire Department. After graduating from the Philadelphia Public School System, Mr. Robinson joined the department on August 3, 1959. Since then, he has served the city of Philadelphia with distinction for 37 years. Mr. Robinson rose through the department to the position of battalion chief, and he also served as acting deputy chief.

During his career, Mr. Robinson successfully completed "Career Development Three" at the National Fire Academy, as well as related courses at the Philadelphia Fire Academy. He has also received various certificates of training from the city of Philadelphia Training Center.

As a battalion commander, Chief Robinson coordinated all aspects of fire alarm response. In addition to conducting preliminary investigations of fire causes, he inspected company personnel, fire stations, apparatus, equipment, records, reports, and safety hazards.

In 1992, Chief Robinson became the department's executive officer. During this time, he also served as the integrity officer, chaired the critical incident debriefing team, and served on a steering committee to streamline the office of the inspector general. Moreover, Chief Robinson coordinated all transfer requests, assignments, and officer rotations.

Mr. President, I hope my colleagues will join me in honoring George Robinson for his distinguished service to the city of Philadelphia Fire Department with the following proclamation:

PROCLAMATION

Whereas, George Robinson has served for thirty-seven years as a member of the Philadelphia Fire Department, gained promotions to the rank of Battalion Chief and served as Acting Deputy Chief, and;

Whereas, George Robinson, has served as the Fire Department's Executive Officer, Integrity Officer and head of the Critical Incident Team; and

Whereas, George Robinson was honored upon his retirement from the Philadelphia Fire Department at a testimonial dinner on January 11, 1997;

Therefore, I, Senator Rick Santorum, offer my best wishes on his retirement and honor his loyalty to the City of Philadelphia and to the Philadelphia Fire Department; acknowledge the respect he has gained from every level and authority in the Department; and recognize the distinction he has brought through his achievements to his community and country.●

RETIREMENT OF CWO 0 5, HARRY FLOYD HINKLE, JR.

● Mr. BINGAMAN. Mr. President, I rise today to speak briefly about an American hero and an American patriot, CWO-05, Harry Floyd Hinkle, Jr.

As a member of the Senate Armed Services Committee, I am presented almost daily with young men and women who have dedicated their lives to the service of their country in our Armed

Forces. As I know my colleagues agree, these men and women are truly America's finest. Today, it is an honor for me to present to the Senate an example of America's best, Chief Warrant Officer-05 Hinkle.

Chief Warrant Officer–05 Hinkle will soon be retiring from the Marine Corps after 30 years of honor, patriotism and distinguished service. I have not had the privilege of meeting CWO–05 Hinkle personally, however, a review of his record clearly demonstrates why it is appropriate for the Senate to honor him today.

Chief Warrant Officer–05 Hinkle joined the Marine Corps on February 7, 1967. He spent 3 years in Vietnam with the First Armored Amphibian Company, 11th Marine Corps Regiment. While serving in Vietnam he was awarded the Bronze Star with Combat V.

Mr. President, for most men and women that service alone would have been more than above and beyond the call of duty, but not for Chief Warrant Officer–05 Hinkle. He returned from Vietnam where he was appointed warrant officer and later commissioned as an officer eventually reaching the grade of captain. In 1990 when his country called upon him to once again serve in the face of great danger, Chief Warrant Officer–05 Hinkle responded. He served in Desert Storm and Desert Shield where he guided deployments to southwest Asia for installing and operating secondary imagery dissemination devices.

Mr. President, Chief Warrant Officer–05 Hinkle has served as an enlisted marine, officer, and warrant officer. He has shown gallantry on the battlefield and has been a model marine in the classroom. He served heroically in the past and has helped make America's future safer by training the marines, airmen, soldiers, and sailors of tomorrow. Chief Warrant Officer–05 Hinkle's personal decorations include the Bronze Star with Combat V, the Meritorious Service Medal, the Navy Commendation Medal, the Navy Achievement Medal with Combat V, the Good Conduct Medal and the Combat Action Ribbon, the Kuwait Liberation Medal, the Southwest Asia Service Medal, and the Southeast Asia Service Medal.

Mr. President, after 30 years of service to his country, I believe that America owes Chief Warrant Officer-05 Hinkle a thank you, a heart-felt God's speed, and a proud Semper Fi.•

TRIBUTE TO LAWRENCE A. FLEISCHMAN

• Mr. MOYNIHAN. Mr. President, though perhaps most Americans outside the world of art will not readily recognize the name of Lawrence Fleischman, they will know his legacy. Before he died last week at 71, his extraordinary contribution to the Nation's major museums ensured that his name will live on, along with the magnificent artistic treasures he and his family so generously donated.

As an art dealer, he was, by any measure, a success. But his refreshingly modest attitude toward the worldly goods he accumulated bears repeating. Many of these were priceless antiquities from ancient Greece, Rome, and Etruria. If I may quote from the New York Times obituary:

"No one owns a work of art," he said. "You're the custodian of it for the future. You take care of it, you have the pleasure of living with it, and then you pass it on. It is our hope that we leave it to the public."

Here in Washington, he helped establish the Archives of American Art, a wonderful research resource of the Smithsonian Institution. In New York, the Lawrence A. and Barbara Fleischman Gallery of American Art will stand as long as the Metropolitan Museum stands, as well as the three other galleries the couple so thoughtfully supported. He has also promised the New York Public Library a substantial gift.

In short, Lawrence Fleischman was a philanthropist, a word with a distinctly archaic ring to it. But in an age of private wealth and public stringency, it is a word we need to hear much more often.

There being no objection, I ask that the full text of Carol Vogel's obituary from the February 4 New York Times be printed in the RECORD.

The obituary follows:

[From the New York Times, Feb. 4, 1997]

LAWRENCE A. FLEISCHMAN, 71, AN ART DEALER

(By Carol Vogel)

Lawrence A. Fleischman, chairman and chief executive officer of Kennedy Galleries in Manhattan, an authority on American art from the 18th through 20th centuries and a major collector of antiquities, died on Friday at his home in London. He was 71 and also lived in Manhattan.

The cause was heart failure, said Lillian Brenwasser, vice president of Kennedy Galleries.

Besides being an expert on American art, Mr. Fleischman was known for his philanthropic activities. In June, he and his wife, Barbara, gave a large portion of their antiquities collection to the J. Paul Getty Museum in Malibu, Calif. In an arrangement whereby they donated most of the collection and the Getty purchased the rest, the museum was able to add about 300 objects, worth an estimated $80 billion, to its collection.

The works, from ancient Greece, Rome and Etruria, dated from 2800 B.C. to A.D. 400. They had been collected by the Fleischmans over the last 40 years.

The Fleischmans have also been major supporters of the British Museum as well as the Metropolitan Museum of Art, the Detroit Institute of Art, the Cleveland Museum and the Vatican Museum.

In 1982 the couple endowed a chair in the Metropolitan Museum's department of American art and supported the installation of three galleries in its American Wing that feature examples of American art from the museum's permanent collections. The Lawrence A. and Barbara Fleischman Gallery is an oval room that houses John Vanderlyn's "Panoramic View of the Palace of Versailles (1818–1819). A room endowed by Kennedy Galleries is filled with folk and painted furniture as well as decorative arts. The third gallery, the Martha and Rebecca Fleischman Gallery, named after the couple's daughters, shows American examples of 19th-century revival styles.

In 1983 the Fleischmans also gave money to establish a gallery of late medieval secular art at the museum that also is named after them. A decade later they helped underwrite a permanent position for a senior scholar in the Met's department of Greek and Roman art.

Mr. Fleischman worked to foster wider appreciation of American art. He served on a White House advisory committee during the Kennedy and Johnson administrations and was co-founder with the art historian E. P. Richardson of the Archives of American Art, which was created as a primary art research resource for writers and scholars and is now a part of the Smithsonian Institution.

Mr. Fleischman also founded the American Art Journal in 1969 and was a board member of the Art Dealers Association of America and a fellow of the Pierpont Morgan Library. In 1991 he became chairman of Caryatides, a group that supports the British Museum's department of Greek and Roman antiquities. He also began and was chairman of the American Friends of the British Museum.

In 1978 Pope Paul VI named Mr. Fleischman a Papal Knight of the Order of St. Sylvester and in 1986 he was named a Knight-Commander of St. Sylvester, one of the highest distinctions a lay person can receive from the church.

Born in 1925 in Detroit, Mr. Fleischman studied at the Western Military Academy in Alton, Ill., at Purdue University and at the University of Detroit, from which he graduated in 1948. That year he married Barbara Greenberg.

His interest in antiquities had begun during World War II when, as a soldier stationed in Paris, he visited ancient Roman sites.

In 1966 he and his family moved from Detroit to New York, where he became a partner in Kennedy Galleries.

Mr. Fleischman had recently committed himself to refurbishing a room at the British Museum and had just promised the New York Public Library a gift described by the Kennedy Galleries to be "in the seven figures."

In addition to his wife and his daughters, Rebecca, of Portland, Ore., and Martha, president of Kennedy Galleries, he is survived by a son, Arthur, of Boston.

Mr. Fleischman always insisted that he and his wife were only "temporary custodians" of their collections.

"No one owns a work of art," he said. "You're the custodian of it for the future. You take care of it, you have the pleasure of living with it, and then you pass it on. It is our hope that we leave it to the public."•

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE REPUBLIC OF CHILE

Mr. COATS. Mr. President, I ask unanimous consent that the President pro tempore 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 His Excellency, Eduardo Frei, President of the Republic of Chile, into the House Chamber for the joint meeting on Thursday, February 27, 1997.

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

AUTHORIZATION TO AWARD A GOLD MEDAL TO FRANCIS ALBERT "FRANK" SINATRA

Mr. COATS. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 305, and, further, the Senate proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 305) to authorize the President to award a gold medal on the behalf of Congress to Francis Albert "Frank" Sinatra in recognition of his outstanding and enduring contributions through his entertainment career and humanitarian activities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. D'AMATO. Mr. President, today I rise to once more address a bill I introduced earlier this month. A bill to award a congressional gold medal to not only recognize Frank Sinatra, as one of the most notable entertainers of our time, but also to recognize his unsurpassed humanitarian efforts.

I am speaking of Frank Sinatra's generous and unostentatious philanthropic accomplishments. This one man has raised hundreds of millions of dollars to benefit the poor, the hungry, the chronically and terminally ill, and a variety of charities for children all over the world.

The lives of countless ailing youngsters have been touched by the benevolence of Frank Sinatra through his funding of entire hospital units dedicated to caring for children. Specifically, the Frank Sinatra Child Care Unit at St. Jude's Children's Research Center in Memphis, TN, and the Sinatra Family Children's Unit for the Chronically Ill at Children's Orthopedic Hospital in Seattle, WA.

Let me mention two examples of Frank Sinatra's generosity. This great man set out on a world tour to benefit children's hospitals, orphanages, and schools. He personally and completely financed 30 concerts in 10 weeks stopping in the international capitals of the world. All in all he raised more than $1 million throughout this effort. And that was in 1962.

More recently, starting in 1979, Frank Sinatra coordinated a historical series of five annual concerts showcasing and sharing the stage with renowned entertainers such as Ella Fitzgerald, Victor Borge, Diana Ross, and opera singers Luciano Pavarotti, Placido Domingo, and Montserrat Caballe.

These five concerts generated $11 million, I repeat, $11 million for the Frank Sinatra Fund of the Memorial Sloan-Kettering Cancer Center. These donations have helped ensure that patients of the cancer center who cannot afford treatment are not turned away.

Frank Sinatra's generosity has channeled money for strengthening educational opportunities and programs for inner-city youths as well as university coeds. Examples of his work stretch from Hoboken, NJ, to the Hebrew University in Jerusalem and many points in between.

Not only has Frank Sinatra done more than a lion's share to assist his fellow man, he has done so through anonymity. He is not one to trumpet his goodwill. And that, Mr. President is a class act.

I am proud to say that support for this bill from my colleagues has been overwhelming. I thank all of my friends on both sides of the aisle who have looked to the goodness in a fellow man and made the easy decision to recognize that goodness.

Mr. President, that is the right thing to do. That is what we should do more of. We should rally 'round and show our thanks for the goodwill of individuals who willingly share the fruits of their success with those less fortunate.

On another note, Mr. President, I feel very strongly that the pubic sale of bronze duplicates of the original Frank Sinatra gold medal has a very real potential to raise money for the Treasury.

Mr. COATS. I ask unanimous consent the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the record.

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

The bill (S. 305) was deemed read a third time and passed, as follows:

S. 305

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) Francis Albert "Frank" Sinatra has touched the lives of millions around the world and across generations through his outstanding career in entertainment, which has spanned more than 5 decades;

(2) Frank Sinatra has significantly contributed to the entertainment industry through his endeavors as a producer, director, actor, and gifted vocalist;

(3) the humanitarian contributions of Frank Sinatra have been recognized in the forms of a Lifetime Achievement Award from the NAACP, the Jean Hersholt Humanitarian Award from the Academy of Motion Picture Arts and Sciences, the Presidential Medal of Freedom Award, and the George Foster Peabody Award; and

(4) the entertainment accomplishments of Frank Sinatra, including the release of more than 50 albums and appearances in more than 60 films, have been recognized in the forms of the Screen Actors Guild Award, the Kennedy Center Honors, 8 Grammy Awards from the National Academy of Recording Arts and Science, 2 Academy Awards from the Academy of Motion Picture Arts and Sciences, and an Emmy Award.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Francis Albert "Frank" Sinatra in recognition of his outstanding and enduring contributions through his entertainment career and numerous humanitarian activities.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be charged against the Numismatic Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medal authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sales of duplicate bronze medals under section 3 shall be deposited in the Numismatic Public Enterprise Fund.

ORDERS FOR THURSDAY, FEBRUARY 27, 1997

Mr. COATS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Thursday, February 27. I further ask that immediately following the prayer, the routine requests through the morning hour be granted, and that the Senate then resume consideration of Senate Joint Resolution 1, the constitutional amendment requiring a balanced budget.

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

PROGRAM

Mr. COATS. For the information of all Senators, by previous order, tomorrow morning the Senate will begin 90 minutes of debate on the Graham amendment. Following the vote on or in relation to the Graham amendment, the Senate will then debate several amendments to the balanced budget amendment with rollcall votes occurring on those amendments later in the afternoon. Following those stacked votes later in the afternoon, the Senate

will debate Senator BUMPER's amendment to Senate Joint Resolution 1. Therefore, all members can expect additional votes during Thursday's session.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. COATS. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:05 p.m., adjourned until Thursday, February 27, 1997, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate February 26, 1997:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. GEORGE T. BABBITT, JR., 3032.

EXTENSIONS OF REMARKS

REPORT BY THE DELEGATION OF THE UNITED STATES ASSOCIATION OF FORMER MEMBERS OF CONGRESS VISIT TO CUBA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. HAMILTON. Mr. Speaker, I am pleased to submit to the record the following policy recommendations from the report by the delegation of the United States Association of Former Members of Congress visit to Cuba. I commend the members of the delegation—Hon. Louis J. Frey, Jr., Hon. James W. Symington, Hon. Michael Barnes, Hon. Jon Christensen, Hon. Dennis DeConcini, Hon. Toby Roth, Mr. Walter Raymond, Jr., and Ambassador Timothy Towell—for their decision to take the trip and study this pressing issue in U.S. foreign policy.

As my colleagues will see, the delegation's policy recommendations amount to a serious reexamination of United States policy toward Cuba. This call for a reexamination of policy is not based on some nostalgic view of the dictator—Castro—who continues his grip on power in Cuba. In fact, by calling for the release of political prisoners and for free and fair elections, the members of the delegation demonstrate that they clearly understand the dictatorial nature of the Castro regime. These recommendations are made because they advance the United States national interest in a peaceful transition in Cuba away from dictatorship to democracy.

Unsurprisingly, the Cuban economy is in very bad condition, Cubans suffer shortages of basic necessities and electricity, and the Castro police state remains intact. Surprisingly, the majority of the dissidents the delegation met with in Cuba stated their opposition to the Helms-Burton law. According to the delegation's report, many dissidents favor an increased flow of people, information, and ideas into Cuba. It is this increased flow of people and information to Cuba, not the continued isolation of that nation's people, that poses the greatest threat to the Castro regime.

REPORT BY THE DELEGATION OF THE U.S. ASSOCIATION OF FORMER MEMBERS OF CONGRESS VISIT TO CUBA, DECEMBER 9–14, 1996

Possible actions envisioned by the delegation to be taken in 1997 include:

(1) A comprehensive bilateral program to reduce drug trafficking. The effort which led to the recent 6-ton cocaine bust should be expanded. Consideration might be given to developing joint counter-narcotics interdiction strategies, including undertaking joint naval patrols in the Bahamas and in Cuban and U.S. waters.

(2) Visit by the International Human Rights Law Group to monitor the judicial process. This idea was raised with Minister of Justice Sotolongo who said he received many visits, but he was not closed to the idea. He said Cuban sovereignty and principles would have to be observed. The delegation urged the Minister to review all convictions, as a satisfactory resolution of cases concerning prisoners of conscience would evoke a positive U.S. response.

(3) Consultation with U.S. nuclear experts before completion and operation of Cuba's first nuclear plant. The delegation urged closer international supervision and were advised that IAEA had paid a visit. The plant is being built with Russian equipment and technology and, with the precedent of the Chernobyl plant disaster in Ukraine, is a cause of international concern. The Cuban officials took pains to remind the delegation that they are as interested as the United States in constructing a safe facility. An offer of a visit by a technical group from the southern United States (possibly Florida) whose citizens would be the most directly affected by any nuclear waste, emissions or malfunction should be considered.

(4) Support for human rights in Cuba. The delegation urges the U.S. Government, in conjunction with the EU, to press for the initiation of a process permitting free and open elections, maintained by a responsible international body. Further, the Cubans should be urged to invite the International Committee of the Red Cross to examine the conditions of Cuban prisons. Such a demarche to the Cubans would probably most effectively be pressed through the appropriate third party from the EU or Central Europe. The concurrent release of a number of political prisoners, estimated by the dissidents at 300–500, would be a dramatic gesture with little downside. In the judgment of the delegation, the political prisoners are considered as political chips and insurance rather than a security threat.

(5) An offer to open property settlement discussions. The Cubans acknowledge that this is still an outstanding issue in the bilateral relationship, but politics aside, they have neither the funds nor the will to make a new offer, unless it is part of a larger negotiation concerning bilateral relations. Nevertheless, an effort should be made to establish a process with a payment schedule even if actual funding is deferred to a future date.

(6) The elimination of barriers to two-way communication. This could range from the current—and significant—establishment of the CNN Bureau to the sale of Western books, magazines and papers and the removal of impediments to Internet connections. In this regard, the delegation was advised by the democratic opposition that TV Marti is never heard in Cuba except by party officials who have satellite dishes. Ordinary Cubans cannot own a satellite dish. Congress should explore how effective TV Marti actually is and if it proves to be as ineffective as the delegation was advised, funding should be stopped for TV Marti. These funds, however, should continue to be allocated for information programming to Cuba. The delegation believes the estimated $12 million currently allocated for TV Marti could be effectively spent on more informational and academic exchanges and improvements to other communications channels including the provision of a broad Internet capability. In addition, serious program attention should be given to developing and broadcasting, via a variety of communication channels, basic educational materials concerning the development of a political and economic democracy. Paralleling U.S. programming to Central/East Europe and the NIS, the time is right to provide materials to support a peaceful transition in Cuban.

(7) Lifting of restrictions on air travel from the United States to Cuba. This could be done on a step-by-step basis, such as for holidays, to monitor the new arrangements. However, it should be noted that Americans do get to the island now through a very complicated routing. The FMC delegation, for example, traveled via Costa Rica and Mexico. Others go via Nassau and, in comparatively large numbers, travel onward to Cuba by charter. In other words, travel restrictions are finessed and the difficulties imposed are counterproductive. These restrictions do not appear to have any redeeming value. Lifting them would facilitate and energize a range of contacts between Cubans in Cuba, their relatives in the United States and with the wider American community. Such contacts would provide a source of physical and moral support to the Cuban citizens and could temper the conduct and course of the regime itself.

(8) The removal of barriers to humanitarian assistance. Discussions with Caritas, the international arm of the U.S.-based Catholic Relief Services, were very positive and members of the delegation will be in further communication with it. Other channels may also be explored. The Cuban-American community in the United States has been very helpful in assisting their families, but the current restrictions have reduced this assistance. The delegation sees no reason to create obstacles to such assistance.

(9) The removal of remaining impediments to exchange programs. Significant increases in exchanges should be authorized and, as needed, financed. On the basis of our discussions with faculty and students, stringent visa restrictions—which they said appeared to be getting tighter—have directly hampered two-way student and professor exchanges involving the University of Havana. On the basis of the knowledge of the important role such exchanges have played in the past and continue to play in Central/East Europe and the NIS, the free flow of information can directly benefit the democratization process.

(10) A U.S. Government call for the formal adoption of the "Sullivan-Arcos Principles" by the foreign investment community (EU, U.S. and others) as an integral component of their business arrangements in Cuba. International and domestic trade unions should be urged to enlist their support and intercession with Western governments and the business community.

(11) Enhanced foundation support for academic and scholastic programs. The MacArthur and Kellogg Foundations currently support the Center for American Studies at the University of Havana. Others with equivalent interests should be encouraged to determine if such programs (see Paragraph 5 above) meet their criteria for support.

(12) Development of a Speakers Program. Encourage the extension of speaking invitations from non-governmental Cuban groups to U.S. leaders. The delegation asked if Billy Graham were to visit Cuba could he speak to the Cuban people. The answer was that if invited by a Cuban institution, Billy Graham and other religious leaders could visit and speak in Cuba. By this measure, the openings for speaking engagements for scientific, cultural, farm and business leaders would be considerable.

(13) Consideration by Members of Congress of fact-finding trips to Cuba. Hill staffers from the House and Senate foreign affairs committees have been invited to visit Cuba and should be encouraged to do so.

The FMC delegation believes that the contacts developed and candid discussions which took place in mid-December in Havana were an important start. The bipartisan quality of the group, its liberal to conservative construction, and its ability to be one step removed from the direct domestic political pressure that a formal Congressional delegation would have suggest that this opening should be pursued. The delegation was asked by the Cubans to plan a sequel trip at an appropriate time in the future and the FMC will consider such a possibility if and when it appears such a mission could serve a constructive purpose.

Representative Louis Frey, Jr., Republican-Florida (1969–1979), Chairman of Delegation; Representative Toby Roth, Republican-Wisconsin (1981–1997); Representative Jon Christensen, Republican-Nebraska (1995——); Representative James Symington, Democrat-Missouri (1969–1979), Vice Chairman of Delegation; Senator Dennis DeConcini, Democrat-Arizona (1977–1995); Representative Michael D. Barnes, Democrat-Maryland (1979–1985).

FOREIGN SUBSIDIARY TAX EQUITY ACT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. TRAFICANT. Mr. Speaker, today, I introduced the Foreign Subsidiary Tax Equity Act, a bill to discourage domestic corporations from establishing foreign manufacturing subsidiaries in order to avoid Federal taxes. I urge all Members to cosponsor this important legislation.

The bill is long overdue. American manufacturers have abused the good faith of the American workers by developing manufacturing processes in this country then moving production facilities overseas while handing out pink slips to workers here in America. Despite the fact that the American worker is the most productive and talented laborer in the world, many U.S. manufacturers, lured by cheap labor costs and tax holidays, have closed down plants and moved operations to countries like Mexico, Taiwan, and South Korea. Using the complex Tax Code to their advantage, some U.S. corporations pay next to nothing in Federal taxes. How can we as a Congress justify these policies?

Under my bill, foreign subsidiaries of U.S. companies located in countries that provide tax holidays and other tax breaks and ship a significant portion of their products into the United States, would be taxed as if that subsidiary were located in the United States. My bill is designed to discourage tax-motivated foreign investment while protecting the jobs of your constituents.

I have always argued that many of America's social problems—crime, welfare abuse, health care costs, unemployment, and a breakdown in family values—lie in our trade and taxation policies. If we forced rogue multinationals to pay their fair share to the U.S. Treasury, we would be able to better tackle these problems.

I urge all Members to cosponsor this bill.

A LABOR OF LOVE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. HYDE. Mr. Speaker, please permit me to share with my colleagues the text of a very touching letter U.S. Air Force Maj. William F. Smith wrote to a truly extraordinary man, Mr. Zachary Fisher.

Mr. Fisher is well-known to the men and women of our Nation's Armed Forces. With his wife, he established the Zachary and Elizabeth Fisher Armed Services Foundation to provide scholarships for service men and women and their families. To date, more than 700 scholarships have been awarded. The Fishers also provide direct financial assistance to families of military personnel killed in the line of duty.

In 1990, Zachary and Elizabeth undertook an important and unique project called Fisher House, to provide shelter near hospitals at major American military bases. The houses provide a home away from home for the families of military personnel recovering from illness at the adjacent hospitals. To date, 25 Fisher Houses have been constructed, with plans for several more.

Mr. Fisher is also the founder of the Intrepid Sea Air Space Museum, the world's largest maritime museum, located on New York's Hudson River.

The Fishers latest philanthropic effort is directed toward finding a cure for Alzheimer's disease, which affects more than 4 million Americans. The Fishers have established the Zachary and Elizabeth Fisher Center for Alzheimer's Research, which is the largest and best equipped laboratory devoted wholly to Alzheimer's research. Working in union with David Rockefeller and Rockefeller University, the Fishers have an ambitious goal, to create a model center for patient care and research.

Major Smith, who is stationed at Andrews Air Force Base, MD, penned this letter to Zachary following the dedication of a Fisher House on base. I commend it to my colleagues:

DEAR MR. FISHER: I am writing to thank you for the special gift you gave us here at Andrews Air Force Base on September 26, 1994. No, I'm not talking about the Fisher House although I do appreciate you building it and am thankful for all the good it will do for our community. I'm talking about the gift of love, and more specifically the gift you gave us of how to love. As I stood in the back and listened to the speeches honoring you I became mesmerized with the say you doted over your wife. Prior to your arrival I wondered what you would look like and how you would act. I guess I wondered about your character since a lot of men with wealth and power have fairly predictable characters. So as I stood in the midst of affluence and opulence I began to assess your character and I was impressed and inspired. The way you smiled at her and held her hand and took the time to explain things to her touched me very deeply. It occurred to me that I may be standing in a holy place, a place where true, unconditional love is alive in a special man. At the end of the ceremony the officer standing next to me said "that was pretty impressive wasn't it?" I said "I don't know what impressed you, but I think we just witnessed the finest example of how we should love our wives." He looked at me a moment contemplating my comment and said, "Yes, I think you're right."

When I got home I told my wife about what I saw. When I began to describe how you started your speech saying, "Honey I think I should give you a kiss to remind us of how much we love each other," I began to cry. Then I kissed my wife and told her I found someone who loves his wife as much as I love mine. And that night as she lay asleep in bed I put my arms around her and held her and told her I love her and I kept holding her and she didn't know it. I think that is a sacred act, to love someone when they may not know it.

You are the luckiest man in the world, you have love in your heart. And so, even though I don't have the wealth you have, I am just as lucky as you, and I thank you for reminding me how lucky I am. Thank you.

Sincerely,

WILLIAM D. SMITH,
Major, USAF.

WILMINGTON CELEBRATES ITS 175TH BIRTHDAY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. SOLOMON. Mr. Speaker, on March 22, the Essex County Town of Wilmington will celebrate its 175th Birthday.

As far as I'm concerned, Mr. Speaker, the nicest thing to happen to me in the 1990's is the addition of most of Essex County to the district I have the pleasure of representing. The town of Wilmington is typical of the region, one of hardy winters and friendly people. It is in such towns that the values and virtues that made America great have been developed to their fullest.

These values and virtues include self-reliance and a spirit of volunteerism, which is nothing more than an instinctive response to a neighbor in need.

America is not really defined by her soaring skyscrapers and sprawling shopping malls. She is defined by her small towns, where everyone knows each other like a large, extended family. It is actually possible to walk the streets at night in such towns.

Everything is on a smaller scale in such towns, everything that is, except the geneosity and love of one's fellow man. Church steeples invariably pierce the horizons of such towns,

reflecting the deep and abiding religious faith without which these values and virtues could not survive.

I invite Members to visit the area some day, perhaps on your way to enjoy the local seasonal sports. You will enjoy as well as open friendliness and picturesque scenery, and finally discover why I make it a point to go home every weekend.

Mr. Speaker, I ask you and all Members to join me in wishing the town of Wilmington a happy 175th birthday, and in congratulating Supervisor Roy C. Holzer, other town officials, and the entire populace for bringing the town into the 21st century without changing what is great about small-town American life.

LEGISLATION TO PROVIDE VETERANS BENEFITS TO MEMBERS OF THE PHILIPPINE COMMONWEALTH ARMY AND THE MEMBERS OF THE SPECIAL PHILIPPINE SCOUTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. GILMAN. Mr. Speaker, I am proud to introduce legislation to amend title 38, of the U.S. Code, to provide that persons considered to be members of the Philippine Commonwealth Army veterans and members of the Special Philippine Scouts—by reason of service with the Armed Forces during World War II—should be eligible for full veterans benefits from the Department of Veterans' Affairs.

We must correct the grave injustice that has befallen this brave group of veterans, since their valiant service, on behalf of the United States, during World War II.

On July 26, 1941, President Roosevelt issued a military order, pursuant to the Philippines Independence Act of 1934, calling members of the Philippine Commonwealth Army into the service of the United States Forces of the Far East, under the command of Lt. Gen. Douglas MacArthur.

For almost 4 years, over one hundred thousand Filipinos, of the Philippine Commonwealth Army fought alongside the Allies to reclaim the Philippine Islands from Japan. Regrettably, in return, Congress enacted the Rescission Act of 1946. This measure limited veterans eligibility for service-connected disabilities and death compensation and also denied the members of the Philippine Commonwealth Army the honor of being recognized as veterans of the United States Armed Forces.

A second group, the Special Philippine Scouts called New Scouts who enlisted in the U.S. Armed Forces after October 6, 1945, primarily to perform occupational duty in the Pacific, were similarly excluded from benefits.

I believe it is long overdue to correct this injustice and to provide the members of the Philippine Commonwealth Army and the Special Philippine Scouts with the benefits and the services that they valiantly earned during their service in World War II.

Accordingly, I have introduced legislation, H.R. 836 that will provide veterans of the Philippine Commonwealth Army and the Special Philippine Scouts with the benefits, the compensation, and most importantly with the recognition they courageously earned.

I urge my colleagues to carefully review this legislation that corrects this grave injustice and provides veterans benefits to members of the Philippines Commonwealth Army and the members of the Special Philippine Scouts.

Mr. Speaker, I request that the full text of H.R. 836 be included at this point in the RECORD.

H.R. 836

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 "Filipino Veterans Equity Act of 1995".

SEC. 2. CERTAIN SERVICE IN THE ORGANIZED MILITARY FORCES OF THE PHILIPPINES AND THE PHILIPPINE SCOUTS DEEMED TO BE ACTIVE SERVICE.

(a) IN GENERAL.—Section 107 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "not" after "Army of the United States, shall"; and

(B) by striking out ", except benefits under—" and all that follows and inserting in lieu thereof a period; and

(2) in subsection (b)—

(A) by striking out "not" after "Armed Forces Voluntary Recruitment Act of 1945 shall"; and

(B) by striking out "except—" and all that follows and inserting in lieu thereof a period.

(b) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 107. Certain service deemed to be active service: service in organized military forces of the Philippines and in the Philippine Scouts".

(2) The item relating to such section in the table of sections at the beginning of chapter 1 of such title is amended to read as follows:

"107. Certain service deemed to be active service: service in organized military forces of the Philippines and in the Philippine Scouts.".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall take effect on .

(b) APPLICABILITY.—No benefits shall accrue to any person for any period before the effective date of this Act by reason of the amendments made by this Act.

HONORING SIOUX TAYLOR

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. ENGEL. Mr. Speaker, today I speak to honor a woman who has done so much for the people of her community, her city and her State. Sioux Taylor has been active in her community, serving since 1992 as commissioner of the Mount Vernon Recreation Dept. and for 14 years before that as executive director of the Mount Vernon Youth Bureau.

But her contributions exceed that service. Since receiving her masters of science from New York University she has served in many capacities; as a member of the steering committee, New York State Coalition for the Aging, chairperson of the Mount Vernon Chapter of the Martin Luther King, Jr., Institute for Social Change, president of the lay organization, Allen Temple AME Church, as a district leader of the Mount Vernon Democratic Party since 1978, and as a member of the executive committee of the Mount Vernon Council Community Services. She was named 1988 social worker of the year for Westchester County and a year later, social worker of the year: New York State. She was awarded the second annual Governor's Award for African-Americans of Distinction. She has served as the convener and first president of Southern Westchester NOW and is a founding member of the National Women's Political Caucus and the Westchester Black Women's Political Caucus.

On her retirement, Sioux Taylor leaves her community far richer for her work. She has been a great help to me, serving as a guide and advisor so I could better represent Mount Vernon in Congress. I join with everyone there in thanking her for all she gave.

ON EDUCATION

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to raise the issue of our commitment to our young people. What can we in Congress really do to help them into the 21st Century? What can we do to make sure they have a future? What will we do to make sure they are ready to compete in a global economy?

Mr. Speaker, you know what we have to do. Everyone in this chamber knows what needs to be done. Education, Education, Education. Fix our schools infrastructure, make our schools safer and give our schools standards that make sense.

With all this talk of bipartisanship politics—and I have to admit the Members on the other side of the aisle have come a long way from the last Congress when they proposed the largest education cuts in history and wanted to abolish the Department of Education—maybe we can do something this term for our young people. Maybe we can agree that Pell grants need be raised. Maybe we can agree that we can give hope to our young people that they have a chance to go to college if they want to go—that their parents will get a break from the huge financial burden of sending their children to college.

Mr. Speaker, we know what we have to do this term, we know what the American people want us to do for our schools and their children. Let's get about the people's business and get it done, let's get going for the sake of our children and for the sake of the future of this country.

MODERNIZING THE WHITE COLLAR EXEMPTION OF THE FAIR LABOR STANDARDS ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. PETRI. Mr. Speaker, on February 6, 1997, I introduced a bill, H.R. 647, to clarify and modernize the white collar exemption of the Fair Labor Standards Act. I hope this bill will receive close attention during this session of Congress.

The Fair Labor Standards Act is intended to protect workers with provisions like the minimum wage and the 40-hour workweek. As a result, any attempt to tinker with the FLSA is immediately perceived as an attack on these basic protections or at least is so portrayed by political opponents. It is apparent, however, that after a half century of hands-off politics, we are left with a law that is out of step with the times and needs improvement.

Two recent developments have brought the issue to a head. First, disgruntled employees have begun to use the FLSA's salary basis test as a tool for seeking revenge and not for logically distinguishing exempt from nonexempt employees. They do this by claiming that anyone subject to a pay reduction for taking partial day leave is not paid on a salary basis and is therefore entitled to overtime pay, including retroactively. The problem would not be so bad if it were limited to a few individual overtime awards; but it is not. Instead, seizing upon a two-word phrase in the regulations, employees and their attorneys have argued that everyone theoretically subject to a technically flawed payroll policy is entitled to the same windfall—regardless of whether the flaw affected any particular employee's pay. Employers, of course, rarely issue separate payroll policies for different groups of exempt employees; thus, every employee, up to the top levels of the corporate boardroom, becomes an equally viable candidate for a large windfall. The potential overtime liability is as enormous as it is irrational.

Furthermore, the FLSA's duties test is being applied on an increasingly arbitrary basis. Concepts like "discretion and independent judgment" have always been difficult to define. These ideas seemed manageable in the era of assembly lines and hierarchical management structures, but this has radically changed. Instead, technology has diversified job duties, service-based employment has proliferated, and even old-line manufacturing operations have moved to team management concepts. In this environment, employers can no longer rely on cookie-cutter paradigms in making duties judgments. Employers often have to guess—and too many are guessing wrong. Even the courts struggle to achieve consistency, reaching irreconcilable results in cases involving the growing ranks of quasi-professionals such as accountants, engineers, insurance adjusters, and journalists.

The legislation I have introduced addresses these problems in three separate ways. First, it restores original understandings of the salary basis test by requiring the Department of Labor and the courts to focus on actual pay reductions rather than speculation as to potential deductions under some nebulous policy. The FLSA still will protect exempt employees from inappropriate practices, since regulatory provisions denying exempt status for employees experiencing actual salary deductions for taking partial day leave would remain unchanged. My legislation, however, will prevent employees from using a policy's theoretical application to extort huge overtime windfalls for company-wide classes of highly paid employees who never could have imagined themselves as nonexempt laborers.

Second, my proposal will address perhaps the most confusing and indefensible requirement among the FLSA's duties tests: the attempted distinction between "production" and "management" workers. Under current regulations, for example, an administrative assistant might meet exemption standards simply by opening a management executive's mail and deciding who should handle it, because such a job is "directly related to management policies or general business operations of the employer or the employer's customers." On the other hand, employees with far more sophisticated, challenging, and lucrative jobs may be nonexempt simply because they work on production tasks. The regulations reasonably expect an administrative employee to exercise a certain level of discretion and independent judgment, and my legislation would not alter that requirement. There is no reason to think, however, that a production or management label on the object of an employee's discretion or judgment has anything to do with that employee's professionalism, or the need for FLSA protections. Therefore, my bill eliminates the requirement that the employee's exercise of discretion and judgment be "directly related to management policies or general business operations of the employer or the employer's customers."

Finally, my legislation would create an income threshold that automatically exempts from FLSA scrutiny the highest paid strata of the workforce. This would directly reverse the trend toward questionable and irrational overtime awards for highly compensated employees. There is no reason that the FLSA, which was passed to protect laborers who "toil in factory and on farm," and who are "helpless victims of their own bargaining weakness," should ever be interpreted to protect workers making high five-figure or six-figure incomes. Yet, without considering the policy implications, courts are reaching such conclusions on an alarmingly frequent basis.

A worker drawing a large salary must perform some valuable services for an employer. Why, then, should that employer have to satisfy a complex set of artificial and archaic duties tests to prove that the employee is valuable? A worker drawing a large salary also must possess considerable bargaining leverage. Why then, should employers be forced, regardless of the employee's needs or preferences, to calculate paychecks only in the inflexible manner dictated by Government salary basis regulations?

The FLSA, in nearly six decades, has strayed from its laudable goal of protecting the poorest and weakest laborers from workplace abuses. The Department of Labor and the courts need to refocus their efforts. By directly exempting highly paid employees and by making long overdue adjustments to the salary and duties tests, my proposal goes a long way toward providing this new direction.

THE 1998 BUDGET

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, February 19, 1997, into the CONGRESSIONAL RECORD.

THE PRESIDENT'S 1998 BUDGET

The most important document in the government is the budget. It is a plan of how the government spends your money, how it pays for its activities, and how it borrows money to pay the bills. It affects the nation's economy, and it is affected by that economy. This month President Clinton sent his 1998 budget to Congress.

The President submitted a $1.687 trillion budget. With revenues projected at $1.567 trillion, that leaves a $120 billion deficit, down slightly from $126 billion in 1997. The President lays out a plan to eliminate the deficit by 2002, while protecting Medicare and Social Security without raising costs to beneficiaries. Unlike previous years, congressional leaders in both parties say the President's plan is not "dead on arrival," and they will use his proposal as a starting point for budget negotiations.

The biggest spending in the President's budget goes for Social Security ($381 billion), Medicare and Medicaid ($310 billion), defense ($260 billion), and interest on the national debt ($250 billion). Non-defense discretionary programs, including education, training, research, housing, infrastructure, and law enforcement, receive a total of $287 billion. The downsizing of the federal workforce continues, with a 14% reduction on track for 1999. More than 250,000 positions have already been eliminated.

Over the next five years, the President would cut back discretionary spending by $137 billion and Medicare and Medicaid by $122 billion. The plan would raise $88 billion by closing tax loopholes, imposing new user fees, and auctioning new television broadcast spectrum rights. The President would restore $18 billion for nutrition programs cut in last year's welfare reform law, and cut taxes for middle-income individuals and certain small business by $98 billion.

The President projects a continuation of a good economic growth and no acceleration of inflation. He believes interest rates will fall markedly as a result of balancing the budget. The President's budget further reduces the deficit and provides middle class tax relief, but it does not do enough to boost investment in the future.

New Priorities: Within his plan, the President has proposed a significant realignment in government priorities. First, the President would increase our emphasis on education by expanding everything from the Head Start program for pre-schoolers to tax credits for college tuition and adult job training. Second, the President would extend health care coverage to children and unemployed families who currently lack health care coverage.

It is appropriate to reassess our proprieties, even as we cut back on the scope of

government programs. The President's emphasis on education reflects growing public sentiment that we should pay more attention to the problems of our education system. Health care, especially for children, remains a critical issue for many families. I agree with these priorities, but have concerns about the specifics. Some of the President's education plans might create as many risks as rewards. For example, the tax credit for college students with a B average could push colleges to raise tuition, pressure professors to boost student grades, or require the IRS to monitor college transcripts. In broadening health care coverage, we must be careful not to create new runaway entitlements. In prioritizing budget cuts, we should also remember that the major cuts in spending in the last Congress were on assistance to the poor. The rest of us got a bye.

Other Investment: The President misses the mark by adding new investment only in education. Spending on roads, bridges, harbors, airports, and water systems, along with research in science and technology, is essential for new economic growth and for an increase in our living standards. I am concerned that the President would not increase this spending to keep up with inflation—or our global competitors. My view is that the nation's major economic problem is slow growth. We must accelerate economic growth by increasing investment in infrastructure and research.

Long-term changes: A key question is whether or not the budget will remain balanced beyond 2002. My concern is that unless the President and Congress make sweeping changes in the budget now, the deficit will bounce back after 2002. The President postpones the tough budget choices by shifting too many cuts to the last 2 years of his plan, after he leaves office. He also uses a number of one-time savings (such as selling government assets) to achieve balance in 2002. These one-time fixes do not really address the fundamental problem of overspending.

We have not yet begun to make the necessary decisions to get our fiscal house in long-term order. The underlying budget problem facing our country is the aging population. In fifteen years, baby boomers will begin retiring, placing great strains on programs for older Americans—Social Security, Medicare, and Medicaid. Each of these programs is reasonably secure for the short-term, but long-term reforms must begin now. It will be less painful and less costly to act early. Choices must be made soon on proposed changes to cost-of-living adjustments, subsidies for wealthier recipients, the retirement age, payroll taxes, and the role of private markets in strengthening Social Security and Medicare.

Prospects: The outlook is good for a balanced budget agreement. The mood of key players in Congress and the White House is positive, economic growth is creating higher revenues than expected, and health care costs are constrained. The President and leaders of both parties have had productive meetings to discuss their common ground on the budget. The most contentious issue will likely be the size and shape of tax cuts. The President wants targeted cuts for education, children, and capital gains on the sale of a home. The congressional leadership plans much larger, broad-based reductions. In our efforts to enact politically popular tax cuts, we must not rely on rosy assumptions about future growth or the likelihood that future Congresses will cut popular programs.

Conclusion: At its heart, the President's budget is a political document, designed to gain political advantage in negotiations. I do not view this budget proposal as a powerful document that addresses long-term challenges. Rather, it is an opening bid in the long process to balance the budget. In a few places, it modestly pushes the country in the right direction. It deals with long-term structural problems only on the margins.

AMERICANS FOR DEMOCRATIC ACTION TRIBUTE

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mrs. MINK of Hawaii. Mr. Speaker, for 50 years the Americans for Democratic Action have served this Nation as the liberal conscience covering all issues that affect and confront our lives. While there are numerous liberal single issue organizations that have carved out extraordinary roles in developing American political thought, none have the scope and history as does the Americans for Democratic Action [ADA].

When I came to Congress first in 1965, with the war in Vietnam just beginning to awaken the protests of our youth all across our college campuses, it was the ADA that helped me to put the focus of criticism on process and peace. From 1965 to 1975 until this war ended unceremoniously, the ADA assiduously guarded the civil liberties of our citizens from the emotional and fanatical tirades of those who could not see the painful sacrifices this country was making of its young for a yet undeclared war.

The ADA was formed to serve as an independent political organization. That its politics is more Democratic than Republican is no accident. Its founders were illustrious persons like Eleanor Roosevelt who after her husband's death rose to the ranks of First Lady of the World; Walter Reuther, who created a labor movement involved in social and economic policies well outside ordinary labor politics, and scholars like John Kenneth Galbraith, whose views helped to steer this Nation to economic growth and greater prosperity for the struggling middle class. Vice President Hubert Humphrey was also a founder of ADA.

ADA for 50 years has attracted into its ranks the great voices of political activism and its policies have become the bellwether of liberalism for all of America.

ADA was there at the beginning of the civil rights movement. In 1948, it fought valiantly for a strong civil rights plank in the platform of the Democratic Party.

ADA was the place where the policy of full employment became a national goal later called the Humphrey-Hawkins Full Employment Act, still guided by Leon Shull.

Empowering workers to see that politics was a way toward improvement of working conditions, wages, and job security gave ADA goals to achieve by working closely with the labor movement. Many of labor's leaders continue to serve as ADA's national vice presidents.

I was elected national president of ADA in 1978 and served in that capacity until 1981. During my tenure, ADA under the guidance of Winn Newman advanced pay comparability policies for women that brought the pay equity debate into an examination of the value of work that women do.

ADA is a movement constantly reaching out to new challenges and new areas of leadership.

Its current president, Jack Sheinkman, was the head of the Amalgamated Clothing and Textile Workers Union before he was elected ADA's national president. The executive director is Amy Isaacs who is in charge of its day to day operations. ADA is a national membership organization, but unlike others, it services 22 local chapters all across the country, with approximately 65,000 members.

Among our present and former Members of Congress who served ADA as national president: Hubert Humphrey, Don Edwards, Al Lowenstein, Don Fraser, George McGovern, Robert Drinan, BARNEY FRANK, TED WEISS, CHARLES RANGEL, PAUL WELLSTONE, and JOHN LEWIS. I was its first and only woman president.

Happy 50th birthday Americans for Democratic Action. And may you have many more.

A POINT OF LIGHT FOR ALL AMERICANS: CHARLES E. INNISS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. OWENS. Mr. Speaker, I rise today to honor an individual who devoted his life to public service and community charity. Charles Inniss' life of 61 years has left an indelible impression on all with whom he came in contact. Although he has passed, his life will remain a testament that human compassion is one of the virtues that matters most in life. Charles Inniss was a model human being and a great "point of light" whose contributions must not go unacknowledged.

He was a business administrator, a creative technician, and an artist all combined. He could walk with kings and never lose the common touch. Throughout his professional life at Brooklyn Union Gas. Mr. Inniss was viewed as dedicated, committed, and caring. He joined Brooklyn Union in 1979 as assistant manager in public relations and communications and retired in 1995 as vice president of the urban affairs division. Before joining Brooklyn Union, he served as assistant district service manager at Dun & Bradstreet, executive director of Studio Museum in Harlem, director of area development for the Bedford-Stuyvesant Restoration Corp., administrator of Brooklyn Model Cities, and director of public information and development at the Brooklyn Public Library.

It has been Mr. Inniss' humanitarian deeds that have earned him the greatest respect and admiration of those lives he has touched. He devoted his life to public service by serving on more than 25 charitable organizations. He served actively in the following organizations: the Brooklyn Arts Council, the board for the Brooklyn Children's Museum, the board for the Marcus Garvey Nursing Home, the American Association of Blacks in Energy, the Staten Island Zoological Society, the board for Catholic International, the Mayor's New York City Advisory Cultural Commission, and the Black Officers Association.

Throughout the years, Charles Inniss worked diligently in positions that he found to be beneficial to the community. He was cofounder of Career Opportunities for Brooklyn Youth, director and past chairman of the Studio Museum in Harlem, chairman of Neighborhood Artists, and past chair of the American Gas Foundation. In 1992, he was appointed by the Governor to the City University of New York board of trustees and served as chair of the university's construction fund.

Mr. Inniss has been recognized for his contributions to a broad spectrum of cultural, educational, and social services agencies, institutions and organizations. The Franciscan Sisters for the Poor named their new residence for homeless men the Charles E. Inniss St. Joseph Franciscan House in honor of his dedicated service to the organization. In addition, Mr. Inniss received an honorary doctorate of laws from St. Joseph's College, the Brooklyn Botanic Garden's Forsythia Award, the Franciscan Sisters of the Poor Heritage Award, and the President's Medal for Kingsborough Community College.

Probably the most outstanding feature of Charles Inniss' character and style was his refusal to be shackled by formality and bureaucracy. He supported programs in need when his own eyes and ears told him they were positive and productive. A lack of paperwork and the appropriate statistics never prevented funding activities deemed useful to the community. Mr. Inniss made Brooklyn Union one of the earliest sponsors of the Central Brooklyn Martin Luther King Commission which is now in its 12th year of service to the community.

Mr. Inniss was born in Harlem, NY and spent the formative years of his childhood in the East Bronx. He is a graduate of Evander Childs High School and served as captain of the 369th Artillery Battalion. He received a bachelor of science degree and master of public administration degree from New York University.

Charles Inniss is survived by his wife, Marge; a brother, Wilbur; two sisters, Norma and Frances; a sister-in-law, Madelaine; one niece, Wendy Woodland; one nephew, David; two grand-nephews, Christopher and Bryan; and a host of beloved and other family members.

Service to community is an unselfish and difficult calling. Consistently, Charles Inniss has made it appear to be effortless by playing a pivotal role in virtually every aspect of the lives of the people of New York. I sincerely appreciate the richness and dedication that marked Mr. Inniss' life. Charles E. Inniss is a great "point of light" for all of the people of America to revere.

GAO STUDY BILL

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. TRAFICANT. Mr. Speaker, proponents of the flat tax, and there are many, argue that a flat tax would be more fair to Americans than a progressive income tax. Meanwhile, the proponents of the consumption tax tout the elimination of the Internal Revenue Service as a chief benefit. All Americans agree that a simplified Tax Code would eliminate loopholes and complex deductions only a tax attorney and CPA understand.

Since coming to Congress, I have supported the idea of a simplified tax system. I believe that more Americans would pay their taxes if they understood what they owed and they didn't feel they were missing out on some obscure break they overlooked. If you honestly felt that you were paying your fair share, you would have more confidence in the system. Imagine the savings to Americans in tax preparation, not to mention money spent on antacid.

I think the solution is a combination of both. A flat income tax for easy filing coupled with a lower sales tax to get at the money generated by our great economic engine. This plan would incentivize savings, reduce interest rates, drive new business, and generate more economic activity while still maintaining our present level of revenues.

Today, I introduced a bill that calls for the Comptroller of the General Accounting Office to study the effects of my plan, including possible deductions for interest on a home mortgage, college tuition, and a per child deduction. My bill won't change the IRS Code, only require a study of the effects of a change. I am so confident in this plan that I think after the GAO study is complete, the advantages will become apparent.

I think the dire circumstances America finds itself in is a result of our poor tax and trade policies. Our Tax Code rewards dependency and penalizes achievement. This new tax plan would be the first step toward ending the economic crisis we face today.

Mr. Speaker, I urge all Members to cosponsor my bill.

IN SUPPORT OF AMENDING IMMIGRATION REGULATIONS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. GILMAN. Mr. Speaker, I am pleased to join the gentleman from New York [Mr. RANGEL] as a cosponsor of our bill to amend the law concerning communications between Government agencies and the Immigration and Naturalization Service. We appreciate New York City's Mayor Giuliani bringing this important matter to our attention.

As a supporter of last year's welfare reform and illegal immigration, I am aware of the need to address some of their flaws.

The current provisions pose threats to the ability of our local government to protect the public health and safety of their residents.

Let us not discourage undocumented aliens from receiving basic health care services due to their fear of disclosing their status to INS. Otherwise, we would reduce the chances of controlling the spread of communicable diseases.

Effective law enforcement requires the trust and cooperation of all residents, even those who are currently out of status, who may have witnessed or been victims of crime. Our police need the cooperation of all to arrest criminals before they can strike again.

Bear in mind that not all restrictions on communications would be permitted. It mandates that INS and localities exchange information on criminal aliens, regardless of their status.

Accordingly, I urge our colleagues to support this important legislation.

H.R. —

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

SECTION 1. RESTRICTIONS ON COMMUNICATIONS BETWEEN GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.—Section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644) is repealed.

(b) ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208) is amended—

(1) by striking subsections (a) and (b) inserting the following new subsection:

"(a) IN GENERAL.—Notwithstanding any other provision of law, a Federal, State, or local government entity or official may not prohibit any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service any information regarding the immigration status, lawful or unlawful, of any individual who has been convicted of a crime under Federal, State, or local law."; and

(2) by redesignating subsection (c) as subsection (b).

HONORING MARILYN PERLMAN

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. ENGEL. Mr. Speaker, today I rise to honor Marilyn Perlman, who for more than 50 years has contributed to Mount Vernon as a public servant, a public advocate, and a full-time worker for the elderly.

She moved to Mount Vernon, with her new husband, Daniel, more than 50 years ago. She started in local politics by working in the campaign of a friend running for mayor. She became a district leader and subsequently served her city and her community with distinction in many capacities.

She was a great help to me when I first came to Mount Vernon, serving as my guide and introducing me to the many senior programs and people of the Rose Y. She chairs the focal committee for the office of the aging and has served on all the committees relating to older adults. Her activism on behalf of Westchester's senior citizens dates back many years. In 1970, she was hired by the Y to supervise the older adult program, the senior canteen. As part of the aging services network, she was involved in the successful effort to bring the adult day care and kosher nutrition programs to the Y.

Marilyn Perlman has devoted herself totally to her community and her "people," the elderly of Westchester County, accomplishing so

much it leaves us unable to comprehend how we will continue without her. I join the people of Mount Vernon and all of Westchester County in thanking her and in wishing for her the best that life has to offer in her retirement, with the hope that the generosity of spirit she gave to all who had the good fortune to meet her and work with her is returned.

TRIBUTE TO DR. LASALLE D. LEFFALL

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to honor the contributions of an outstanding American, Dr. LaSalle D. Leffall. Dr. Leffall, a distinguished fellow alumnus of Florida A&M University, is the Charles R. Drew professor of surgery at Howard University College of Medicine, and like the namesake of his chair, his accomplishments are too numerous to list. His profound and unselfish dedication to the African-American community, especially in education and medicine, is unsurpassed, and deserves the highest recognition.

Perhaps what distinguishes Dr. Leffall most, Mr. Speaker, is that he epitomizes the concept that education is a ladder. This week Dr. Leffall helped to make that ladder a little easier to climb when he presented a check for $350,000 to Florida A&M University, its largest donation from an individual. When matched with funds from the State of Florida, Dr. Leffall's gift will total more than $500,000. As FAMU's distinguished president, Dr. Frederick Humphries, said, "This is a monumental contribution from one whose extraordinary achievements have brought honor and distinction to his alma mater and his community."

A son of the South, Dr. Leffall was born in Tallahassee, FL, and he was born to be great. He graduated summa cum laude from Florida A&M University at the age of 18, and 4 years later, he received his medical degree from Howard University College of Medicine, ranking first in his class. A scholar and a gentleman, Dr. Leffall is a veteran of the U.S. Army, having achieved the rank of captain, M.C., and having served as chief of general surgery at the U.S. Army Hospital in Munich, Germany, from 1960–61, an extraordinary accomplishment for a person of color at that time.

A diplomate of the American Board of Surgery and fellow of the American College of Surgeons, Dr. Leffall has served as visiting professor and guest lecturer at more than 200 medical institutions in the United States and around the world. He has authored or co-authored more than 120 articles and chapters. His professional life has been devoted in great part to the study of cancer, especially as it relates to African-Americans. In 1979, it was his privilege to serve as national president of the American Cancer Society, through which he launched a landmark program to study the increasing incidence of mortality of cancer in the African-American community.

Dr. Leffall's awards and honors include the Presidential Award, Metropolitan Washington Chapter, American College of Surgeons; the Humanitarian Award, Washington, DC, NAACP; Outstanding Service Award, National Medical Association; National Achievement Award, Democratic National Committee Black Caucus; and the Trumpet Award, CNN Turner Broadcasting System. He has been listed as one of the best doctors in Washington, DC, and Washingtonian of the Year by Washingtonian magazine.

Named in honor of his parents, Dr. Leffall's gift will provide critical scholarships for students and professorships in science at Florida A&M University. Equally important, Dr. Leffall's contribution will help open the doors of knowledge for countless young African-Americans, in whose hands the destiny of our society rests.

As a Member of the U.S. Congress, and having served in public office for 20 years, I have learned what my predecessors clearly understood. You cannot legislate good will: that comes through education. Because of outstanding individuals like Dr. LaSalle Leffall, the process of cultivating good will is a little further advanced. It is my privilege to honor him before my colleagues in the U.S. Congress, and the American public.

TRIBUTE TO ROY D. NEDROW

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. SAXTON. Mr. Speaker, I rise today to honor a man who has committed a lifetime to law and order in the United States. On March 1, 1997, Mr. Roy D. Nedrow will retire as the Director of the Naval Criminal Investigative Service, ending 33 years of law enforcement service to the community at the local and Federal level.

Mr. Nedrow began his law enforcement career in 1964 with the Berkeley, CA Police Department where he served for 6 years, first as a patrolman and later as a training sergeant and detective. In 1970, Mr. Nedrow was appointed a special agent with the U.S. Secret Service, distinguishing himself during assignments in the field and at the Service's headquarters. As a result of his outstanding performance and talents, Mr. Nedrow earned a number of promotions culminating in his appointment to the senior executive service and assignment as the Secret Service's Deputy Assistant Director for the Office of Investigations. As director, he oversaw all investigations and protective support activities conducted by the Service's 1,200 special agents at its more than 100 field locations.

In 1992, Mr. Nedrow retired from the Secret Service to accept appointment as the first civilian Director of the Naval Criminal Investigative Service [NCIS]. His appointment came at a critical time in the Agency's history. His strong leadership and unquestionable integrity restored stability to an agency which needed greater independence and a change of direction. Assembling a team of highly qualified professionals, Director Nedrow overhauled the Service, reorganizing its bureaucracy and providing greater accountability and responsiveness to its customers. He provided the men and women of NCIS with a new vision, the necessary resources and support, and the inspiration to achieve positive change.

Under Director Nedrow's leadership, the Naval Criminal Investigative Service gained national recognition for its innovation in homicide investigation. The Service's approach to the investigation of previously unresolved or cold case homicides was lauded for its innovation and excellence in October 1996 by the International Chiefs of Police [IACP] during its prestigious Webber Seavey Award for Quality in Law Enforcement Ceremony. The NCIS cold case methodology has since been adopted by numerous law enforcement agencies throughout the United States.

Director Nedrow also recognized the problems and anxieties endured by families of deceased servicemembers whose deaths occurred under other than natural circumstances. He created and championed an NCIS Family Liaison Program to assure responsiveness to the needs of, and issues raised by, surviving family members during the death investigation process.

Director Nedrow's legacy of achievements include his establishment of a proven, money-saving alternative dispute resolution personnel program, and a cutting edge and visionary computer crimes investigation group.

Perhaps most impressive of all, Director Nedrow and the dedicated men and women of NCIS have done what very few Federal agencies can claim to have done—they have recovered more taxpayer dollars to the U.S. Treasury than it costs to run the entire agency! From 1993, Director Nedrow's first year at the helm of NCIS, to the end of fiscal year 1996, NCIS procurement fraud special agents investigated 2,355 cases of fraud against the Government, obtained 658 felony indictments, achieved 493 convictions, and recovered over $975.8 million in fraudulent payments, fines, and restitution.

This is a remarkable achievement! This small, elite agency of only 885 special agents, only 114 of whom are procurement fraud specialists assigned to Navy and Marine Corps bases around the world, have proven that while crime doesn't pay, crime fighting does!

Although we are losing the leadership and talents of Director Nedrow to a well-earned retirement on March 1, he leaves behind a team of tenacious investigators working hard to keep our Armed Forces safe and ready. The NCIS team he leaves behind is a lasting tribute—I can think of no finer tribute—to a great leader and a great American. In 1945, renowned journalist Walter Lippman wrote, "The final test of a leader is that he leaves behind him in other men the conviction and the will to carry on." Roy Nedrow has more than met the test. The Naval Criminal Investigative Service is indeed a better agency today than it was when he took over the reins.

Mr. Speaker, I wish to commend Roy Nedrow for his outstanding leadership and lifelong service to our country. I offer him my personal thanks and the thanks of an appreciative nation as he begins a new chapter in his life.

NATIONAL FILM REGISTRY TOUR

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. ABERCROMBIE. Mr. Speaker, I rise today to congratulate the Library of Congress, the Bishop Museum Film Archives, and other institutions, organizations, and individuals who are working to preserve the rich film heritage of this great Nation. The Library of Congress is host to the National Film Preservation Board which advises the Librarian of Congress on selections to the National Film Registry and on national film preservation policy. Through the generosity of the James Madison Council and support from leading directors committed to film preservation, the Library of Congress is sponsoring its second season of the National Film Registry tour. The tour showcases 26 feature films and 10 short subjects from the National Film Registry in their original 35 millimeter or 16 millimeter formats. The American public can enjoy a unique opportunity to sample films from the Library's collections. During its first season, the tour hosted public screenings of a broad variety of classic American films in eight cities across the country.

Each year, the board, members of the public, and the Librarian of Congress select up to 25 films for inclusion on the Registry. The films chosen are not necessarily the best American films ever made nor the most famous. Under the terms of the National Film Preservation Act, films selected for the Registry are those that continue to have enduring cultural, historical, or aesthetic significance.

Created in 1988, the National Film Preservation Board recognizes the vital contribution of film to the American heritage. The perilous state of America's film heritage was documented by the Library and the National Film Preservation Board in "Film Preservation 1993: A Study of the Current State of American Film Preservation." More than half of all American films made before 1951 are lost forever. Film is a fragile medium, and motion pictures, both old and new, face deterioration problems. Only by storing films in low-temperature and low-humidity environments can the decay process be slowed. The majority of American films do not receive this care and are in critical need of preservation.

The National Film Registry Tour pays tribute to American filmmaking and promotes public awareness of the need to protect and preserve America's film heritage. As Dr. Billington notes, "The moving picture is not so much the art form as the language of our time. Motion pictures provide an unparalleled record of American life and culture. If we can preserve these films, researchers will have the sights and sounds that flesh out the written record of great events and everyday life." Of special significance when the tour stopped in Honolulu earlier this month was the screening of Hawaiian regional films including "This is America" (1947), which urges support of Hawaii statehood. One highlight of this event was the Library's donation of a new 16 millimeter print of a pre-1915 film shot in Hawaii (featuring substantial footage shot by the Thomas Edison Company in 1906) to the Bishop Museum Archives.

I urge my colleagues to join me in applauding the efforts of the Library of Congress, the Bishop Museum Film Archives, the International Museum of Photography at George Eastman House, the Museum of Modern Art Department of Film and Video, the UCLA Film and Television Archive, and all others involved in this important work.

THE SUCCESSFUL SPACE SHUTTLE MISSION TO SERVICE THE HUBBLE SPACE TELESCOPE

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to congratulate NASA, the National Aeronautics and Space Administration, and the space shuttle crew on the successful completion of its 82d space shuttle flight. The space shuttle crew landed perfectly on Friday morning at the Kennedy Space Center in Florida from their rendezvous with the Hubble space telescope.

The crew performed five exhaustive extravehicular activities, or space walks, to service Hubble. Their objective was to upgrade the Hubble's scientific capabilities, repair and replace faulty or degraded equipment and provide a reboost of its orbit.

The space walking astronaut teams rejuvenated the Hubble space telescope, which increased its usefulness to the scientific community, the people of the United States and the world.

I must note that this was a perfect precursor of the skills and abilities that will be required to assemble the international space station. Critics of the space station who are skeptical of the ability of NASA to construct the complex assembly need only to have tuned in with the rest of the world to witness the precise, exact, detailed work done by our crew this past week on the Hubble telescope.

I encourage my colleagues to join me in extending congratulations to the Discovery crew of Commander Ken Bowersox, pilot Scot Horowitz, and missions specialists Joe Tanner, Steve Hawley, Greg Harbaugh, Mark Lee, and Steve Smith.

These brave and talented astronauts, along with the entire NASA launch and mission support teams, exemplify the finest characteristics of American know-how, determination and can-do spirit.

LEARNING THE LESSONS OF THE HOLOCAUST

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. NADLER, Mr. Speaker, recently, NBC aired the film "Schindler's List," which dramatizes an important piece of Holocaust history in a thoughtful and dignified manner. In so doing, both NBC and the film's producer and director, Steven Speilberg, have made an important contribution to preserving the memory and the historical lessons of the Holocaust.

Telling the story of the Holocaust is important for many reasons. First and foremost, by remembering, we honor the memory of those who suffered and perished during the Nazi persecution. Second, by remembering, we ensure that future generations will know and understand that when hate is allowed to go unchallenged, the results can be—and have been—catastrophic. Finally, by remembering, we counter the sinister effort by some who insist, against all the available evidence, that the Holocaust never happened.

Regrettably, one of our colleagues has failed to grasp the importance of teaching this important historical lesson. He has said, according to the Associated Press, that "decent-minded individuals everywhere" should be outraged by the film's depictions of, and again, I am quoting, "violence of multiple gunshot head wounds, vile language, fullfrontal nudity and irresponsible sexual activity." He urged public outrage as a tool to force the networks to stop "polluting the minds of our children."

Fortunately, most American families are more sensible and reasonable than these remarks give them credit for being. An estimated 65 million people watched the film in one night, more than the number of people who saw the film during its theatrical release. Parents surely made reasonable judgments in reviewing the network advisories and in determining whether this particular film was age-appropriate for their kids—as has Mr. Speilberg. That is as it should be. I would rather respect and trust the sound judgment of the American people, who voted in their own homes in favor of this dramatic retelling, than in the whims of some self-appointed censor.

The nudity and violence depicted in "Schindler's List" are certainly not titillating. It is completely inappropriate and insulting to the memories of those who endured and perished in the Holocaust to suggest otherwise.

As the representative of probably more Holocaust survivors and their families than any other Member of Congress, I urge our colleague to reflect on these issues and reconsider his remarks. I think in our upcoming debates over the question of artistic freedom, this experience will help temper some of the thoughtless and over-heated rhetoric that sometimes attends our consideration of these important matters.

HONORING JERRY A. KOENIG

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. ENGEL. Mr. Speaker, today I rise to honor a man who has involved himself in his community for more than 40 years, working to reform the political process.

He started in politics in City College as a member of the Young Liberals. In 1956 he was office manager for the New York State Stevenson for President Committee and was a founder of the Village Independent Democrats,

the organization which in 1961 ousted the legendary Carmine DeSapio as leader of Tammany Hall. He also worked with reform candidates in the Bronx as they sought to overthrow the Buckley organization.

It was in these campaigns that he developed his expertise in the petition process. He went to Washington where he worked on legislation such as the first Federal family planning legislation. He returned to the Bronx where he met the light of his life, Mary Geissman. In 1975, he joined the staff of the New York State Assembly Election Law Committee. He worked on major legislative changes in election law, such as the mail registration law and the first Presidential primary in New York in which the names of the Presidential candidates appeared on the ballot.

On a personal note, Jerry was a great help to me for all of my public career, helping me with petitions as far back as when I was district leader. Jerry Koenig has devoted himself to bettering the political process in New York State for all of his life. He has worked to make change work for the better, to open up the political process for the people. On his retirement, all of us in politics, indeed all citizens, owe him a debt we can never repay.

PERSONAL EXPLANATION

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. NUSSLE. Mr. Speaker, on Thursday, February 13, my vote was not recorded on rollcall vote No. 23. Had my vote been recorded, I would have voted "aye."

INTERNATIONAL LABOR STANDARDS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. HAMILTON. Mr. Speaker, I am inserting my Washington report for Wednesday, February 26, 1997 into the CONGRESSIONAL RECORD.

INTERNATIONAL LABOR STANDARDS

American workers are among the best and most productive in the world. New jobs are being created in record numbers, and unemployment in the U.S. is down from 7.5% in 1992 to 5.4% today. In addition, more than two-thirds of the new jobs are in occupations paying above-average wages. At the same time, I often hear from Hoosiers who feel they are competing against exploited laborers from other countries, who earn a fraction of what U.S. workers do. They ask what can be done about goods coming into our country produced under unfair labor practices.

Extent of Problem: Many of the goods we produce here in the United States, such as various hightech products and machinery, do not have to compete with cheaper versions from the developing world. In certain industries, like garments and sporting goods, however, low wages can pose a threat to American workers. In Haiti, for example, workers who stitch T-shirts for one major American company earn about 26 cents an hour.

Low wages are not the only problem. Indentured labor still exists in some parts of the world, where workers commit to work for someone for a set amount of time, often for less than the prevailing wage, in exchange for a guarantee of a job that pays subsistence wages. Millions of workers also toil under conditions where their health is endangered and their lives threatened. Unsanitary and unsafe conditions are a common sight in Third World "sweatshops".

Child labor can also be a problem. In some developing countries, children under 12 are made to work long hours for sub-standard wages under hazardous conditions, allowing them little time for rest and no time for school. The Geneva-based International Labor Organization (ILO) says there are between 100 and 200 million workers under the age of 12 worldwide.

Yet the ILO suggests that while the majority of these children are mistreated and underpaid, they would likely be worse off if child labor was eliminated without a corresponding improvement in the overall economic condition of the countries in which they live. Some Third-World governments see no political advantage in improving working conditions or banning child labor, but trying to punish those governments often means punishing their guiltless citizens by throwing them out of work.

Goods on American Shelves: Hoosiers do not want to provide a market for goods producted by the sweat and toil of mistreated workers. Yet many of the products made by low-wage earners end up in American homes. Because of their low prices, consumers here may unknowingly buy brand-name toys, clothes, and running shoes made by abused workers. In doing so, we may be supporting "sweatshop" conditions we find abhorrent.

One suggestion which has gained considerable support is an effort to get responsible employers to create a labeling system for goods produced without child or exploited labor. This would go a long way in helping U.S. consumers make informed choices.

Buying goods from countries which treat workers fairly helps build their economies and makes them strong trading partners. On a human level, it raises workers' incomes in those countries, giving them a higher standard of living, and allowing them to start buying American-made goods.

While there is no consensus, "internationally recognized workers' rights" tend to include the following: the right to form and join labor unions; the right to bargain collectively; a prohibition against forced labor; a minimum age for child workers; a minimum wage; a maximum workday and workweek; occupational safety; and freedom from discrimination.

Thanks to the Fair Labor Standards Act and enforcement by the Department of Labor, American workers enjoy most of these rights. But things are not perfect here at home, as reports of TV personalities lending their names unknowingly to products made in "sweatshops" illustrate. While we are better-off than most countries, child labor and the exploitation of workers continue to be problems in America.

Possible Legislation: Last session, Congress considered various measures to help protect the standards that American workers enjoy, and to help improve the lot of workers worldwide. They included: a bill to beef up enforcement of federal labor laws aimed at combatting sweatshops in the U.S.; a bill to ban trade in products made by children; a recommendation for a code of conduct for U.S. companies manufacturing abroad; and a measure linking foreign aid to advancements in workers' rights. However, none of these proposals became law. We still have a long way to go.

One strategy the Administration has been pursuing is to encourage countries to grant their workers greater labor protection in return for better trading opportunities with the U.S. Since the 1970s, our trade regulations have aimed to encourage dealings with countries which support strong workers' rights. I believe labor conditions should always be on the table when we negotiate trade deals.

This approach has its obvious advantages, and has had encouraging results. For example, prior to the signing of the North American Free Trade Agreement (NAFTA), Mexico was not enforcing many of its guaranteed workers' rights. The side agreements to NAFTA required the signatories to protect their own workers' rights, and the situation in Mexico has since improved.

Conclusion: I remain confident in American workers' ability to compete because of our high productivity and the quality of our products. At the same time, we need to keep the pressure on countries which treat their workers unfairly, and continue to encourage improvements in working conditions.

America cannot demand that companies in developing countries pay their workers what we pay ours, but we can demand that basic worker rights are recognized and that children are protected. Paying low wages gives the Third World a competitive advantage; treating workers badly is unfair to them and unfair to us.

Fair trading is crucial to the world economy and to America's leading role in it. As labor rights take hold worldwide, America's trading position will improve, because countries that cannot exploit their workers will be forced to sell their goods for higher fairer prices.

SALUTE TO THE EFFORTS OF HOSANNA INDUSTRIES, INC.

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. KLINK. Mr. Speaker, I rise today to salute the First Presbyterian Church of Bakerstown, PA, and its mission Hosanna Industries, Inc. This remarkable organization, led by executive director Donn Ed, has offered and delivered its construction services to over 340 structures in my district and across the United States.

Founded in 1990, Hosanna Industries, Inc. has donated labor, materials, and faith to victims of impoverishment and disaster. Dedicated to helping whenever the need arises, Hosanna epitomizes the community involvement needed to make the world a better place.

It is with great pride that I approach the House of Representatives today to commend Hosanna Industries on their most recent endeavor. Reaching out in a time of crisis to help heal the wounds of a heinous crime, Hosanna Industries will be traveling to the rural Arkansas town of Chelford to rebuild the St. Mark's

Missionary Baptist Church. Their church destroyed by arson, St. Mark's members have been without their place of worship since November 1995. With the help of the Christian Church Disciples of Christ, 15 missionaries from Hosanna Industries will travel to Tyronza, AR, on March 16 to begin a 9-day quest to rebuild St. Mark's Church in time for their Easter celebration.

As Members of Congress, we can legislate against the burning, desecrating, and destruction of religious property, but our strongest weapon against the purveyors of hatred is the strength of the people in groups like Hosanna Industries and their search to expose the goodness of man.

I would like to take this opportunity to thank Hosanna Industries for their past and future efforts. In the words of project coordinator Mike Killian, "you bring light where there is dark and love where there is bitterness." Your spirit, faith, and peaceful offerings are a true commitment to the people of not only your worship community but also your congressional district and the United States of America. On behalf of all the Members of Congress, I thank you for all you have done to make right, the wrongs of society. Your contributions have not gone unnoticed.

TRIBUTE TO THE EASTERN FAIRFAX ALL-STARS

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. MORAN of Virginia. Mr. Speaker, I would like to applaud the Eastern Fairfax All-Stars for the terrific job they did marching in the inaugural parade. This is a group of very talented high school students attending Mount Vernon and West Potomac High Schools in the Eighth District of Virginia.

These two high school bands represent the very best of our youth. They overcame big odds, and working together, they performed at their very best. These students practiced during the weekends and winter vacation in subfreezing temperatures. We, in the Eighth District, are very proud of them.

Of course, the performance of these students is also due to the efforts of their dedicated and caring band directors, Mr. Steve Rice of West Potomac and Jack Elgin of Mount Vernon. Both of these gentlemen also took their vacation time and weekends to help these students achieve the performance level they needed for the inaugural parade.

Finally, I would like to commend the students' families, the school's administrators, and the entire community for their part in helping these young people. Thank you for all you have done.

THE 50TH ANNIVERSARY OF BERGEN-PASSAIC ARC

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate the Association for Retarded Citizens of Bergen-Passaic Counties Inc., on its 50th anniversary. The event will be marked with a gala celebration April 13 in Woodcliff Lake, NJ.

I have always believed one of the noblest undertakings is to care for those less fortunate than ourselves. In northern New Jersey, we have an outstanding group that has been involved in such an effort for half a century.

This year, the Bergen-Passaic chapter of ARC celebrates 50 years of service to people who suffer from mental retardation. For half a century, ARC has brought help and hope to retarded children and adults and their families. It has given retarded children the early help they needed. It has given retarded adults the vocational and self-help skills they need to function as independent citizens in society.

Before 50 years ago, there was no national advocacy group to advance the rights and needs of the retarded. State institutions existed to provide care for the mentally retarded, but there were no community programs except the few conducted by religious and charitable groups. These were few in number and depended upon good will rather than legal rights.

In State institutions, the physical needs of the residents were generally provided at a reasonable level. But there was little in the way of meaningful daily programs that would improve the psychological well-being of the residents. In short, State institutions were designed primarily to offer custodial care.

Parents with retarded children at home were in a difficult situation. They had the burden of providing daily care of their children but were offered little or no support from the community. By law, these children could be excluded from the right to a free public education. Recreation programs, vocational training, and support counseling as we know them did not exist. There was little public awareness or public sympathy for the retarded. In most instances, they were invisible in the community, existing only behind the doors of their family homes.

On October 12, 1946, however, a letter to the editor appeared in the Bergen Record—the newspaper in Hackensack, NJ—suggesting formation of a group for the parents of retarded children. The writer, Laura Sparks Blossfeld, suggested that the group might be the first chapter of a national organization.

On June 10, 1947, 41 parents from across the region gathered at the Paterson YMCA and voted to form an organization.

From the beginning, the goal of the organization was to assist all parents of retarded children, regardless of the degree of retardation or where the child was located—at home or in an institution. In addition to helping the parents, the work of the group was, of course, intended to benefit the children.

In rapid succession, chapters were formed in Essex, Union, Monmouth, Hudson, Mercer, Camden, Gloucester, and Burlington Counties. Eventually, National Association for Retarded Children was formed in October 1950. Some 400 chapters were chartered across the United States within 6 years.

In the past 50 years, there have been vast improvements in the lives and fortunes of the mentally retarded. Where they once were scorned and rejected, they are now afforded human rights and fundamental freedoms. Where once they were hidden away in State schools or parents' homes, they have now been granted the right to live in the community. Where once they were looked upon with fear and aversion by a society ignorant of the facts, they have gained acceptance.

But none of this happened overnight or without effort. The work of thousands of volunteers and professionals contributed to the advancement of the mentally retarded. These efforts, at considerable sacrifice of time, personal convenience, and financial security, have resulted in the expansion of services we see today. And the fact that new volunteers and new professionals join in the effort each year gives confidence that this progress will continue.

Mr. Speaker, I invite you and the rest of my colleagues to join me in saluting the ARC for its outstanding service and loving care of the mentally retarded. These people of vision and humanitarian drive have not only given hope and life to generations of retarded children and their families but they have enriched and enlightened our State and our Nation as well. God bless the memory of Laura Sparks Blossfeld and all who followed her inspired advocacy.

THE LEGACY OF ADAM CLAYTON POWELL, JR.

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 1997

Mr. RANGEL. Mr. Speaker, I rise again today to pay special tribute to the more than 30 million Americans for whom it has become a tradition to pause during the month of February to celebrate black history in the United States.

I want to thank my colleagues in the Congressional Black Caucus who each year set aside a time during February for a special order to which all of my colleagues are invited to reflect on the significance of black America's contribution to our history. My special commendation goes out to my colleagues, Representative LOUIS STOKES of Ohio and Representative MAXINE WATERS of California, the new chairperson of the Congressional Black Caucus, for convening this special order.

Thirty years ago this month, the House of Representatives was preparing to take one of its most infamous actions. On March 1, 1967, the House voted to exclude from the 90th Congress Representative Adam Clayton Powell, Jr., my predecessor as the Congressman from Upper Manhattan and Harlem, and one of this body's greatest Members.

Two years later, that action was overturned by the Supreme Court as unconstitutional, and

Representative Powell returned to his seat, stripped of 22 years seniority.

I recall this incident not only as a commemoration of an injustice committed against one of the greatest figures in black history. During this period in which President Clinton has designated education as a national security issue, it is again fitting to recall the career of Adam Clayton Powell. Much of Powell's greatness is attributable to his support of education as well as his urgings to our Government to pay greater attention to Africa and the developing world.

During Powell's first term as chairman of the Education and Labor Committee, which he assumed in 1961, the committee passed not only the minimum wage bill, but legislation creating training programs for practical nurses, student loans, and manpower and training development programs. All of these were enacted into law.

Years earlier, in the 1950's, Powell was a lonely crusader for increased U.S. involvement with Africa and the developing world, going against the grain of U.S. policy, which was obsessed with the rise of communism around the world.

Powell was a man of many dimensions, in ways, ahead of his time. A vocal warrior on the forefront of our struggles for racial and economic justice, and education at home, he at the same time preached a gospel of international involvement. Even before our Government recognized that our destiny in trade and commerce was moving away from Europe, he understood that we continued to ignore Asia and Africa at our own peril.

Today, as we prepare for the challenges of the 21st century while reappraising the gains of the civil rights movement, we find that we are riding the shoulders of those great leaders, such as Powell, who came before us. Through their efforts, we have overcome the legal segregation and discrimination that dehumanized us as a people. Through their efforts, a viable black middle-class of successful professionals, homeowners, and college graduates has emerged.

But many challenges remain, some in the very areas in which Adam Clayton Powell made a mark decades ago, working toward the eradication of poverty, joblessness, drug addiction, crime, and sickness.

If we are serious about addressing those challenges, and maintaining our competitive edge in the global economy, we must refocus our attention on the goal of providing the best education possible for all Americans of every race. In the environment of budget balancing and tax cuts in which we exist, that challenge cannot be met by Government alone.

The private sector, which has the most to gain from an educated work force, must join in partnerships with Government, the schools, and the communities to see to it that our young people are qualified to compete in the high-technology marketplace, that they are trained to take their place in the 21st century economy.

As a nation, we must admit that our future as a worldwide economic leader is no longer tied to Europe, but increasingly to the economics of the Pacific rim, Latin America, the Caribbean, and Africa.

And even as we recognize the importance of people of color around the world, we must also recognize the folly of failing to utilize the talents of America's black and brown people who have contributions to make in international business, in foreign affairs, and diplomacy.

More than anything, America must continue the work of our past leaders, including Adam Clayton Powell, all of whom recognized that education was the key to social, economic, and racial justice.

COMMENDING MR. JONATHON WARE ON HIS RECENT ELECTION TO THE POST OF SENIOR VICE PRESIDENT OF THE PETROLEUM MARKETERS ASSOCIATION OF AMERICA

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. LAHOOD. Mr. Speaker, I rise, today, to congratulate Mr. Jon Ware, a constituent of mine, on his recent election to the post of senior vice president of the Petroleum Marketers Association of America [PMAA].

It is, indeed, an honor for me to be able to offer my compliments and best wishes to Mr. Ware.

This recent election only serves to highlight his exemplary career and service to his community.

His depth and breadth of experience in the oil and petroleum business will undoubtedly serve his organization well as he assumes the post of senior vice president.

Jon has been a petroleum marketer since 1959, and over the years he has served in a variety of jobs and capacities within the petroleum industry, including past president of the Illinois Petroleum Marketers Association [IPMA], director of the IPMA to the PMAA, and a regional vice president of the PMAA.

In addition to Jon's outstanding record in his profession, he has been actively involved in serving his community of Jacksonville, IL.

His civic services have included involvement in community youth sports leagues, service as past president of a local YMCA, chairman of the Jacksonville Airport Authority, and a member of the advisory council of the Illinois Department of Agriculture.

Again, Mr. Speaker, it is an honor to be able to offer my sincerest congratulations to Jon Ware on his latest achievement. I wish him good luck as he assumes his new responsibilities.

AMERICAN HEART MONTH

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. BONILLA. Mr. Speaker, I rise today in recognition of American Heart Month. Heart attack, stroke, and other cardiovascular diseases remain the No. 1 killer in the United States. On an average day in Texas in 1995, 150 Texans died due to cardiovascular diseases and stroke. Heart disease affected my family this year, and, it affected many other families too.

Every year since 1963, February has been designated American Heart Month. This month is the time to learn more about cardiovascular disease detection, prevention, and treatment. The American Heart Association has designated this year's educational message as "Get in on the Action!," urging Americans to make physical activity a part of their daily lives.

There are a few simple things we can all do to reduce the risk of heart disease. Exercising regularly is an important step. We all enjoy some form of exercise. So, whether it's horseback riding, jogging, walking, or bike riding, help keep your heart healthy and "just do it!" Other easy approaches to control heart disease include eating a diet low in fat and high in fiber, and controlling stress.

One of the myths surrounding heart attack and stroke is that it is a "male disease." Wrong. Heart attack and stroke do not discriminate. In fact, heart attack, stroke, and other cardiovascular diseases remain the No. 1 killer of American females.

Research and education are key to battling and preventing heart disease. Today, the chances of saving a life and reducing disability from heart disease and stroke are better than ever because of research done in our lifetime. Important discoveries such as life-extending drugs, bypass surgery, and pacemakers, have improved the lives of many heart patients. But the fight against heart disease is far from over.

Hopefully, with more heart disease research and better education, fewer Americans will fall victim to the disease this year. As with any other health problem, please consult a physician immediately if you, or someone you know, shows any sign of a heart problem. For now, as we observe American Heart Awareness Month this February, get in on the action and increase your physical activity!

COMMENDING L. DOUGLAS WILDER FOR CONVENING THE WILDER SYMPOSIUM ON "RACE AND HEALTH CARE AS WE APPROACH THE 21ST CENTURY" AT VIRGINIA COMMONWEALTH UNIVERSITY

HON. NORMAN SISISKY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. SISISKY. Mr. Speaker, I want to commend my good friend and former colleague in the Virginia General Assembly, former Virginia Governor L. Douglas Wilder, for convening a very important symposium entitled "Race and Health Care as We Approach the 21st Century" at Virginia Commonwealth University, my alma mater. This symposium, which was held on January 28 and 29, 1997, is 1 of a 3-part symposia on "Race and American Society." The symposium brought together experts from the fields of medicine, academia, and public policy to explore two of the most far reaching and significant issues Americans face today—health care and race.

One of the health issues explored at the Wilder Symposium—colorectal cancer screening—has a special importance for me. As a colon cancer survivor, I have been working to enact colorectal cancer screening legislation. Preventive screening is an important issue for all Americans, and particularly African Americans, who suffer disproportionately from this deadly disease.

Every year over 150,000 people are diagnosed with colorectal cancer and over 55,000 people die from the disease each year. Colorectal cancer is the second leading killer of all forms of cancer, primarily striking individuals over the age of 50. Surprisingly, however, only a small percentage of this population has ever been screened for this disease.

Screening is the key to early detection of colorectal cancer. Perhaps more than any other cancer disease, early detection of colorectal cancer has an immediate and dramatic impact on survival rates and improvements in the quality of life of individuals diagnosed with the disease. Medical studies have shown that if colorectal cancer is caught in its earliest stage rather than in later stages, the 5-year survival rates of patients double from 40 percent to 80 percent or greater.

Last Congress, I cosponsored the Colorectal Cancer Screening Act (H.R. 1046) which would provide Medicare coverage for colorectal cancer screening using all commonly available screening procedures. This legislation is the only legislation which covers barium enema procedures in addition to the three other commonly used screening procedures—the fecal occult blood test [FOBT], flexible sigmoidoscopy, and colonoscopy. By offering the full range of procedures, the Colorectal Cancer Screening Act (H.R. 1046) allows patients and doctors, rather than the Federal Government, to decide which screening procedure is most appropriate.

In addition to offering choice to patients and doctors, the screening approach adopted in the Colorectal Cancer Screening Act is very important for the African American population. In his Symposium on health care and race, Governor Wilder examined this crucial issue in discussing the public policy challenges facing the African-American community.

The attendees at the symposium discussed medical studies which found that colorectal cancer strikes African-Americans in ways different from the general population, and that African-Americans who get colorectal cancer have a 50-percent greater chance of dying from the disease than the general population. These studies conclude that certain screening procedures, such as FOBT and flexible sigmoidoscopy, are inadequate colorectal cancer screening procedures for African-Americans. These same studies suggest that the barium enema, which, unlike FOBT or flexible sigmoidoscopy, can view the entire colon, is clearly preferred for the African-American population, and perhaps for other populations as well. As the only CRC screening legislation that provides Medicare coverage for the barium enema, the Colorectal Cancer Screening Act (H.R. 1046) is the only legislation adequate for the African-American population. New legislation will soon be introduced in the 105th Congress incorporating the important provisions of that act.

In closing, I want to praise Governor Wilder for being a leader in bringing attention to the issue of colorectal cancer screening and how it can improve the health and save the lives of literally thousands of African-Americans. Indeed, it is a very important issue for all Americans, particularly as Congress considers Medicare reform this year. With this in mind, I believe it is imperative that Congress pass CRC screening legislation which provides Medicare coverage for all screening procedures, and I strongly urge my colleagues to join me in this worthwhile endeavor.

SEANTA JOHNSON IS LEADING THE WAY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. STARK. Mr. Speaker, I rise today to recognize a young man of outstanding character, courage, and compassion. Seanta Johnson, an African-American youth and a junior at Hayward High School in my district, is showing us what he's made of—and is encouraging other bay area youth to do the same.

Much to the delight of his mom, who describes him as a "self-starter," Seanta finds time to juggle school, sports, and community service. Seanta is an inquisitive student who is enthusiastic about school and who has maintained a high grade point average throughout his high school career. The second of three children, Seanta will be the first in his family to attend a 4-year college. He hopes to continue to study his favorite subjects, physiology and anatomy, and to prepare to enter the field of sports medicine. Seanta is also a member of the Hayward High School track and field team, and specializes in throwing the shot put. In addition to the demands of his busy schedue, Seanta has held a part-time job at Pizza Hut since age 15.

During his free time, Seanta can be found at the East Oakland Youth Development Center, assisting children with organized physical development activities like weight training and basketball. More importantly, he takes the time to talk with them about working hard in school, finishing their homework, helping out at home, and treating themselves and others with respect. Seanta's family and teachers say he sets an excellent example for the youth at the center. He demonstrates confidence and leadership when advising kids at the center, and they look to him as a leader, teacher, and friend.

Today, more than ever, our society is in danger of dividing itself along racial, economic, religious, political, and gender lines. The burning of black churches, the tensions over proposition 209, and the battle over welfare reform all threaten to divide us—but young men like Seanta remind us that we should be kinder to our neighbors and more sensitive to the needs of the children in our communities.

This outstanding youth is devoting his time, talent, and imagination to helping the youth in the bay area to follow their dreams and pursue their goals. I believe we should learn from his shining example.

RESTORATION OF LOBBYING EXPENSE DEDUCTION

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. SAM JOHNSON of Texas. Mr. Speaker, on February 4, I introduced legislation, along with my colleague Mr. CARDIN, that would once again allow businesses to deduct the expenses they incur while responding to legislative proposals that can affect their businesses, their communities, and their livelihood. The bill would simply allow businesses to deduct legitimate business expenses incurred in contacting or working with their State representatives.

In 1993, Congress approved the Budget Reconciliation Act of 1993 which contained a provision that disallowed the deduction of certain business expenses against Federal corporate income taxes. The denial of deductibility of lobbying expenses was proposed as a means of curtailing the activities of special interests here in Washington. Those who advocated this provision made no claim that it was necessary to address any problem at the State level.

Instead of solving a problem, the enactment of this provision has created a major problem at the State level. Most businesses, and especially small business owners, can't afford the time to visit personally with their State legislators to discuss the impact of legislation on their businesses. To make sure their voice is heard in the legislative process, they count on trade associations, to which they pay dues. Of course, the dues are generally deductible as an ordinary and customary expense of doing business.

The problem under the 1993 change is that the portion of trade association dues attributable to lobbying activities by the trade association is no longer deductible. This creates a major record-keeping headache for the association and the small business owner.

The original proposal before the Congress 2 years ago would have applied to local governments as well as State and Federal Government. Fortunately, before it was adopted, it was amended to exclude local government from its coverage. That was a significant improvement. The bill Congressman CARDIN and I introduce today will further mitigate the adverse impact of the proposal by exempting State legislatures as well.

As a former State legislator, I know well the value of the input of businesses in the deliberations of State legislatures. With small staffs and limited resources, State legislatures make important use of information provided by local economic interests in considering policy proposals. Additionally, State Governors frequently appoint blue ribbon commissions and other advisory groups to recommend legislative solutions to problems. These advisory bodies depend on input from members of the business, professional, and agricultural communities who are knowledgeable about circumstances within the State. The record-keeping requirements and tax penalties associated with the lobbying tax discourages this important participation.

Mr. Speaker, we ought not to be making it harder for Americans to participate in the decision-making process in their State capitols. The denial of a deduction of a legitimate business expense incurred to lobby at the State level is an unwarranted intrusion of the Federal Government on the activity of State governments. At a time when we are attempting to return many responsibilities to the State level, it makes no sense for us to impose obstacles on the ability of State legislatures to gather the information they will need to do their jobs. I would ask our colleagues to join us in restoring this deduction at the State level.

CONGRATULATIONS TO U.S. GIRL SCOUTS PRESIDENT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mrs. ROUKEMA. Mr. Speaker, I rise to offer my congratulations to Elinor Johnstone Ferdon, of Alpine, NJ, on her selection as national president of the Girl Scouts. Her leadership of this most esteemed and revered organization is the crowning achievement of a lifetime of selfless dedication by Ellie Ferdon to young girls and the communities of interests they serve.

Ferdon began her career in Scouting in 1947 in Frankfurt, Germany, where her father was stationed with the Army. On March 7 of that year, 10-year-old and 6 other young girls became the founding members of Frankfurt Girl Scout Troop No. 1.

The Manhattan native was a member of the Frankfurt troop for 3 years before her family returned to the United States and she was sent to a boarding school in Massachusetts.

Ferdon resumed her involvement in scouting in 1968 after moving to Alpine as an adult and becoming a troop leader when her daughter showed an interest in scouting. All 3 of her daughters eventually became Girl Scouts and a 3-year-old granddaughter is expected to do the same as soon as she is old enough.

Once back in uniform, Ferdon rapidly rose through the ranks. She served two terms as president of the Girl Scout Council of Bergen County and has been on the organizations national board of directors since 1978. She was elected national president in October 1996. As such, she is in charge of all 3.4 million Girl Scouts and adult volunteers in the country.

The Girl Scouts still teach self-esteem and self confidence, grooming girls to be leaders in their communities. But the organization has gone beyond camping and selling cookies to develop programs in science and the use of the Internet, for example. Members volunteer their time at homeless shelters, foster homes, and even juvenile detention.

Ferdon this year is overseeing a major fundraising effort, seeking donations from the 50 million adult former Girl Scouts. Too many Girl Scout councils rely too heavily on annual cookie sales for their revenue, she says.

The Girl Scouts serve well their goal of inspiring young girls with the highest ideals of character, conduct, patriotism, and service that they may become contributing and resourceful citizens. Girl Scouting seeks to accomplish this by providing girls opportunities to develop their potential and have fun with their peers in a supportive setting.

The qualities of character, perseverance, and leadership instilled by the Girl Scouts helps thousands and thousands of girls prepared to meet the challenges of the future. There could be no finer, more dedicated leader than Ellie Ferdon to provide the inspiration for young girls of today and women leaders of tomorrow.

PHILADELPHIA OLDTIMERS SOCCER ASSOCIATION 50TH ANNIVERSARY

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. BORSKI. Mr. Speaker, I rise today to commemorate the 50th anniversary of the Philadelphia Oldtimers Soccer Association. I would like to speak in honor of this group because of their commitment to the community. They have focused their love of a sport into an organization that makes a positive contribution to the youth of Philadelphia.

Founded in 1947, the Philadelphia Oldtimers Soccer Association [POSA] was a synthesis of managers, benefactors, and players. The founders original intent to give something back to young people participating in the sport has been upheld through POSA programs for 50 years. POSA makes this contribution through many different means.

The National Soccer Hall of Fame included the Philadelphia Oldtimers Hall of Fame original inductees as founding members in 1953. There are now 16 members of POSA in the National Hall of Fame. At an annual banquet, POSA honors a male and female coach of the year, a referee of the year, a manager of the year, male and female player of the year, and a club of the year.

POSA annually selects an all-scholastic team. The Philadelphia Catholic, Philadelphia Public, Inter-Academic, and Suburban One Leagues individually submit candidates for the POSA team. The final 22 players and 4 alternates are selected through a tryout process from a pool of about 90 players. This final team goes on to play teams from Lehigh Valley, western suburban Philadelphia, Staten Island, Cape May, and other prominent local clubs.

Helping the players receive college scholarship funding is one of the oldtimers fundamental goals, and the all-scholastic team provides a medium through which college coaches can assess and recruit POSA players. Many members of the team have received scholarships, with some continuing on to play professional soccer.

POSA has recently added a new focus to its efforts—the development of a girls program. They are committed to offering the same opportunity to girls that the boys all-scholastic team has provided to its players in the past. POSA's move to provide female soccer players with the same springboard to college soccer is a step in a positive direction for female athletes in the Philadelphia area.

When the POSA teams put their best foot forward, they are also representing the best of Philadelphia. Not only are they building a reputation of great soccer and teamwork for themselves, they are contributing to the reputation and success of Philadelphia's student athletes. On their 50th anniversary I would like to congratulate the Philadelphia Oldtimers Soccer Association and its players on their achievements, and wish them future success in the sport of soccer and beyond.

ADDRESS BY FRANCIS SEJERSTED

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. WOLF. Mr. Speaker, last November, Bishop Carlos Ximenes Belo and Dr. Jose Ramos-Horta were awarded the Nobel Peace Prize for their efforts in bringing peace to East Timor. I had the opportunity to attend the ceremony in Oslo with my colleague, the gentleman from Ohio, TONY HALL, who nominated Bishop Belo for the prize in 1994 and 1995. I then had the opportunity to visit Bishop Belo in East Timor in January.

As part of our bipartisan effort to recognize the Nobel Prize winners today, I am submitting for the RECORD the speech made by the chairman of the Nobel Committee when he presented the award.

ADDRESS BY FRANCIS SEJERSTED, CHAIRMAN OF THE NORWEGIAN NOBEL COMMITTEE, ON THE OCCASION OF THE AWARD OF THE NOBEL PEACE PRIZE FOR 1996

Your Majesties, Presidents, Excellencies, ladies and gentlemen: On behalf of the Norwegian Nobel Committee, may I extend to everyone a warm welcome to this year's Nobel Peace Prize ceremony. It is one hundred years to the day since Alfred Nobel died. A year earlier, he had drawn up his will, in which he determined that his considerable wealth should provide for annual awards of five prizes, three for science, one for literature, and one for peace, to those whose work, as he wrote, "shall have conferred the greatest benefit on mankind". It was also laid down in the will that the Peace Prize should be awarded in Norway by a committee appointed by the Norwegian storting. Our thoughts today go also to Stockholm, where the other awards are being made, and where the centenary is being marked of the death of Alfred Nobel.

Nobel was, of course, an unusually successful businessman. But that was not where his heart lay. His happiest times were spent in the laboratory. Inventions, it has been said, became for him a way of life. He was also very widely read. He was in other words greatly interested, indeed a believer, in science and literature. What was remarkable was his moral approach to those activities, which he saw as opportunities for promoting a better world. This perspective emerges most clearly in his decision concerning a peace prize. It can be argued that the invention of dynamite, and concern at the more powerful weapons which it made possible, contributed to his increasing commitment to peace. But there were other impulses, too, impulses which appealed to his deeply rooted

moral instincts, first and foremost his contact with the future Peace Prize Laureate Bertha von Suttner and with the contemporary peace movement.

Nobel left an important inheritance, consisting of a vision of a better world, and an award institution which was to contribute to the realization of that vision. We who have been entrusted with managing that inheritance do so in humility and with deep respect for the man Alfred Nobel, whose memory we honour today.

It is with great pleasure, and in the conviction that with this year's choice we have managed Nobel's inheritance in the best possible way, that we welcome our Peace Prize Laureates today. Carlos Filipe Ximenes Belo and José Ramos-Horta have been awarded the Nobel Peace Prize for 1996 for their long-lasting efforts to achieve a just and peaceful solution to the twenty-year-old conflict in East Timor. To reach this peaceful winterland Norway, you have come about as far from your home country as it is possible to travel on this earth. Yet the distance between us is much shorter in miles than in opportunities for peace, justice and reconciliation. We are grateful and proud that, in the middle of your important and self-sacrificing work, you have found time for the journey here, thereby giving us this opportunity to honour you.

The conflict in East Timor has been called "the forgotten conflict". It has not, however, been completely forgotten, having figured on the international agenda, with varying degrees of prominence, throughout those twenty years. But it has so to speak never caught on. There have been so many other interests and regards to attend to, and East Timor is so small. Rarely has the cynicism of world politics been more clearly demonstrated. The numerous considerations of "Realpolitik" have enabled an exceptionally brutal form of neocolonialism to take place. Of a population of between six and seven hundred thousand, nearly two hundred thousand have died as the direct or indirect result of the Indonesian occupation. And the violations are still taking place today. Many are the countries which have given higher priority to their "Realpolitical" cooperation with Indonesia than to regard for East Timor. This is the apparently hopeless situation in which our two Laureates have so untiringly striven for a just and peaceful arrangement for their people.

The autumn of 1975 was fateful for East Timor. First the old colonial masters, the Portuguese, withdrew. Then an internal struggle broke out between the Timorese Democratic Union on the one hand and the Fretilin liberation movement on the other. And the autumn ended with the Indonesian invasion. In the twenty-one years that have passed since, this conquest of a country and a people has never been internationally recognized. Ramos-Horta was a Fretilin leader, one of the moderates whose ideal was social democracy. During the so-called civil war, he was out of the country, and on his return in September he tried to reconcile the parties. Since the invasion he has lived abroad, unceasingly and with great personal sacrifice collecting and communicating information on the repression, torture and killing in his home country, and acting as East Timor's principal international spokesman. At the same time he has successfully kept up his efforts to unite the various East Timorese groups in a single national front, while constantly seeking opportunities for a peaceful solution to the conflict with Indonesia, based on respect for the integrity of the East Timorese people. "We used to joke that he was more an informal member of the Democratic Union than a Fretilin leader," says Union leader João Carrascalão. The remark illustrates the part played by Ramos-Horta as a mediator and conciliator. No serious negotiations aimed at resolving the conflict are conceivable today without the participation of Ramos-Horta or one of his aides, as Bishop Belo has also emphasized.

As a relatively unknown priest, Bishop Belo was appointed Apostolic Administrator for the Roman Catholic church in East Timor in 1983, since when he has served on his home ground. Again and again, in the midst of everyday terror and suffering, he has intervened, trying to reconcile and mediate and lessen confrontation, and in doing so he has saved many lives. Intervening in a violent conflict entails a risk of being crushed between the antagonists. "Pray for me, please," he said in one such situation, "because now I have to defend myself on both sides". But Bishop Belo has become much more than a mediator: this man of peace has also become a rallying point for his sorely tried people, a representative of their hope for a better future. The love his people feel for this mediator springs from certain fundamental principles he has adhered to. Show the people respect. Give them freedom to develop their humanity to the full. Then ask them whether they want to be Indonesians, Portuguese, or independent. Bishop Belo shares with his people the insight of the oppressed, an insight deeper than that of generals or oppressors. Why all this brutality? It does not even serve its purpose. You do not gain respect if you do not show respect.

This year has seen the commemoration, forty years on, of the Soviet Union's brutal crushing of the popular rising in Hungary in 1956. The West did not intervene. Since Hungary lay within the Soviet sphere of interest, it was necessary "Realpolitik" to accept the invasion. We would do well to recall that at that time, a marking of the event forty years later in a free Hungary lay beyond the bounds of what most people thought possible. It has been said that Indonesia's annexation of East Timor is a historic fact. But history has never established anything as a fact forever. History always moves on. If we have learned anything in the past decade, it must be that the most repressive regimes are the most fragile. There are forces in history more powerful than the strongest military force. Violence and terror do not lead to peace. Not until one builds up the courage to break out of the vicious circle of violence do opportunities arise for an enduring peace.

The right to live, the right to full development as human beings, the right to respect, are at the heart of the concept of human rights. Since the award of the Nobel Peace Prize for 1960 to Albert Luthuli, work for human rights has been one of the principal criteria for the award. We have constantly received confirmation that this was the right path to take, although the choice of this criterion has also been criticized because it allegedly has nothing to do with peace. But it is precisely in forging a close link between the human rights criterion and peace that we believe we are realizing that criterion's most universal and most fundamental aspects. Peace, stability and harmony must be based on mutual respect. That, so simple and so universal, is the message. Once it has been heard, the next step is to institutionalise the respect, in various ways according to cultural traditions. Violence, on the other hand, systematic violence on the part of those in power, can never be justified within the framework of a universal concept of human rights. That is a fact to which the victims of violence could testify. Never forget to listen to the voice of the victims, the voice of the nearly two hundred thousand whose lives were lost in massacres or from the hunger and want which resulted from the Indonesian invasion of East Timor.

This year's two Peace Prize Laureates, Carlos Filipe Ximenes Belo and José Ramos-Horta, have labored tirelessly, and with great personal sacrifice, for their oppressed people. Under extremely difficult conditions, they have preserved their humanity and faith in the future. It is in admiration of their work and in the hope for a better future for East Timor that the Norwegian Nobel Committee today honors them with the Nobel Peace Prize for 1996.

LECTURE BY JOSÉ RAMOS-HORTA

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. KENNEDY of Rhode Island. Mr. Speaker, in honor of Mr. José Ramos-Horta's visit to Washington, DC, the week of February 24, 1997, I ask permission to include in the RECORD the Nobel Lecture of José Ramos-Horta before the Norwegian Nobel Committee on December 10, 1996.

THE NOBEL LECTURE GIVEN BY THE NOBEL PEACE PRIZE LAUREATE 1996 JOSÉ RAMOS-HORTA

My deepest appreciation goes to the Nobel Committee for having chosen us for the 1996 Nobel Peace Prize. Your generosity in thinking of the wretched of the earth, and your courage in standing up to the might of States, the cynicism and indifference of too many, betrayal by some, tells also a lot about the soul and history of courage of this great country of yours that fought bravely during World War II.

In recent years Norway has played a central role in fostering dialogue and peace among historical enemies. In the Middle East and Central America, your discreet nature, determination and creativity have proven that some of the world's seemingly intractable conflicts can be resolved when there is an honest mediator and when the parties in the conflict are willing to end the war.

Small countries like Norway, Costa Rica and Portugal, and others, can succeed in mediating conflicts when mighty powers failed. Diplomacy and mediation are not prerogatives of the major powers. The small and medium-size countries without ambitions to a neo-imperial role and whose strength is there moral integrity are best placed to open dialogue among the parties in a conflict.

THE EAST TIMORESE CHURCH

The real winner of the 1996 Nobel Peace Prize is our spiritual leader, Dom Carlos Filipe Ximenes Belo. He is the embodiment of the East Timorese people's resilience, moral rectitude, dignity and identity, and its long quest for peace and freedom. In Dom Carlos the people of East Timor have found spiritual comfort and some sense of security from the daily threats to their very existence.

The people of East Timor owe almost everything to their Church. Hence, the 1996

Nobel Peace Prize is a tribute to the whole church, the courageous priests, nuns and lay workers and the people of East Timor.

My share of the Nobel Peace Prize will go entirely to a foundation to be called Peace and Democracy Dom Martinho da Costa Lopes. I know this is too small a tribute to this great man who gave his life to his church and people.

THE SOLIDARITY MOVEMENT

I would like also to express my gratitude to three organizations that in the past honoured my people with less well-known awards but with equal importance for our people. To Professor Thorof Rafto Human Rights Foundation from Bergen, Gleitsman Foundation, from California, and the Un-Represented Nations and Peoples Organisation (UNPO) based in The Hague, goes my profound gratitude.

With the men, women and children in many parts of the world who have given us so many years of their lives I wish to share this moment of joy. Without the generous solidarity movement we would be even poorer and alone. Some of our good friends have passed away from this Earth. Denis Freney, Michelle Turner, Michel Robert, Carlos Vilares, the little and beautiful Sarah Taylor whom God took away at age 15. We will remember them for ever.

ANGOLA, CAPE VERDE, GUINEA-BISSAU, MOZAMBIQUE, SÃO TOMÉ AND PRINCIPE

My special greetings of friendship and eternal gratitude to my good friend, President Joaquim Chissano of Mozambique, for having taken the trouble to fly to Oslo to be with us.

You have been with us in our most lonely years when the rest of the world pretended we did not exist or offered us advice on how best to surrender. From this noble rostrum I bow to your late predecessor, Samora Moisés Machel, one of the greatest men Africa has known.

My special greetings and deepest gratitude to Presidents José Eduardo dos Santos of Angola, Mascarenhas Monteiro of Cape Verde, Nino Vieira of Guinea-Bissau, and Miguel Trovoada of São Tomé and Principe for their friendship and generosity.

Your peoples and countries have been with us through our lonely years and I believe that you will be with us still in the years to come.

To the people of Angola who have suffered beyond imagination and are still in a painful process of national reconciliation, I extend our solidarity and friendship.

Angola paid a heavy price for the liberation of Namibia and South Africa. Yet there has not been enough recognition of the enormous contribution that the two lusophone countries. Angola and Mozambique, gave to the liberation of Southern Africa.

PORTUGAL

I wish to state from this august rostrum the eternal gratitude of the people of East Timor and my own to the people of Portugal, the President, our good friend Dr. Jorge Sampaio and his predecessor, Dr. Mário Soares, a man of principles and compassion.

Through Your Excellency, Mr. President, I humbly ask you to convey to your wonderful and generous people, members of Parliament and government, past and present, our most heartfelt appreciation for your gallant efforts in support of our struggle.

For many years you fought a lonely battle in the European Union against the indifference and even hostility of some of your partners. You have shown not only to us the East Timorese but to other smaller nations in the world that principles and morality have not been taken over completely by mercantile interests.

BRAZIL

I recently visited Brazil and was warmly welcomed by everyone. I humbly ask President José Sarney to convey to President Fernando Henrique Cardoso and through him to all the people of Brazil our admiration and affection for your great country and people. My warmest greetings to Betinho, Dom Paulo Evaristo and Dom Hélder Câmara, the conscience of the poor of Brazil and the world.

Your Majesties: This speech belongs to someone else who should be here today. He is an outstanding man of courage, tolerance and statesmanship. Yet, this man is in prison for no crime other than his ideas and vision of peace, freedom and dignity of his people.

Xanana Gusmão, leader of the people of East Timor, remains incommunicado in a prison thousands of miles away from his country. His trial in 1993 was universally condemned as a charade and was no more valid than the Dutch imprisonment and trial of the late President Sukarno, founding father of the Indonesian Republic.

I bow to Xanana and through him to my good friend Nino Konis Santana, David Alex, Tahur Matan Ruak, Fernando Araújo and all East Timorese prisoners of conscience in jails in East Timor and Indonesia, to the thousands of victims of torture, widows and orphans. I bow to the memory of Sabalae and the thousands of our dead.

Through Xanana, I bow to my people with profound respect, loyalty and humility because they are the martyrs, the real heroes and peace-makers.

THE NEW ORDER REGIME AND THE INDONESIAN PEOPLE

The East Timorese are not the exclusive victims of the Indonesian New Order regime installed in 1965. For more than 30 years, the Indonesian people have known massacres, imprisonment, torture, ban on writers, journalists, academics and labour leaders. Moslems, Catholics, Buddhists and Hindus have all known their share of repression. The only non-discriminatory policy of the New Order regime is when it comes to repression.

I pay tribute to the many tens of thousands of Indonesians who died in their own struggle for freedom and democracy, who languished in the jails of the New Order, or were forced into exile in China, Albania, USSR and Western Europe. I met many of them over the years and shared long hours of conversation about our two people's suffering and dreams.

THE LESSONS OF THE JEWISH HOLOCAUST

In 1939, a few months before the out-break of World War II, Harry Truman read a passionate message from President Roosevelt to the "National Meeting for Moral Rearmament" held in Washington.

The same time as the conference delegates were listening and applauding President Roosevelt's moral speech, 900 Jewish refugees on a boat from Germany anchored off Florida were waiting for a decision from Washington as to whether they should find sanctuary in the US or be sent back.

Finally, word came that their application for refugee status had been denied. The desperate refugees did not convince the morally courageous delegates to the "National Meeting for Moral Rearmament" that they had a valid fear of persecution. The 900 men, women and children were sent back to Germany. Many ended up in Hitler's death camps.

More than half a century after the Jewish holocaust and centuries after the genocide of the indigenous peoples of Australia and the Americas, the same attitude that has allowed these crimes to take place persist today.

Opinion-makers and leaders, academics, writers and journalists who pretend to be objective and neutral in the face of racism and discrimination, the rape of a small nation by a larger power, the persecution of a weaker people by a ruthless army must share the guilt. No amount of intellectual arguments will suffice to erase their responsibility.

Synagogues are still being desecrated. Gypsies are still discriminated. Indigenous peoples continue to see their ancestral land taken over by developers, their culture and beliefs, and their very existence reduced to a tourist commodity.

Like the Jews and Armenians in the past, like the Kurdish, Gypsies, Tibetans, Aborigines of Australia, Maoris of Aotearoa (New Zealand), Kanakis of New Caledonia, the people of Western Sahara, and the Indigenous peoples of the Americas, the East Timorese are a mere footnote of history, an expendable people.

COLD WAR FOOTNOTE

The conflict in East Timor can be traced back to the political context of the Cold War.

You might recall a picture that made headlines in the spring of 1975. I refer to the picture of an American helicopter landing on the rooftop of the US Embassy in Saigon to rescue remaining diplomats, CIA operatives and few privileged South Vietnamese stooges as Saigon fell to the Vietcong. Cambodia and Laos followed. This picture illustrated better than a thousand words the ignominious American retreat from Indochina.

In another continent, in the horn of Africa, the longest reigning US ally, emperor Hailé Selassié of Ethiopia, had been overthrown a year earlier by radical army officers. Further South, the Portuguese empire had collapsed. These events seemed to confirm Lyndon B. Johnson's domino theory which was the rationale for US intervention in Indochina.

It was in this geopolitical context that President Gerald Ford and his Secretary of State, Henry Kissinger, visited Jakarta in early December 1975 as part of an Asian tour to reassure leaders of the region that the US would continue to honour its security commitments in Asia.

The invasion of East Timor which took place within hours of Ford's departure from Jakarta was a mere footnote in the Cold War events of 1975. Thousands of East Timorese who died in the days, weeks, months and years that followed were mere footnotes to the post-Vietnam and Cold Wars.

INVIOLABILITY OF COLONIAL BOUNDARIES

One and a half year before these events, in June 1974, I visited Jakarta in my capacity as secretary for Foreign Affairs of the Timorese Social Democratic Association, that had just been created less than a month earlier. I had the privilege of meeting with the then Foreign Minister of Indonesia, Mr. Adam Malik. After our third round of talks, Mr. Malik addressed me a letter which read in part:

The independence of every country is the right of every nation, with no exception for the people of (East) Timor;

* * * Whoever will govern in Timor in the future after independence can be assured that the government of Indonesia will always strive to maintain good relations,

friendship and co-operation for the benefit of both countries.

The following year, in April 1975, I again visited Indonesia and met with President Suharto's senior adviser, Gen. Ali Murtopo, to whom I reiterated our collective desire to develop friendly relations with Indonesia. Gen. Murtopo reassured me that Indonesia harboured no territorial ambitions over East Timor. However, we soon learned that the word of an Indonesian general or diplomat can be broken as easily as it is spoken.

Some simple but fundamental issues need to be addressed. Does Indonesia have a valid historical claim to East Timor?

The current boundary of the Republic of Indonesia is a product of the Dutch East Indies administration. West New Guinea was absorbed by the Republic not because of a reasonable historical, cultural, ethnic kinship or geographic continuity. The only link that justified the annexation was West New Guinea's brief colonisation by the Dutch.

The arbitrary carving up of Africa at the Berlin Conference can be blamed for some of Africa's problems today but respect for the colonial boundaries, as unfair as most might be, has provided some peace and stability and kept most of Africa, Latin America and Asia from disintegrating.

Saddam Hussein of Iraq attempted to redraw the map and rectify what he perceived to be an unfair colonial legacy by invading Kuwait. Iran has longstanding claims over Bahrain. In Latin America there are some interstate territorial disputes as a result of perceived unfair border delimitation.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION

From the Chittagon Hill Tracts in Bangladesh to Bougainville, Kurdistan, Sri Lanka, India, Tibet, Chechnya, Ogoni, West Papua, millions of peoples seek to assert their most fundamental rights and if we attempt to find a common denominator for the problems I have just listed there is one: the right of peoples to self-determination.

In most cases the demands are not for secession. They are about their survival as a people with a language and a culture, with their land and environment protected from rapacious multinationals. Only when these basic demands are not met there has been recourse to other forms of struggle with an escalation in their demands.

While self-determination in the decolonisation process of the non-self-governing territories almost always led to independence, this is not the case in most of the conflicts of today. The cases of Western Sahara and East Timor are the two most salient failures of decolonisation. In the case of Western Sahara, the United Nations has allowed itself to be a pawn in the machinations of a minor regional power.

However, the preservation of the territorial integrity of a country can be achieved only if those in power are sensitive to the basic demands and aspirations of the many indigenous peoples and nationalities that make up the country.

Brute force might silence and keep dormant the dreams and aspirations of a people but the anger simmering for decades will inevitably resurface and break up the country.

THE RIGHT OF THE PEOPLE OF EAST TIMOR TO SELF-DETERMINATION

The right of the people of East Timor to self-determination is widely recognized. Apart from the former Spanish territory of Western Sahara, East Timor is the largest non-self-governing territory in the UN GA decolonization list which dates back to 1960.

The UN General Assembly and Security Council have adopted a total of 10 resolutions on the question of East Timor all reaffirming this right.

In its ruling of 30 June 1995 on the Case Concerning East Timor, Portugal Versus Australia, the International Court of Justice stated that the right of self-determination has an erga omnes character and that the people of East Timor are entitled to it.

DIALOGUE WITHOUT PRE-CONDITIONS AND THE CNRM PEACE PLAN

The Israeli-Palestinian peace talks and South Africa's transition to democracy give us renewed hope in that they demonstrate that seemingly intractable problems can be resolved if there is political will and vision by all involved.

In this room today there are East Timorese leaders of every persuasion, some have come all the way from East Timor, Portugal and Australia, and I can speak for all when I say that we are ready to enter into a process of dialogue with the Indonesian authorities, under the auspices of the United Nations, without pre-conditions, to explore all possible ideas towards a comprehensive settlement of the conflict.

In 1992, after thorough consultation with our people in the country, Xanana Gusmão gave his seal of authority to what is now known as the CNRM Peace Plan which was formally presented to a meeting of the European Parliament in Brussels on 22 April 1992.

The CNRM proposal remains valid as a modest contribution towards finding a solution to the conflict.

Phase one—humanitarian phase

This phase which should take up to two years to be fully implemented, would involve all three parties working with the UN to implement a wide range of "confidence building measures", (CBMs) but would not deal with the core of the problem which is the issue of self-determination.

These CBMs must include release of all prisoners, end of torture and summary executions and a drastic reduction in Indonesia troop presence in the territory.

These are some of the ideas which I believe could be implemented immediately without loss of face for Indonesia. Its international standing would improve significantly and its presence in the territory would be less resented, thus relieving a very tense situation.

In view of the time constraints, the full text of this plan is attached to this speech.

Phase two—autonomy, 5 years

Phase two, lasting between five to ten years, would be a period of genuine political autonomy based on ample powers vested in a local, democratically elected Territorial People's Assembly.

At the end of the second phase, the autonomous status of the territory could be extended by mutual accord.

The East Timorese people, having enjoyed a period of peace and freedom without the presence of the most hated symbol of the occupation, the army, might accept to continue this form of association.

Conversely, the changing generation, attitudes and perception in Indonesia might result in Indonesia accepting as natural that East Timor becomes independent.

Phase three—self-determination

If all parties agree that Phase Three should enter into effect immediately, then the UN begins to prepare a referendum on self-determination to determine the final status of the territory.

If God willing, East Timor becomes independent, ladies and gentlemen, allow me to share with you, our vision for our country's future and role in the region.

OUR VISION FOR THE FUTURE

East Timor is at the cross-roads of three major cultures: Melanesian which binds us to our brothers and sisters of the South Pacific region; Malay-Polynesian binding us to Southeast Asia; and the Latin Catholic influence, a legacy of almost 500 years of Portuguese colonisation. This rich historical and cultural existence places us in a unique position to build bridges of dialogue and co-operation between the peoples of the region.

PORTUGAL

East Timor will maintain close ties with Portugal, a country which colonised us for almost half a millennium has shown an abiding commitment to our right to self-determination. Portugal and East Timor will be most valuable partners for ASEAN in its relations with the EU, Africa and Latin America.

AUSTRALIA AND THE SOUTH PACIFIC

The majority of the East Timorese residents outside the country are in Australia. In spite of our sadness over Australia's role on East Timor I wish to state here our deepest appreciation to Australia for the shelter, hospitality and generosity shown to our thousands of refugees on Australian soil.

We appreciate the many representations the previous and current governments of Australia have made to impress upon the government of Indonesia regarding the human rights situation in East Timor. No other Western country has been more persistent in this regard.

We fought together during World War II and many East Timorese gave their lives for our common cause. Now and in the future we look up to Australia for help. An independent East Timor will seek close relations with Australia and membership in the South-Pacific Forum.

ASEAN AND APEC

We are conscious of our geography which compels us to co-exist with our neighbours in that part of the world. We will seek membership in ASEAN and APEC within days of our independence.

A ZONE OF PEACE

We will not have a standing army. For our external security, we will rely on a Treaty of Neutrality to be guaranteed by the permanent members of the Security Council. We will endeavour with the UN and our neighbours to declare our region and the seas surrounding East Timor a Zone of Peace and Development.

RULE OF LAW

We will endeavour to build a strong democratic state based on the rule of law which must emanate from the will of the people expressed through free and democratic elections.

HUMAN RIGHTS AND INTERNATIONAL OBLIGATIONS

All international human rights treaties will be submitted to the Parliament for ratification.

We believe that human rights transcend boundaries and must prevail over state sovereignty.

We will introduce into the school curriculum at an early stage starting in the kinder gardens the subject of human rights.

We will actively work with like-minded countries, NGOs and the media to strengthen the UN human rights machinery.

AMNESTY AND NATIONAL RECONCILIATION

East Timorese now serving in the Indonesian administration in East Timor, the security forces and police, should not fear an

independent East Timor. They will be invited to stay on. Their full and active involvement in running the country will be necessary to ensure a smooth transition.

Our society will not be based on revenge. Because of its credibility and standing, the Catholic Church will be expected to play a major role in the healing process of our society.

In August 1975 too many East Timorese died in a brief but violent civil strife. Many more died even after the invasion because some in the leadership of the movement I belonged took upon themselves the role of judges and executioners.

NATIONAL RECONSTRUCTION AND DEVELOPMENT

East Timor is a relatively small country. But with an area of 18,899 kms and a total population of 700,000 (1974 figures), it is at least equal to, if not larger, in size and population, than some 40 independent states. It is potentially self-sufficient in most agricultural goods, meat and fish. It has large reserves of oil, natural gas, marble and manganese.

The invasion up-rooted thousands of people. Properties were abandoned, destroyed or sold at unfair prices. This situation will be redressed. A voluntary resettlement plan will be effected to allow the many tens of thousands of displaced East Timorese to return to their ancestral lands. We believe in free education and health care for our people. The money saved from not having a standing army will be well used in these areas. With the cooperation of WHO we will seek to eradicate malaria, tuberculosis and other preventable diseases within a decade.

INDONESIAN MIGRANTS

It is estimated that over 100,000 Indonesians are now living in East Timor. Most are poor Indonesians who came to our country looking for a better life.

Indonesian migrants in East Timor will be welcome to stay.

THE SUHARTO REGIME, ITS ACHIEVEMENTS AND WHAT IT SHOULD DO

No one can honestly suggest that the 30-year regime of Gen. Suharto has not done good for Indonesia. The record of the past 20 years has been impressive. The Suharto regime lifted the Indonesian economy from extreme poverty to the status of an economic tiger. Living standards, literacy, health care and food production increased to impressive levels.

President Suharto can show leadership by releasing all prisoners, meeting Indonesia's greatest living author, Pramoedya Ananta Toer, Megawati Sukarnopultri, leader of the PDI, daughter of Indonesia's founding father, the late Bung Karno, Muchtar Pakpahan, Indonesia's Lech Walesa, Sri Bintang, George Aditjondro, Indonesia's most decorated environmentalist.

Suharto should talk and listen to the wise and most respected Moslem scholar Abdurramanh Wahid who is here today with us in Oslo.

The leaders and militants of the PRD are among the best children of Indonesia. Instead of hunting them he should invite them to his palace for dialogue about the future.

FOSTERING A DEMOCRATIC AND PEACEFUL TRANSITION IN INDONESIA

No country, no matter how rich and endowed with natural resources, is an island into itself. In an increasingly smaller world and competitive age, where modern electronic communications break the barriers of silence erected by dictators, Indonesia cannot continue to flout the right of the people of East Timor to self-determination and the rule of law in Indonesia.

The next two to three years will witness a transition in Indonesia. Australia, New Zealand, the US, Canada and the EU can encourage a peaceful, evolutionary transition with a discreet yet firm policy of pushing for democratic reforms and rule of law in Indonesia and for a genuine act of self-determination in East Timor.

THE ROLE OF THE INTERNATIONAL COMMUNITY

We are as determined as we are optimistic about our future. To Indonesia and our other neighbours in the ASEAN we are offering a hand of friendship and appealing to them to help us bring peace and freedom to East Timor.

The EU, working with the US, Canada, Australia, New Zealand, Japan and Indonesia's partners in ASEAN, can accelerate the on-going dialogue under the auspices of the UN secretary-general, give it some impetus and real substance.

The US Administration is the only major power that has adopted some concrete measures to encourage changes in Indonesia and East Timor. I express here our sincere appreciation to President Clinton for his actions on East Timor and I appeal to him to lend his youthful energy and compassion towards a permanent resolution of the conflict which he once described as "unconscionable".

THE WEST AND ARMS SALES

We are not asking that Indonesia be punished with comprehensive economic sanctions. We believe that economic engagement with a country can at times foster positive changes through the development of a democratically conscious class.

However, we find it repulsive that the Western countries that more loudly make rhetorical speeches about human rights are the ones that manufacture most weapons that have killed more than 20 million people in the developing world since World War II.

Land mines, torture equipment, cluster bombs, chemical weapons are weapons designed to inflict pain and death on human beings. Most victims are civilians, women and children. How can arms manufacturers, weapons designers, plant managers, politicians, who have families of their own whom they love, are so insensitive when it comes to the suffering of other human beings?

HUMAN RIGHTS AND "ASIAN VALUES"

The peoples of Burma, Thailand, the Philippines, South Korea, and the democracy movements in China and Indonesia are telling the rest of the world that democracy and human rights are not an invention of the West.

The thousands of Asians who died in the streets of Manila, Bangkok, Jakarta, Rangoon, Beijing, did not die for a so-called "Asian value" that denies the people of Asia the basic and fundamental freedoms enjoyed in Europe, Latin America and in an increasing number of countries in Africa.

SOUTH KOREA

The brave people of Korea who endured decades of dictatorship and occupation won the struggle for democracy not with guns but with their tenacity in fighting the troops in the streets of Seoul and Kwangju.

The South Korean people can also show greater courage by being magnanimous and forgive those who have done wrong. Sometimes in history individuals in power are driven to commit wanton crimes but those who survive and are in power today should resist the temptation to exact revenge in the name of justice.

The death sentence must be abolished and the brave people of Korea should set the example by commuting the death sentence on former President Chun Do Hwan. From here I appeal to my Korean friends not to exact revenge against those who have been defeated. In victory be magnanimous.

BURMA

I extend our most heartfelt solidarity to the people of Burma and their elected leader, Nobel Peace Laureate Daw Aung San Suu Kyi, in their struggle for democracy, rule of law and human rights.

At a time when some ASEAN rulers are conniving with the SLORC regime to deny the people of Burma their democratic victory, we must all stand up and redouble our efforts to restore democracy to Burma.

The US and the EU must be commended for their leadership in support of the restoration of democracy in Burma but they must escalate the pressure with additional diplomatic and economic sanctions against the SLORC.

I also fully endorse the recommendations on Burma adopted by the Forum of Democratic Leaders in the Asia Pacific led by Kim Dae Jung and Cory Aquino in their recent meeting in Manila.

CHINA, TAIWAN, TIBET

When the UN SC debated the issue of East Timor in 1975 and 1976 China was our closest ally and I worked closely with very able Chinese diplomats. In spite of the indifference of the other four permanent members, China, along with other non-permanent members, succeeded in pushing the SC to adopt two resolutions on East Timor.

It is with this feeling of gratitude and admiration for China that I appeal to the Chinese leaders to listen to their own people's opinions and desires for a more open society, based on the rule of law, democracy, freedom of speech. These are after all rights that are granted to each Chinese citizen by their own Constitution.

Wei Jing Zhen is one of China's best children. He is being wasted away when his talents could best be used in the service of his fellow Chinese people and country.

The people of Taiwan have shown great maturity, responsibility and commitment to peace and democracy. While there is no dispute that Taiwan is part of China, as long as there is no progress on the issue of peaceful reunification of the two countries, I believe that the cause of dialogue and peace can best be served if Taiwan is granted observer status in the UN as was the case in the past with South and North Korea, South and North Vietnam. After all, China has not objected to Taiwan and Hong King joining the APEC.

China should listen to the voice of peace and moderation of the Tibetan people. For many years the Tibetan spiritual leader, His Holiness the Dalai Lama has offered a moderate peace proposal to the Chinese authorities to settle the Tibetan conflict.

CYPRUS

Cyprus, a shining example of democracy and tolerance, remains divided and occupied by a NATO ally whose history of aggression and violence is well-known.

Recently I received a letter signed by the students of Classes C11 and C22 of Kykko B Lyceum in Nicosia who wrote:

Your homeland is an occupied country at the far end of the ocean. Our homeland lies partly occupied at the far end of the Mediterranean. We live in a divided city and we cannot cross the dividing line * * *

To the students of Kykko B Lyceum I can only say that like the ancient Armenia you too will recover your lost land.

THE PROPHETS OF DOOM

The world has changed dramatically over the last few years and the theorists of irreversibility and status quo have been discredited by the collapse of the USSR.

Who would have thought it possible that the great Armenian people, persecuted for hundreds of years would regain a country called Armenia?

The entire world conspired against the Eritrean people. Americans, Russians and Cubans all connived against that small nation.

Two great nations, Israelis and Palestinians, who swore eternal hatred have shown courage and wisdom and began a painful process of dialogue.

In South Africa, former enemies are trying to rebuild their common home.

Last but not least, for the prophets of doom, for those in government who counsel us "realism", allow me to remind them of a news item in the ever reliable BBC a few years ago.

It was sometime in early 1991 and I was driving from the small Swiss town of Nylon, to the Palais des Nations in Geneva, to yet another round of futility in a place where some diplomats pretend to be too busy to listen to real problems of real peoples.

The BBC was telling us the story of a Soviet cosmonaut who had gone into space a few months earlier on one of those record-breaking missions in space. When he was blasted off from somewhere in the Soviet Union he carried a passport and a nationality granted to him by the most feared military empire in the world.

Once he completed his tour of duty for the pride of the socialist motherland he prepared the spacecraft for its return voyage to earth. But he no longer had a country to return to. The mighty empire had ceased to exist. He was forced to circle the earth a few days longer until people of good will on earth decided to which country he should go to.

With this note, I will end with renewed hope that no matter the level of brute force used against us, our dreams will never die.

God bless you all. Thank you.

THE NOBEL LECTURE GIVEN BY THE NOBEL PEACE PRIZE LAUREATE 1996, CARLOS FILIPE XIMENES BELO

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. HALL of Ohio. Mr. Speaker, I would like to submit for the RECORD the Nobel lecture given by Bishop Belo upon his acceptance of the 1996 Nobel Peace Prize. I had the honor of nominating him for this prestigious award and hope this award will lead to a lasting peace in East Timor.

THE NOBEL LECTURE GIVEN BY THE NOBEL PEACE PRIZE LAUREATE 1996, CARLOS FILIPE XIMENES BELO—OSLO, DECEMBER 10, 1996.

ACCEPTANCE SPEECH

Your Majesty.
Dear Members of the Norwegian Noble Committee.
Honorable Prime Minister.
Excellencies, Ministers.
Members of Parliament.
Members of the Diplomatic Corps.
Regarded friends.
Distinguished guests.
Friends, ladies, and gentlemen.

"Nations will proclaim his wisdom, the assembly will celebrate his praises. If he lives long, his name will be more glorious than a thousand others, and if he dies, that will satisfy him rest as well."—Wisdom 39, 10–11.

Excellencies, Ladies and Gentlemen, I start with this biblical passage from the Book of Wisdom because it expresses with deep significance the memory of the man we remember this day whose esteemed Peace Prize bears his name. Today, the tenth of December, we celebrate the centennial anniversary of the death of a wise benefactor of humanity, a Peace worker, Alfred Nobel.

Men of competence will never be extinguished from the memory of humanity because his wisdom, his dedication for the improvement of humanity, his tenacity for the progress of science in favor of mankind, makes people everywhere, all believers, all ideologies, feel in one way or another under the obligation of his talents and his boldness.

These men of competence are constantly disturbing the consciences of those who do not attend to the improvement of humanity. For it is a matter of fact that everyone should contribute by any kind or form so that mankind become more and more humane.

What reasons, brought the Catholic Bishop of East Timor to be here in the presence of this assembly? I come from a social context that is already known to your Excellencies, where, due to circumstances, the aspirations and desires of the people are limited.

Taking the words from Terentius: "Homo sum; humani nihil a me alienum puto."—Terentius 1, 25.

As man, as human being, I can not stay indifferent in front of what concerns man.

As a member of a people, I have to share the destiny of the people, taking upon myself completely this mandate, knowing the risks that such attitude will involve. Striving for the defense of the rights of all peoples is not only the privilege of these guiding the destiny of the people or those enjoying lofty positions in society, but it is the duty of everyone whatever rank or status.

As a member of the Church, I take it upon myself the mission of enlightening and denouncing all human situations which are in disagreement with the Christian concept and contrary to the teaching of the Church concerning all mankind.

The Catholic Bishop is a pastor of a part of God's people. His specific mission is spiritual. Such mission is incumbent upon him basically as a dispenser of spiritual resources for the salvation of persons and consolidating them in faith in Jesus Christ.

But mankind is not limited to a spiritual dimension, one should be saved as a whole, human and spiritual. In this aspect, any Catholic Bishop shall never be indifferent when a people's possibilities for human realization, in all dimensions, are not respected.

So the Nobel Peace Prize, attributed to a Catholic Bishop, is not a homage for one person but also basically the gratitude for the encouragement that the Catholic Church has developed over the centuries in defense and promotion of the rights of human beings.

The teachings of the Second Vatican Council in Gaudium et Spes. states: "The Church thinks that she will respond to the deep desires of peoples, showing its final hope, preaching freedom, dignity of conscience and rights, that is just, in God's plan of salvation."

The duty given to the Church is not sociopolitical in nature but religious. And thus it is characteristic to the Church, a wellspring of enlightenment and energy, to empower and contribute to the strengthening of the human society.

It is known to your Excellencies, the effort of the Church concerning the suffering of the people of East Timor over the last twenty one years. As Bishop of this people, I regard the Nobel Peace Prize not as something to merely esteem one person but as the rightful homage for the work done by the Catholic Church in East Timor, defending the inalienable rights of her people.

"Yet you have made him little less than a god, you have crowned him with glory and beauty."—Psalm 8, 6.

For the composer of this psalm, human dignity is taking root in his divine vocation, created by God.

This is my belief and knowledge about mankind which guides me and impels me as my conscience considers how I should act.

However, addressing this distinguished Assembly with beliefs and concepts about mankind may be quite humanistic. But I do believe for sure that among us we have something in common, that is we affirm that the human being is the subject of all concept and human activities. We declare that one's value and dignity does not depend on the individual's belief, religion, politics, philosophy, race or color of skin.

Man is a being for freedom. It means that one's realization is complete when capable to decide about one's options and taking responsibility for his or her actions without any kind of intimidation.

Man is a being realized in a community. It means that the social and ethnic group one belongs to is the background for his or her fulfillment.

Man is a being realized when there is a reciprocity of respect. It means that wherever human beings are not respected in their elementary rights by those in charge or by those responsible in society, as a consequence, we have oppression, slavery, arrogance, arbitrariness, death of individuals and death of a people.

Ladies and Gentlemen, these principles are valid for everybody and they are valid for the church who also affirms that human dignity is rooted and fulfilled in God Himself.

Persons have been placed in society by God the Creator, but over and above this, each person is called to be united with Him as children of God and participating in God's happiness.

Moreover, the Church teaches that if this divine foundation and the hope for eternal life are missing, human dignity is strongly damaged (GS.21).

The Catholic Church proclaims Jesus Christ as the great deliverer for all mankind. Indeed, Jesus frees each one from every moral and social slavery, giving back his or her true dignity as a human being.

In making Christ known, the Church reveals to all their true situation and calling, since Christ is the head and model of that renewed humanity imbued with that fraternal love, sincerity and spirit of peace, to which everyone aspires (AG. 8).

Your Majesty, Members of the Nobel Committee, my friends from around the world. I am profoundly honored to be before you today to receive the Nobel Prize for Peace. But whatever personal compliment I may receive, I believe that I have received this high tribute not because of who I am or what I have done. I firmly believe that I am here essentially as the voice of the voiceless people of East Timor who are with me today in spirit, if not in person. And what the people

want is peace, an end to violence and the respect for their human rights. It is my fervent hope that the 1996 Nobel Prize for peace will advance these goals.

Above all, above all else, I am mindful and humble in my thoughts of Pope John Paul II, who did so much in the face of overwhelming odds in the epochal struggle to remove the yoke of Communism from Poland and other nations who have been told to be realistic and accept their fate. The Holy Father has provided an example and a depth of inspiration to me that can never be equaled. My gratitude to John Paul II can not be adequately expressed.

I also think of others, especially from Asia who have never stood here. I contemplate with unending amazement the work of Mahatma Ghandi and his creed of non-violence in the movement for change. I think of China, and I pray for the well-being of Mr. Wei Jing Sheng and his colleagues, and hope that they will soon be liberated from their jail cells, just as Indonesian leaders once were freed from the infamous Boven Digual prison after long years of cruel captivity. Surely, these same Indonesian leaders had earned a place here in Osio even before I was born in 1948, at the height of their battle for freedom and dignity. I think of the fearless Indonesian fighters and I realize that history has so much to teach us if we would only take time to contemplate its richness.

I stand humbled in the august presence of my predecessors in this place here in Oslo. I think of The Reverend Dr. Martin Luther King, Jr., "standing in the mountaintop, looking out at the promised land." These words remind me of the view of the majestic mountains in my beloved East Timor—Mount Matabean (the Mountain of the Dead), near where I was born in the east; and Mount Ramelau in the west. As I look at these mountains in my frequent journeys throughout my native land, I feel ever more strongly that it is high time that the guns of war are silenced in East Timor, once and forever, it is high time that tranquility is returned to the lives of the people of my homeland, it is high time that there be authentic dialogue. All people of goodwill must use every peaceful means of human ingenuity and intelligence to find ways to create a genuine peace based on mutual respect and human dignity.

East Timor is hardly alone in its search for peace and dignity, and it is of great importance to acknowledge the work of others. Last year I was privileged to be the guest in Belfast Northern Ireland, of the 1976 co-Laureate, Mrs. Mairead Corrigan Maguire, whose increasing work for peace has touched many throughout the world. Mrs. Maguire graciously gave me an informative and moving tour of the troubled areas in Belfast, the night after many vehicles had been burnt in protest over the early release of a soldier convicted of killing an 18 year old girl. I pray that the people of Northern Ireland may know genuine peace, justice and tranquility in the near future.

Last year, I met with His Holiness, The Dalai Lama, and was deeply moved by his wisdom and kindness. The people of Tibet are never far from my prayers, nor are the communities of the indigenous peoples of the world who are increasingly being overwhelmed by aggressive moderity that presumes to call itself civilization.

I pray for peace in the Middle Esat and Afghanistan, which can not be forgotten, and for the continuation of the peace process in Central America. And no human being can be indifferent to the drama in the Great Lakes area in Burundi and Rwanda, and also Zaire, where the human suffering cries out for a solution.

In South Africa, the search for peace deepens. For me the work of Archbishop Desmond Tutu is a shining example of the way truth can be combined with the quest for human rights, the way humor and humility can be mixed with righteousness, and I only pray that I may be worthy of his mantle. In Burma, I salute the strength and grace of Daw Aung San Suu Kyi, and pray that a better day may soon arrive for her and all her people. May the beauty of music from her piano soften the hearts of armies and nations. In Burma and throughout the world, in places known and not well known, let us apply the words in the fifth chapter of Amos of the Old Testament: "Let Justice roll down like waters."

And let us always think of many anonymous people throughout the world, struggling for the protection of human rights. Day by day, working to convince the international community of the justice of their cause, whether they be Moslems or Christians, Protestants or Catholics, Hindus or Buddhists whether they be followers of age-old traditional beliefs, believers or non-believers. I say: press on, take courage, remain true to your ideals, you will not be forgotten.

The world censures those who take up arms to defend their causes and call on them to use non-violent means in voicing their grievances. But when a people chooses the non-violent path, it is all too often the case that hardly anyone pays attention. It is tragic that people have to suffer and die and the television cameras have to deliver the pictures to people's homes everyday before the world at large admits there is a problem. Therein lies the enormous significance and the brave wisdom of the decision of the Nobel Committee to focus on East Timor this year; it represents the extraordinary recognition of East Timor's quest for peace and the recognition of its pleas for an end to suffering.

I speak of these things as one who has the responsibility to bear witness to what I have seen and heard, to react to what I know to be true, to keep the flame of hope alive, to do what is possible to warm the earth for still another day. I speak as a spiritual leader, not as a politician, which in fact, I am not. In recent weeks, some articles have described me as "a former shepherd," not realizing that my vocation only evolved from a boyhood job of tending water buffaloes to the grave responsibility of trying to apply my fallible self to the difficult task of providing moral leadership in a situation where almost no one is ever completely happy with my actions.

Others have written that if there had not been a war in East Timor, I would be spending all my time tending to the needs of troubled youth, which is the special calling of my religious order, The Salesians of St. John Bosco. But this is only a matter of degree: even now, I spend an overwhelming amount of energy in listening to and counseling the youth of East Timor, who urgently need such help because of their history. This is my special obligation, and one which I welcome.

Thus I must press on, aware of all the task that are far from complete. St. John Bosco once said that we will have the chance to rest in the hereafter, not in this world. And my life in the past thirteen years since I took up the post in East Timor illustrates the accuracy of Don Bosco's judgment in this regard among others. But my own hard work forms only a small part of what is necessary; the participation of others is vital. I extend the hand of friendship and goodwill to all those who provide genuine assistance or moral support in the vital struggle for peace in East Timor, throughout Asia, Africa, in the western hemisphere, throughout Europe, in Bosnia and elsewhere in the Balkans. Everywhere.

I must also praise the United Nations for its painstaking efforts on the question of East Timor, which have been of central importance in keeping the issue alive over many long years. In the face of great obstacles, in spite of all the difficulties, the United Nations have continued to persevere in the interest of generating dialogue that might one day create a lasting structure of peace in East Timor, and in many other places throughout the world.

There is no institution that can take the place of the United Nations, especially in the light of the history and credibility of the world organization. We can not overlook the fact that the United Nations played an important role from its earliest days in the 1940's in assisting the struggle of Indonesia's nationalist movement. The young Indonesian Republic fought alone, with supreme courage, against the brute force of colonialism and its allies, ultimately receiving the indispensable moral backing that the new world association alone was able to provide. In the face of the moral weight of the United nations, the Dutch and their allies could not carry on military operations with impunity, as other colonial powers did before the UN was formed in 1945. This must never be forgotten. Thus, the world must do whatever possible to strengthen the United nations in the months and years ahead, in the deepest interests of all the peoples of the world.

Let it be stated clearly that to make peace a reality, we must be flexible as well as wise. We must truly recognize our own faults and move to change ourselves in the interest of making peace. I am no exception to this rule! Let us banish anger and hostility, vengeance and other dark emotions, and transform ourselves into humble instruments of peace.

People in East Timor are not uncompromising. They are not unwilling to forgive and overcome their bitterness. On the contrary, they yearn for peace, peace within their community and peace in their region. They wish to build bridges with their Indonesian brothers and sisters to find ways of creating harmony and tolerance.

Mutual respect is the basis of compromise. Let us start by making a sincere effort to change the very serious human rights situation in East Timor. The Church has played its part. We have formed a Justice and Peace Commission that is always ready to cooperate with the authorities to address problems.

Independent human rights officials have repeatedly visited East Timor and have recommended what needs to be done. As a first step, the release of East Timor political prisoners has to be given urgent attention, in accordance with the section on Humanitarianism in Panca Sila, The Five Principles of Indonesia's State Ideology. Such a step would help create an important opening on the road to peace.

Ladies and Gentlemen, taking the liberty to remind, in this assembly, my predecessor's appeal, Israel's former Prime Minister, the late Mr. Itzaak Rabin, speaking in New York, when the first historical meeting with President Arafat took place, he said: "Stop bloodshed."

Making mine this same appeal, I say: "Stop bloodshed." And I add: Stop oppression. Stop violence. Stop conflict. Let us sit

down around a table and understand each other, because we can not tolerate extending for a long time the suffering of the people of East Timor. I think this is the fundamental intention of the Nobel Committee in awarding to us the prize, expressed on behalf of its president, Mr. Francis Sejersted.

Ladies and gentlemen, East Timor was given the possibility to be heard through the voice of her two sons resounding throughout the world through this solemn assembly; but I would like that this attention shown by the world to East Timor be given the same intensity concerning the many other problems distressing other people.

There are similar situations, throughout the world, where people live under horrible conditions as Timor, but they have no possibility to be heard.

Daily, we get in our home, news and images of suffering, pain, destruction caused by war. "War, this monster," as Father Antonio Vieira states, "what it is doing, even God is not secure in the altar."

I appeal to all men of goodwill and particularly those holding power to find out solutions for these numberless conflicts. Solutions based on justice and solidarity, in order that the fundamental rights would be respected.

I appeal, as well, to all professionals of the information media, charged with this great mission, that they regulate communication between all latitudes of the globe, doing it with a sense of truth and immunity for building up a society more humane and more just, without tendentious manipulations.

I would like, before I finish, to address one word to the youth around the world, particularly to the youth of my dear Timor: "Society is a succession of interwoven rings in which each generation has the duty to the next generation in order to live in the world peacefully fraternally. Under your shoulders, dear young people of the entire world, weigh the responsibility to transform tomorrow's world into a society where peace, harmony and fraternity reign."

Dear youth, I quote from memory the great Indian poet Rabindranat Tagore: "Youth, as a Lotus flower, flourish just once in life." Do not let it wither through the way.

Finally, an event is never a lonely action. The awarding of the Nobel Peace Prize to these two sons of Timor, Dr. Jose Ramos and myself has come about because many people groups and institutions have worked hard so that this event be a reality.

In this moment I would like, in the first place, to thank Her Majesty the Royalty of Norway, for being susceptible with the suffering of the people of East Timor, and for the generous presence in this solemn assembly.

My thanks goes to the Nobel Peace Prize Committee for their kind attention and courageous dedication on behalf of the plight of the East Timorese.

To the government and members of the Norwegian Parliament I thank you for the decision to honor us with the Nobel Peace Prize

I emphasize a little to thank Portugal and other friendly nations, as well as distinguished personalities who have proposed our names as candidates for the Nobel Peace Prize.

To the Timorese, here and abroad. I convey my indescribable gratitude and my communion and silent solidarity with you.

To His Holiness, Pope John Paul II, who has been persistent and attentive in following the situation and the suffering of the people and the Church in East Timor, I submit my filial devotion and the promise of unending fidelity and in union with Christ.

To the Pontifical Commission of Justice and Peace, particularly in the person of its President, His Eminence Cardinal Roger Etchegaray, who had the opportunity to be in direct contact with the Church of Timor, I submit my deep gratitude.

I can not forget the contribution of friends from other religions who, with discretion and fearless activity have made it possible that the Nobel Peace Prize for 1996 be attributed to the Catholic Church in East Trimor.

It would be unjust to forget, although I am aware that it is difficult to count the various Non Government Organizations, Humanitarian Groups, Church related Groups and individuals who have worked hard, in silence and without much publicity, so that the Timorese can receive assistance and that the Timorese issue would not be buried under the dust of oblivion. With them, I share my happiness.

And finally, my sincere thanks to all the members of the social communication industry from all over the world. They had lent their voice in making known to the world the anguish and the suffering of the Timorese. I would like to pay my tribute to those giving information about Timor, risking their life and some of them falling down in East Timor soil.

"The Creator and Father of everything and all peoples will reward all of us and will give us strength, wisdom and courage to struggle for our fellow human beings because each one is the image and the likeness of God."—Gen. 1, 26.

INTRODUCTION OF SHORT AGAINST THE BOX LEGISLATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mrs. KENNELLY. Mr. Speaker, I rise today to introduce legislation to curb the use of innovative tax avoidance techniques that have enabled some investors to indefinitely defer, and in some circumstances completely avoid, capital gains taxes. Under current law, capital gains are subject to tax only when there is a sale or exchange of the property. In this respect, our tax laws have fallen far behind the financial markets. The financial markets have succeeded in creating transactions and instruments that are equivalent to sales in an economic sense but avoid the tax that would be required in the case of a sale. I must agree with Robert Willens, a managing director at Lehman Brothers, who was quoted recently in the New York Times as stating, "old fashioned notions of sale are totally inappropriate for the world we live in today." My bill redefines the concept of when there is a sale for tax purposes in order to take into account the economic substance of these new transactions.

There is a growing perception that the capital gains tax has become voluntary for large investors. There is evidence that capital gain recognitions by large investors have stagnated in recent years even as the stock market has soared. Typically, average middle-income families have invested through mutual funds whereas relatively wealthier investors also hold direct investment in the stock market and in real estate. Taxable capital gains reported by investors who hold only mutual funds have soared in recent years whereas taxable capital gains reported by investors with direct stock and real estate investments have remained below the level reported in 1988. The availability of these avoidance techniques may have played a role in this decline.

Many of the transactions affected by my bill are not available to the ordinary investor because of their cost. Bankers Trust, a company specializing in equity swap transactions, will do an equity swap only when the investor has a block of stock valued in excess of $2 million. Also, it should be emphasized that these transactions would not be done except for the tax avoidance potential. In an economic sense they are equivalent to an outright sale, but their costs are substantially greater than those involved in a simple sale.

We rely on voluntary compliance to collect our income taxes. In fact, our current high level of voluntary compliance is the envy of the rest of the world. That high level of voluntary compliance is threatened by the existence of tax avoidance techniques that are only available to the wealthy in our society. The current law capital gains tax applies to all Americans. If the capital gains tax should be reduced it should be done legislatively for all taxpayers, not by Wall Street for the select few.

The bill I am introducing today includes two provisions. The first provision would provide for recognition of gains in the case of transactions, like equity swaps and "short against the box" transactions, that are equivalent to sales. This provision is based on a proposal recommended by the President in his recent budget submission. I have modified the President's proposal to address concerns that it would adversely impact legitimate hedging transactions. My bill contains simplified accounting rules for securities traders and would trigger recognition of gain only when there is deferral of tax over year-end. However, I have retained the effective date recommended by the President since my bill is basically a modified version of his proposal.

The other provision of my bill addresses another abuse, the so-called swap fund, that Congress thought it eliminated almost 30 years ago. In a swap fund transaction, an investor wishing to diversify his investment exchanges his holding of a specific stock for an interest in a diversified investment pool. The current version of this device involves having the fund hold at least 20 percent of its assets in investments that are not readily marketable. My bill eliminates that simple avoidance technique.

I urge the support of my colleagues.

TECHNICAL DESCRIPTION: SHORT AGAINST THE BOX LEGISLATION

CONSTRUCTIVE SALES TREATMENT

The Kennelly bill would require a taxpayer to recognize gain upon entering into a constructive sale of any appreciated position in either stock, a debt instrument, or a partnership interest. The taxpayer would recognize gain as if the position were sold and immediately repurchased.

The bill would define a constructive sale as any of the following transactions (and any other transaction having substantially the

same effect as a transaction described below):

(1) a short sale of the same or substantially identical property;

(2) entering into an offsetting notional principal contract with respect to the same or substantially identical property. For this purpose, an offsetting notional principal contract is a contract to pay the investment yield on the property for a specified period in exchange for the right to be reimbursed for decline in the value of the property and other consideration;

(3) entering into a futures or forward contract to deliver the same or substantially identical property;

(4) an acquisition of the underlying property where the taxpayer holds an appreciated short position described in subparagraphs (1), (2), or (3).

The bill could not trigger gain in circumstances where the underlying property is sold in a taxable transaction during the year or where the constructive sale is closed during the taxable year (and if closed in the last month of the year, is not reestablished in 30 days).

If the taxpayer makes a constructive sale of less than all of his property, the determination of which property is involved in the constructive sale would be made under the principles applicable to outright sales. Under current law, this would permit specific identification.

The bill would not apply to any contract for the sale of any stock, debt instrument or partnership interest that is not a marketable security (as defined under the rules that apply to installment sales) if the sale is reasonably expected to occur within one year of the date the contract is entered into. Nor would the proposal generally treat a sales contract subject to normal terms and conditions as a constructive sale. In addition, the proposal would not treat a transaction as a constructive sale if the taxpayer is required to mark the market the appreciated financial position under Section 475 (mark to market for securities dealers) or Section 1256 (mark to market for futures contracts, options and currency contracts). The bill would permit securities traders to elect mark to market treatment under Section 475.

Like the proposal included in the President's budget, the bill would be effective for constructive sales entered into after the date of enactment. In addition, the bill would apply to constructive sales entered into after January 12, 1996, and before the date of enactment if the transaction resulting in the constructive sale remains open after 30 days after the date of enactment. The bill would apply to those pre-enactment transactions as if the constructive sales occurred on the date that is 30 days after the date of enactment.

A special rule would apply to constructive sale entered into on or before the date of enactment by decedents dying after the date of enactment. If the constructive sale remains open on the date before the date of death and gain has not been recognized under the bill, the appreciated financial position would be treated as property constituting rights to receive income in respect to a decedent under Section 691.

SWAP FUND PROVISIONS

Under current law, gain is recognized on the contribution of property to a corporation or partnership that is an investment company. The Code defines an investment company as any corporation or partnership where more than 80% of its assets by value consist of stocks or securities that are readily marketable. The bill provides that all stocks and securities, including those not readily marketable, are taken into account under the 80% test.

SEMINAR ON GOALS 2000

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. HYDE. Mr. Speaker, on February 12, 1997, a day long seminar on education with particular emphasis on the pernicious effects of Goals 2000, school to work and careers legislation was held in the Rayburn Building. The participants were greeted by Phyllis Schlafly, who was responsible for the event—along with many other organizations and individuals—and heard from experts and several State legislators and Congressmen from many States, including California, Oregon, Alabama, Pennsylvania, Florida, South Carolina, Illinois, Arizona, Michigan, Texas, Kentucky, and Arkansas.

Mr. Robert Holland of Richmond, VA, an editor for the Richmond Times Dispatch not only delivered one of the best presentations but contributed the following editorial which appeared in the Washington Times, Sunday, February 23, 1997, which I am pleased to share with my colleagues.

[From the Washington Times, Feb. 23, 1997]

BENEATH THE SEAMLESS MODEL'S HOOD

(By Robert Holland)

The hearing room of the House Judiciary Committee looked like a busy "show and tell" classroom for scholars bearing large stacks of homework Feb. 1-2. Chairman Henry Hyde had convened an unusual grassroots conference on the spreading, entangling "Seamless web" of collectivized education, health and social services, and workforce preparation.

Citizen-activists joined members of Congress and legislators from five states in talking about what their research had yielded, and they brought much of it with them as Exhibits R through Z: thousands of pages of fine print illuminating the complex scheme to make schools the central instrument for transforming American society into one that takes its lead entirely from government technocrats certifying "skills" and dispensing "care."

Such documentation is essential because merely to criticize the seamless web is to risk being branded a conspiracy theorist. The extensive paper trail belies the existence of any conspiracy. It shows, instead, that a slumbering mainstream media—or mediacrats who cheerlead for collectivization—are the problem. The proof exists for anyone willing to risk the eyestrain to read the fine print.

Nor do the leading citizen-activists spurn facts in favor of imagined plots. Consider one of the featured presenters at the Hyde conference: Virginia Miller, a former women's basketball star at Penn State, and Rhodes Scholar candidate who spent 10 years as a systems consultant to U.S. Steel, Mellon Bank, Blue Cross, and Westinghouse.

Now the acting director of the Pittsburgh-based Public Education Network, Ms. Miller provided voluminous supporting documents to show how the Human Resources Development Plan devised by Hillary Clinton's sidekick, Marc Tucker, is coming to fruition through the multifarious works of the National Center on Education and the Economy.

For instance, one sentence penned by Mr. Tucker in a Labor Department-commissioned paper on organizing the work of the National Skill Standards Board (to which Mr. Clinton—surprise, surprise—has appointed Mr. Tucker) fairly jumps off the page. In discussing a three-tiered system for developing "comprehensive qualifications—or standards" for jobs and clusters of jobs, Mr. Tucker reached Title 1:

"This would be," he wrote, "a set of standards for what everyone in the society ought to know and be able to do to be successful at work, as a citizen, and as a family member."

Now, ponder the breathtaking absolutism behind such a vision: Not only should Big Government issue, in effect, work permits, and not only should it monitor each person's civic participation; it should go so far as to pass judgment on how every American functions as a mother, father, brother, sister or other member of a family—however the technocrats chose to define "family."

That sounds far-fetched—until one looks at Senate Bill 321 recently introduced in Oregon—one of the model states for the womb-to-tomb seamless web. That legislation would require every taxpayer with a dependent between the ages of 1 and 2 to attend state-directed "parent education courses" in order to claim a personal exemption on state taxes. The state also would set up a new system to certify parent-education providers. It is true that the agency Mr. Tucker envisioned as the promulgator of Tier I standards—the National Education Standards and Improvement Council—fell prey to Congress' partial dismantling of Goals 2000 last spring. However, there are many more new bureaucracies—the Skill Standards panel, for one—that can continue spinning the web.

Other presentations showed how schools are becoming instruments of nationalized health care through creative Medicaid re-interpretation; how databases are being set up to check each American's advances through the seamless web; how the School-to-Work system will function to steer students in directions that satisfy economic planners' objectives, not necessarily their own.

It is important to document how all this is meshing, as the conferees attempted to do. For example, Ohio's STW plan flatly declares as a goal the training of student for jobs in accordance with "the state's work force development and economic development strategies."

But as chilling as such words are, most people probably will not become gravely concerned until they see the seamless web infringing on their own family's liberties. That may be happening in Nevada, where Gov. Bob Miller, current chairman of the National Governors Association, brags about a "Smart Card" that students will have to present when applying for a job in order to show they have the work-force competencies Big Brother says they should have.

Out in Las Vegas, Rene Tucker tells me that her daughter, Darcy, recently was pulled out of a geography class—without parental consent—to be administered a computerized assessment of career possibilities. Darcy wants to become a veterinarian. But the computer said she ought to become a bartender or a waitress, and it spat out a list of courses she ought to take in high school toward that end.

Mrs. Tucker was furious first that the career counselors had robbed her daughter's

valuable class time. She added: "We're Christians, and the school stepped on my ties as a parent. It is my job to direct my child's career path, and it would not be in her best interest to be a bartender."

Ah, but it might be in Nevada's best interest, you see, given the huge hospitality needs driven by the gambling and entertainment industry.

Another Nevada mom, Kristine Jensen, and her daughter Ashley had a similar experience. Ashley has a 4.0-plus GPA and currently aspires to work at NASA. Indeed, a NASA official told her, "Set your goals high and set your heart and mind to it and you will be there."

However, said Mrs. Jensen, the STW career inventory said Ashley ought to set her goals quite a bit lower as she enters the ninth grade. "Garbage woman" was a career pathway the computer said this honors student should follow.

The School to Work Opportunities Act of 1994 states that career counseling is to begin "at the earliest possible age, but not later than the seventh grade." That's a federal requirement, mind you, for schools spending STW money. As such fine print becomes a killer of dreams, the uprising against this seamless web figures to grow.

PAPERWORK ELIMINATION ACT

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. TALENT. Mr. Speaker, today I am introducing the Paperwork Elimination Act. The purpose of this legislation is to advance the use of alternative information technologies and, in so doing, decrease paperwork demands by the Federal Government. The intended beneficiaries of this legislation are small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and others who face a disproportionate burden in complying with Federal regulations. Alternative technologies suggested include electronic maintenance, submission, or disclosure of information. In achieving this purpose, the Paperwork Elimination Act hopes to assist Federal agencies complying with the purposes and goals of the Paperwork Reduction Act.

The Paperwork Elimination Act does not intend to replace any part of the Paperwork Reduction Act of 1995, which has made great strides toward reducing regulatory burdens. The Paperwork Elimination Act is merely a supplement to the Paperwork Reduction Act, introduced with the intent of belatedly bringing the Federal Government into the computer revolution. It clarifies provisions within the law requiring agencies to utilize information technology by specifying that those with access to computers and modems should be able to use them when dealing with the Federal Government.

I would like to take a moment to thank our former colleague, Peter Torkildsen of Massachusetts. Mr. Torkildsen introduced this legislation in the 104th Congress and worked tirelessly to see its passage. In April 1996, the legislation passed the House unanimously. The measure was then discharged from the Senate Governmental Affairs Committee and sent to the desk for action. It is unfortunate that the Senate ran out of time before acting on this measure. I believe this is an important piece of legislation for small business. I am hopeful that my colleagues will concur and that this bill will receive favorable congressional action at an early date. Thank you.

IN RECOGNITION OF THE AWARD WINNING ACHIEVEMENTS OF WORKING CAPITAL FLORIDA

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mrs. MEEK of Florida. Mr. Speaker, access to credit, technical help, and training are the keys to unleashing the economic potential of all Americans, particularly for the poor in our cities and distressed rural areas. In recognition of its outstanding community-based leadership with microenterprise projects, Working Capital was recently awarded the Presidential Award for Innovation in Microcredit in a ceremony at the Oval Office on January 31, 1997.

In Dade County, Working Capital Florida is leading the way to economic empowerment by providing business loans, peer support, training, networking and technical assistance to persons with low to moderate income. Working Capital Florida is one of seven hubs of the Working Capital Corp. which was founded in 1990 in Athol, MA, by Jeffrey Ashe to foster self-reliance and enhance the quality of life for persons with limited access to resources. This is accomplished through a network of community-based organizations.

Working Capital Florida serves Dade's African-American, Hispanic, and Haitian communities in neighborhoods including Allapattah, Carol City, Coconut Grove, Florida City, Goulds, Homestead, Kendall, Little Haiti, Little Havana, Naranja, North Miami, Opa-Locka, Overtown, Perrine, Princeton, Richmond Heights, and South Miami Heights.

Within the next 5 years, Working Capital Florida has the potential to create 5,000 new businesses among low-income residents. Since its inception, 311 loans ranging in size from $500 to $5,000 and totaling $210,500 have been disbursed to start-up businesses throughout Dade County. Working Capital Florida helps low- and moderate-income citizens of Dade County to enter the economic mainstream. As they prosper, we reduce the social costs of poverty in Florida and the Nation while increasing national productivity. Not only are these efforts beneficial to the poor, but they clearly improve our community and benefit all Americans.

The individuals who are assisted by Working Capital Florida through micro-loans, peer-support, networking, and training can stand proudly to proclaim "I have a dream * * * and I'm beginning to live it!" I know my colleagues join me and the entire Dade County community in applauding their success. Congratulations Working Capital Florida on a job well done.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 27, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 28

9:00 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD–430

MARCH 4

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Corporation for National and Community Service, the American Battle Monuments Commission, the Court of Veterans Appeals, the Selective Service System, and Army Cemeterial Expenses.

SD–138

Environment and Public Works

Superfund, Waste Control, and Risk Assessment Subcommittee

To hold hearings on proposals relating to liability and resource issues associated with the cleanup and redevelopment of abandoned or underutilized industrial and commercial properties.

SD–406

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the school lunch and school breakfast programs.

SD–G50

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Food Safety and Inspection Service, Marketing and Regulatory programs, Animal and Plant Health Inspection Service, Agricultural Marketing Service, and the Grain Inspection, Packers and Stockyards Administration, all of the Department of Agriculture.

SD–124

Armed Services

To resume hearings on proposed legislation authorizing funds for fiscal year

1998 for the Department of Defense and the future years defense program.
SR–222

Commerce, Science, and Transportation
To hold hearings to examine proposed legislation to reform product liability.
SR–253

10:30 a.m.
Finance
To hold hearings to examine estimates of the President's fiscal year 1998 budget request for Medicare, Medicaid, and welfare.
SD–215

MARCH 5

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the Department of Agriculture's business plan and reorganization management proposals.
SR–332

9:30 a.m.
Environment and Public Works
Superfund, Waste Control, and Risk Assessment Subcommittee
To hold hearings on S. 8, to authorize funds for and reform the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (Superfund).
SD–406

Rules and Administration
To hold oversight hearings on the operation of the offices of the Secretary of the Senate, the Sergeant at Arms, the Architect of the Capitol, and the National Gallery of Art.
SR–301

10:00 a.m.
Armed Services
Airland Forces Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1998 for the Department of Defense and the future years defense program, focusing on tactical aviation modernization issues.
SR–222

Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine aviation safety, focusing on the work of the Gore Commission.
SR–253

Governmental Affairs
To hold hearings to examine issues relating to the General Accounting Office high-risk series.
SD–342

2:00 p.m.
Armed Services
Personnel Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1998 for the Department of Defense and the future years defense program, focusing on recruiting and retention policies within the Department of Defense and the military services.
SR–232A

2:30 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on the proposed Public Land Management Responsibility and Accountability Restoration Act.
SD–366

Select on Intelligence
To hold closed hearings on intelligence matters.
SH–219

MARCH 6

9:30 a.m.
Energy and Natural Resources
To hold hearings to examine issues with regard to competitive change in the electric power industry.
SH–216

Environment and Public Works
Transportation and Infrastructure Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Intermodal Surface Transportation Efficiency Act and innovative transportation financing, technology, construction and design practices.
SD–406

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the Paralyzed Veterans of America, the Jewish War Veterans, the Retired Officers Association, the Association of the U.S. Army, the Non-Commissioned Officers Association, the Military Order of the Purple Heart, and the Blinded Veterans Association.
345 Cannon Building

10:00 a.m.
Labor and Human Resources
To hold hearings to examine health care quality and consumer protection.
SD–106

2:00 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of State.
S–146A, Capitol

Select on Intelligence
Closed business meeting, on intelligence matters.
SH–219

2:30 p.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings to examine product liability reform, focusing on the implementation of the General Aviation Revitilization Act.
SR–253

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To continue hearings on the proposed Public Land Management Responsibility and Accountability Restoration Act.
SD–366

MARCH 11

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposed legislation authorizing funds for agricultural research.
SR–332

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Consumer Product Safety Commission, the Consumer Information Center, and the Office of Consumer Affairs.
SD–138

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for Food and Consumer Service, Department of Agriculture.
SD–124

Energy and Natural Resources
To hold hearings on the President's proposed budget request for fiscal year 1998 for the Department of Energy and the Federal Energy Regulatory Commission.
SD–366

Governmental Affairs
To hold hearings to examine issues relating to the census in the year 2000.
SD–342

MARCH 12

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine universal telephone service.
SR–253

MARCH 13

9:00 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation authorizing funds for agricultural research.
SR–332

9:30 a.m.
Energy and Natural Resources
To resume hearings to examine issues with regard to competitive change in the electric power industry.
SD–G50

10:00 a.m.
Labor and Human Resources
To hold hearings to examine proposals to improve the health status of children.
SD–430

MARCH 14

9:30 a.m.
Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act.
SD–430

MARCH 18

9:00 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation authorizing funds for agricultural research.
SR–332

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Federal Emergency Management Agency.
Room to be announced

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for energy research programs of the Department of Energy.
SD–124

Environment and Public Works
To hold hearings on proposals to authorize state and local governments to enact flow control laws and to regulate

the interstate transportation of solid waste.

SD–406

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Natural Resources Conservation Service, Department of Agriculture.

SD–138

Labor and Human Resources

To hold hearings to examine proposals to reform the operation of the Food and Drug Administration.

SD–430

MARCH 19

9:30 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD–430

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the Disabled American Veterans.

345 Cannon Building

MARCH 20

9:00 a.m.

Agriculture, Nutrition, and Forestry

To resume hearings on proposed legislation authorizing funds for agricultural research.

SR–332

9:30 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for atomic energy defense activities of the Department of Energy.

SD–124

Energy and Natural Resources

To resume hearings to examine issues with regard to competitive change in the electric power industry.

SH–216

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of AMVETS, the American Ex-Prisoners of War, the Veterans of World War I, and the Vietnam Veterans of America.

345 Cannon Building

10:00 a.m.

Labor and Human Resources

To resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act.

SD–430

APRIL 8

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Environmental Protection Agency.

SD–138

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Farm Service Agency, the Foreign Agricultural Service, and the Risk Management Agency, Department of Agriculture.

SD–124

APRIL 15

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Housing and Urban Development.

SD–138

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Rural Utilities Service, the Rural Housing Service, the Rural Business-Cooperative Service, and the Alternative Agricultural Research and Commercialization Center, all of the Department of Agriculture.

SD–124

APRIL 22

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the National Science Foundation and the Office of Science and Technology Policy.

SD–192

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Environmental Management Program of the Department of Energy.

SD–124

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Agricultural Research Service, the Cooperative State Research, Education, and Extension Service, the Economic Research Service, and the National Agricultural Statistics Service, all of the Department of Agriculture.

SD–138

APRIL 24

9:30 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Corp of Engineers and the Bureau of Reclamation, Department of the Interior.

SD–124

APRIL 29

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Veterans Affairs.

SD–138

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Commodity Futures Trading Commission, and the Food and Drug Administration, Department of Health and Human Resources.

SD–124

MAY 6

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the National Aeronautics and Space Administration.

SD–138

CANCELLATIONS

FEBRUARY 27

9:30 a.m.

Indian Affairs

Business meeting, to consider pending committee business relating to the Committee's budget views and estimates on the fiscal year 1998 request for Indian programs.

SR–485

2:00 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219