SENATE—*Monday, March 3, 1997*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Sovereign God, help us to see our work here in Government as our divine calling and mission. Whatever we are called to do today, we want to do our very best for Your glory. Our desire is not just to do different things, but to do the same old things differently: with freedom, joy, and excellence. Give us new delight for matters of drudgery, new patience for people who are difficult, new zest for unfinished details. Be our lifeline in the pressures of deadlines, our rejuvenation in routines, and our endurance whenever we feel enervated. May we spend more time talking to You about issues than we do talking to others about issues. So may our communion with You give us deep convictions and high courage to defend them. Spirit of the living God, fall afresh on us so we may serve with renewed dedication today.

Father, our hearts go out to those who are suffering as a result of the floods in Ohio and Kentucky and the tornadoes in Arkansas. Especially grant comfort and courage to those who are enduring grief over the loss of family and friends. In all our needs and crises, You are a very present help in trouble. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. BURNS. Mr. President, the Senate will be in session for a period of morning business, with no rollcall votes conducted during today's session.

Under a previous order, the Senate will resume consideration of Senate Joint Resolution 1, the constitutional amendment for a balanced budget, tomorrow at 9:30 a.m. Following closing statements on the balanced budget amendment, a vote will occur on the passage of Senate Joint Resolution 1 at 5:15 p.m. tomorrow. I want my colleagues to be further advised that the time has not been moved. A vote will occur tomorrow at 5:15 p.m.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). Under a previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under a previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for not to exceed 5 minutes each. The Senator from Texas [Mrs. HUTCHISON], is recognized to speak for up to 15 minutes.

Mrs. HUTCHISON. Thank you, Mr. President, and I thank the distinguished Senator from Montana.

PRAYERS OF TEXANS WITH ARKANSAS

Mrs. HUTCHISON. Mr. President, I appreciate being able to start the Senate this morning, because we had a very important anniversary yesterday in Texas that I want to talk about. But first, I want to say to my colleagues and friends from my neighboring State of Arkansas how sad we all are at the ravage that the State of Arkansas took yesterday from the weather, the storms and the floods. Lives were lost. I want Senators BUMPERS and HUTCHINSON to know that the prayers of Texans are with them in this time of healing for their State. We know that everything that can be done for the victims of that flood will be done.

TEXAS INDEPENDENCE DAY REMEMBRANCE

Mrs. HUTCHISON. Mr. President, 161 years ago yesterday, 54 delegates of the Convention of 1836 signed the Texas declaration of independence at the village of Washington-on-the-Brazos, which is near Houston, TX. Each of the settlements of Texas were represented. Texas was, at the time, a territory of Mexico. The delegates hurriedly wrote and adopted the declaration of independence, prepared a constitution for the newly formed Republic of Texas and organized an interim government.

Mr. President, my great-great-grandfather was one of the signers of the Texas Declaration of Independence. His law partner, Thomas Jefferson Rusk, was also one of the heroes of Texas' quest for independence. Thomas Rusk also went on to serve as a Senator from Texas, and was the first Senator to hold my Senate seat.

So I have grown up knowing much about Texas history since its days as a territory of Mexico. In fact, my great-great-grandfather was the "alcalde," which was the mayor of the territory for the country of Mexico. Then, he, Thomas Rusk and Sam Houston, all hailing from Nacogdoches, TX, where my mother grew up, were leaders in the effort to wrest their independence from Mexico and for Texas to be able to set up its own government.

I am proud, Mr. President, that Texas is the only State in America that was once an independent nation and, in fact, we were a republic for 9 years before becoming a State. So we like to recall the history of our independence, just as we do our history of American independence, every year. Yesterday in Texas we celebrated our Texas Independence Day.

We commemorate the time that we became a nation, and we remember the brave and wonderful people, not only those who signed the declaration of independence that day, but those who were at the same time girding for war at the Alamo several hundred miles away. Former Texas Senator John Tower began a tradition among Texas Senators. Senator Tower would read William Barret Travis' letter from the Alamo. As I alluded to a moment ago, as they were declaring independence at Washington-on-the-Brazos in 1836, 6,000 Mexican troops were marching to the Alamo. They were marching to the Alamo to take on soldiers who had come from many States—Kentucky, Tennessee, South Carolina, North Carolina, Georgia, and so on—to help defend Texas in its stand against the Mexican Army at the Alamo.

The declaration of independence said:

> . . . We, therefore . . . do hereby resolve and declare that our political connection with the Mexican Nation has forever ended, and that the people of Texas do now constitute a free, sovereign and independent republic . . .

Several days earlier, William Barret Travis had written from the Alamo his famous letter to the people of Texas and to all Americans. He knew that the Mexican Army was coming, and he knew that they had few people to help them defend the Alamo. Here is the letter by Colonel Travis:

> Fellow citizens and compatriots: I am besieged, by a thousand or more of the Mexicans under Santa Anna—I have sustained a continual bombardment and cannonade for 24 hours and have not lost a man—the enemy has demanded a surrender at discretion, otherwise, the garrison are to be put to the sword, if the fort is taken—I have answered the demands with a cannon shot, and our flag still waves proudly from the wall—I shall never surrender or retreat. Then, I call on you in the name of liberty, or patriotism and of everything dear to the American character, to come to our aid, with all dispatch—The enemy is receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. If this call is

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neglected, I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due to his own honor and that of his country—Victory or Death.

WILLIAM BARRET TRAVIS, LT. COL.,
Commander.

P.S. The Lord is on our side—when the enemy appeared in sight we had not three bushels of corn—we have since found in deserted houses 80 or 90 bushels and got into the walls 20 or 30 heads of beeves.

Despite that declaration, Mr. President, we did not win independence from Mexico at the Alamo. In the battle of the Alamo, known as the "13 Days of Glory," 184 brave men died fending off Santa Anna's huge army. But the Alamo was crucial. It gave time to Gen. Sam Houston, who was the commander in chief of our Armed Forces, to get more volunteers and to decide when to take on this vast Mexican Army again. And because those brave men at the Alamo held out for so long, Houston had time to muster his forces. Gen. Sam Houston was wounded in the battle, but was able to take the surrender of General Santa Anna. Texas won her freedom on April 21, 1836.

San Jacinto is near Houston, and home to the battle we commemorate as the "Great Battle of Freedom."

So, Mr. President, I like to recall this time because it is an important time in the history of America as well as in the history of Texas. Our independent nation lasted for 9 years; for 9 years we brought our State together to prepare it for admission into the United States of America.

In fact, the debate recorded in the CONGRESSIONAL RECORD on whether Texas would become a State was very interesting.

Texas would join the Union if several conditions were met. Those conditions were outlined in a treaty. In the treaty, Texas was able to keep certain rights when she joined the Union—rights to her tidelands, rights to her public lands, which is why much of our public land is State owned rather than federally owned. This is why we have some different issues in Texas. We were able to control the tidelands because that was part of the treaty. We also had the right to turn into five States if the State of Texas decided to break apart. Now, that causes a little concern here on Capitol Hill when they think of having the possibility of 10 Senators from Texas instead of 2. There are a few cold stares when that is brought up. But I must say that was all part of the treaty.

The treaty did not pass because supporters couldn't muster the two-thirds vote necessary to ratify it. So President John Tyler introduced a bill to annex Texas as a State. Texas became a State because of a bill, not a treaty. The interesting thing was that the bill passed by only one vote in each House of Congress. Any of those who think it might have been a mistake to annex Texas almost won a victory. We did have a long, hard-fought battle before we joined the Union. One of the annexation proposal's most vocal opponents at the time was President John Quincy Adams, who had returned to Congress by that time. He spoke every day on the floor against the annexation of Texas. The reason he was so far out on the limb against Texas is because he was afraid Texas would become another slave State. He did not want to disrupt the balance that existed in the United States of America at the time. Once we did become a State, I think we began a tradition of great contributions to the United States. And, of course, just recently we have become the second largest State in America—second to California, overtaking New York State.

So that is a little bit of Texas history, which I am always glad to recall on Texas Independence Day. I like to read the letter from William Barret Travis to remind you of the pride Texans share for their independence from Mexico and their membership today in the United States of America. We are proud that we were an independent nation for 9 years and then took our rightful place in the United States of America. I hope that people feel that we have earned the right to be proud of that, and also hope that people feel that Texas has done her part as a State.

We are proud of our heritage. We are proud of our history. And most of all, today, I want to pay tribute to the brave men who died at the Alamo and the brave men, numbering among them the first Senator to hold my Senate seat, the first Senator to hold the other Texas Senate seat, Gen. Sam Houston, and my own great-great-grandfather who signed the Declaration of Independence and later became the chief justice of Nacogdoches County.

These were brave men who forged a new nation at great cost. They went through many of the same things that our forebears in the United States of America did in wresting our independence from England. So I am proud of that. I am proud of the patriots who gave their lives for our freedom or who risked their lives for our freedom. I want to pay tribute to them today, and I will do so every year that I am able to serve as a Senator from the great State of Texas.

Mr. President, I thank you for your indulgence, and I yield the floor.

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

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. JOHNSON. Mr. President, I rise today to express my opposition to Senate Joint Resolution 1, a version of a balanced budget amendment to the U.S. Constitution currently pending before the Senate.

Throughout the more than 10 years that I have had the honor and opportunity to represent the people of South Dakota as a Congressman and now as a U.S. Senator, I have consistently supported a policy of fiscal prudence and restraint. I have supported, among other initiatives, a line-item veto and enhanced line-item rescission, the 1990 budget agreement initiated by President Bush and the 1993 budget agreement initiated by President Clinton. The latter two budget agreements having played a very significant role in capping discretionary spending, placing our Government on a must-pay-as-you-go basis and contributing to over a 60-percent reduction in the annual Federal budget deficit. I am pleased that these and other efforts taken by the Clinton administration, though almost universally opposed by the Republican congressional caucuses have led to economic growth, prosperity, and now a deficit that is smaller relative to our economy than in any industrial nation on Earth. Even so, we have farther to go to bring our Federal expenditures and revenue into greater equilibrium. To that end, I have also voted in favor of various balanced budget amendments while serving in the other body.

I do not take the amendment of our Nation's Constitution lightly. I am mindful that this is the legislative body that served as the forum for Clay and for Webster and many other great names of American history. Unlike ordinary legislation, a constitutional amendment cannot be easily changed if it proves faulty—it must be crafted in such a manner that serves the interests of our Nation not only now, but for 200 years and more from now. We must of necessity approach such a difficult task—that of drafting a constitutional amendment for the ages—with some humility and with a full recognition of the great care that is required if future generations are to look to our deliberations with the same respect that we today hold for the Founders of our Republic.

Over the past 4 years, we, and in particular the Clinton administration, have taken an exploding deficit that had reached nearly $300 billion annually and a cumulative national debt that had quadrupled on the watch of Presidents Reagan and Bush, and cut that annual deficit by over 60 percent. Yet, despite this progress, I began my service in the Senate at the commencement of the 105th Congress with the assumption that I would cast a vote in favor of a constitutional amendment drafted in much the manner that Senate Joint Resolution 1 appears before us today. However, the findings of the nonpartisan Congressional Research Service later substantiated by an analysis of the Office of Management and Budget and the Center on Budget and

Policy Priorities have cast such grave doubts about the wisdom of Senate Joint Resolution 1 as it is currently drafted, that I cannot cast a vote for an unamended version with the confidence I need to have that it truly will achieve the goals its advocates claim.

The CRS report makes it clear that Senate Joint Resolution 1 would prohibit the Federal Government from conducting its financial affairs in the same prudent manner that every South Dakota family attempts to achieve. It would effectively prevent the Federal Government from setting aside cash reserves in good times in order to have them available in times of crisis—a policy that flies in the face of common sense and one that certainly should not be imposed on all future generations of Americans.

While the Social Security trust fund is the source of the greatest attention in this debate, and that is understandable since Senate Joint Resolution 1 would convert the Federal Government's largest effort to set aside resources for a future generation into a virtual fraud on the taxpayers, the implications of denying the Federal Government the ability to raise funds now for future needs goes far beyond damage to Social Security. Such a provision diminishes the usefulness of all our trust funds, especially those that have been designed to gain revenue during good times and to be available to fall back on during bad times. It makes any realistic effort to set aside funds now to be available for a future countercyclical economic strategy much more difficult—a criticism that has been the chief reason why Republican economic experts such as Alan Greenspan, Chairman of the Federal Reserve, 11 Nobel laureate economists, and even the conservative Wall Street Journal have condemned Senate Joint Resolution 1.

While a few Members of this body may attempt to lecture me about what pledges I have made to the people of South Dakota during the past campaign, I will refrain from attempting to impugn their motives or to engage in self-righteous assertions about their responsibilities to their constituents or to their oath of office.

I have pledged to the people of South Dakota that I would support a balanced budget and that I would vote for a balanced budget amendment—one that works—one that would help achieve the goal of balancing the Federal budget without destroying Social Security or otherwise placing our Nation's economic growth and prosperity at great risk. What arrogance for anyone to suggest on this floor that a vote for any proposed amendment other than Senate Joint Resolution 1 constitutes a breach of honor.

I have voted, and it is duly recorded in the Senate Journal, for a balanced budget amendment and for modifications to Senate Joint Resolution 1 which would promote a balanced budget without the disastrous flaws of Senate Joint Resolution 1.

I am a fourth generation South Dakotan. My family homesteaded in our State and I'm proud that my children now represent the fifth consecutive generation of our family to claim Clay County, SD as home. With that background, I have a profound appreciation for the concerns and more importantly the values of the citizens of my State. During this past campaign I pledged to them the most important pledge of all—that I would exercise my best judgment and greatest care in casting my vote in the Senate and that in doing so, I would ignore the immediate winds of political pressure and cast my votes in a manner consistent with the long-term needs of our State and Nation.

There is no doubt that the easy thing for me to do would be to capitulate to the current political pressures ginned up and funded by the special interests promoting exclusively Senate Joint Resolution 1. That would be the path of least resistance, and, clearly, the negative impact of that particular version of balanced budget amendment would not be felt until after my next election where I too choose to run for another term in this body.

It would take, frankly, several years to ratify any amendment and some years beyond that before the public would fully recognize the enormous wrong this body would have done to the Constitution. But I told my constituents that I would do the right thing, not the politically expedient thing. While I respect the integrity of everyone's professed views, as I look about this Chamber, I have to wonder if there would in fact be a close vote on Senate Joint Resolution 1 if the ballot were secret, and intellect and conscience the only driving forces in this debate.

Mr. President, when this debate concludes tomorrow, I will have the satisfaction of knowing that I have honorably lived up to my pledges to the people of South Dakota and to my sacred responsibilities to this Nation and to the U.S. Senate. To cast a vote for this specific version of a balanced budget amendment knowing what I know today, would constitute a betrayal of the people of my State, and inasmuch as I am a U.S. Senator, it would be a betrayal of my commitment and my love for our Nation—that I will not and cannot do.

I yield back the remaining time.

The PRESIDING OFFICER. The Senator from Montana.

CONSERVATION RESERVE PROGRAM

Mr. BURNS. Mr. President, last month, the Secretary of Agriculture announced the new rules and regulations on the Conservation Reserve Program in the U.S. Department of Agriculture. We find that we are starting to take a program that has been claimed as one of the great success programs, as far as soil conservation, watershed management, wildlife habitat, in our respective States. There is no doubt about it, that we have land that was taken out of production that was marginal land, should never have been in row crop or crop production, should have been grass all those years, and we have noticed an increase, a notable increase in upland bird populations, also in white tail deer and other wildlife that depend on a habitat that the CRP would afford.

There has been a rule change, however. This was brought to our attention by our good friends and neighbors who are living and working on the grain farms of Montana, and especially in eastern Montana. The announcement by U.S. Department of Agriculture to start a sign up for an extension, or increased acreage received into the program going up to 220 million acres across this country. Now, it would look like the acreage is capped around 36.4 million acres, but there have been new rules made on about half of American cropland making it now eligible for CRP. It was brought up in this new announcement and the timing is flawed.

The new rules give the worst lands the lowest rate, the best lands the highest rate. So right now we have figures coming in from the different counties and it could be on dirt farms as low as $17 an acre. What happens when you get a bid to take lands out of production at $17 an acre—I do not care what you do on that land, it will produce more than $17 an acre. So, what is happening is that the good land is going into the CRP—in other words, taken out of production—and we will farm our worst land, having the exact opposite effect that was desired in the first place.

The process is a burden to participants if you have between now and this month of March to sign up. Just think, that has to go to the local level, whenever you make those arrangements, that application for CRP. It goes from the local board to the State board to the Federal board before it is approved back to the farmer. The farmer does not know what he will be planting or harvesting this year.

It could be June or July. In fact, the president of the National Association of Wheat Growers, Philip McClain, testified before the House Forestry Resource and Conservation and Research Subcommittee and expressed his concern that the USDA will not decide which offers being made by the growers during that March CRP signup will be accepted into most areas until June. Now, if it is July in our country—in other words, the winter wheat people

are really put at a disadvantage if you are in the southern climes. In the northern climes, it is too late to plant a spring crop. The delayed signup really puts a hardship on wheat growers, no matter in which part of the country you farm—whether it's Texas, Oklahoma, Kansas, Nebraska, or going on north to the Canadian border.

So the National Association of Wheat Growers, all at once over the weekend, has said, wait a minute here, we need immediate congressional action, maybe to recommend that we extend the present contracts, which expire this fall and which qualify for participation under the current eligibility criteria. I think that is a good recommendation. Even the USDA State staff feels that the problems that are associated with this program make a mockery of the intent of the program. It does not provide the original intent of why CRP was put in in the first place.

So I recommend to the Department of Agriculture—and they have time, I think, to look at this, and, if not, I think Congress should take a very serious look at it, because it is just not fair if you have a program that will work exactly the opposite from what was intended and put all the grain producers at a disadvantage. I suggest that the Secretary extend the current program for 1 year. Let's give it some time and take a look at it and try to get the desired results and rewrite the rules to reflect the intent of the program. The intent of the program was to take marginal land out of production so that we can manage watershed, we can manage soil erosion, we can manage wetlands, potholes, all of the environmental concerns that this country has. We can take a look at this, given more time to do it. Of course, these recommendations are supported by the National Association of Wheat Growers.

So with this in mind, with the good record of CRP, a program that has been highly successful in doing two things that were most desired in rural America, I think it is only right to extend those rules through the program this year. Let's look at it, and this time we might be able to get it right. Right now, we are extending some programs that would suggest exactly the opposite.

TAX RELIEF

Mr. BURNS. Mr. President, today there will be legislation that will be introduced in the Congress having to do with estate taxes. I know estate taxes and capital gains are viewed by many as tax relief for the rich. Last week, a week ago today, I was watching a television program and there was a financial organization, or a mutual fund, who had declared that they had been so successful that they have to declare a capital gain. The people who had investments in that mutual fund would be assessed a tax because of those capital gains. I didn't see one rich man in that line that came down to complain about that. So it is not just that.

If you are really concerned about keeping farmers on the land and letting young farmers get started, we have to start taking a look at capital gains, because I think we have to lower the average age of the farmers today, and also estate taxes, so that we can pass these farms and ranches and small businesses on to the next generation.

Mr. President, I see my time has expired. I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. GRAMS], is recognized.

Mr. GRAMS. Mr. President, I ask unanimous consent to be able to speak for 10 minutes.

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

THE AMERICAN TAXPAYERS DESERVE A BALANCED BUDGET AMENDMENT

Mr. GRAMS. Mr. President, I rise today to again express my strong support for the balanced budget amendment.

I want to thank the distinguished chairman of the Senate Judiciary Committee for providing a forum which has encouraged debate on all sides of this critically important issue. The public has been well served by these many hours of discussion.

Mr. President, let me describe the need for the balanced budget amendment by comparing it to a situation to which many Americans can relate.

By repeated abuse of a high-interest credit card, your debt is rapidly mounting until you reach the point of maxing out. You're barely paying enough to cover the minimum monthly payments—let alone make any dent in the principal—and your debts threaten to consume the entire family budget.

With every available dollar being funneled into your credit card payments, there is no money left over to meet your daily needs or invest in your family's future.

You, the overextended consumer, are left with only two viable options: Either file for bankruptcy or drastically cut your spending.

If you're so far in debt that you see nothing in your future but despair, you may seek out the help of a credit counseling service. I guarantee they'll take one look at the horrendous mess you've created and demand you come up with an immediate plan for climbing out of debt.

They'll tell you there are only three options that will return you to financial solvency: Discipline, discipline, and discipline.

Now imagine that scenario multiplied several trillion times, where the reckless consumer is not an individual but the Federal Government itself. That's very much the predicament the United States will soon face.

As Washington continues to spend dollars it does not have, each annual budget deficit is added to the balance of the overall national debt.

The national debt today stands at $5.3 trillion, or $20,000 for every American man, woman, and child.

The debt is increasing by $721 million every day, and $1 in every $7 Federal tax goes to service just the interest on a debt so massive.

If an individual acted with equal irresponsibility, the consequences would be severe.

The Federal Government, however, simply writes another IOU in the name of our children and grandchildren and keeps right on spending, demanding services today that it wants our kids to pay for tomorrow.

In recent years, the credit counselors—in this case, the American taxpayers—have been scrutinizing Federal spending and demanding that the Government be accountable for every tax dollar.

But instead of hearing "discipline, discipline, discipline," Washington somehow hears it as "spend, spend, spend." And spend it does—even when every ounce of common sense demands that it should not.

Despite all the recent talk about controlling Federal spending, there is no reason to believe Washington has fundamentally changed its ways.

Without the constitutional protections of a balanced budget amendment, the outlook for our fiscal future is grim: The national debt will continue to explode, America will eventually run out of IOU's, and a bankrupt nation will surely follow.

For an entire generation—more than three decades—Washington has talked about eliminating the deficit. "[My program] is the surest and soundest way of achieving in time a balanced budget," said President John F. Kennedy in his State of the Union Address in 1963.

That sentiment has been echoed by every President since Johnson, Nixon, Ford, Carter, Reagan, Bush, and Clinton.

The fact that we haven't balanced the budget since 1969 demonstrates that talking about balancing the budget is far easier than actually doing it.

Many budget balancing plans have been proposed over the years, yet even the most well-intentioned of them have not brought about balance, just larger deficits.

The pervasive growth of government makes it painfully obvious that in a government where politicians exhibit compassion by spending other people's money, we cannot be assured our budgets will ever balance without the moral

authority of the Constitution to enforce it.

The latest budget proposal from the White House illustrates the real need for a balanced budget amendment.

Although President Clinton's plan is billed as being balanced, it really isn't—the deficit would increase next year and early reports from the Congressional Budget Office say the Clinton plan would remain about $80 billion short of balance in 2002. Seventy-five percent of the President's deficit reduction would not occur until after the year 2000, meaning the Clinton administration will never have to make the tough choices it will take to eliminate the deficit. In other words, talk about it but leave it up to somebody else to do it. And most disturbing, instead of cutting spending and asking Washington to sacrifice, the President's budget raises taxes by $76 billion and asks, once again, that the taxpayers step forward and sacrifice. I can think of no more compelling justification for enacting the balanced budget amendment.

Despite guarded optimism in Washington about reaching agreement this year to balance the budget, surveys show most Americans do not believe the deficit will be eliminated by the target date of 2002. They realize that all the laws, goals, plans, and pledges may not be strong enough to hold back the tide of rising deficits.

Even if the budget were to be balanced in 2002, there is nothing to stop a future, less-vigilant Congress from picking up where the big spenders left off. The constitutional protections guaranteed by the balanced budget amendment remain our best hope of enforcing future fiscal restraint.

Mr. President, I am greatly disappointed by the efforts of some of our colleagues who have chosen to use Social Security as a shield to disguise their opposition to the balanced budget amendment. Most of us have come to the conclusion this is nothing more than a transparent political ploy to defeat the amendment, while playing to the fears of senior citizens by demagoguing the Social Security issue.

I have absolutely no doubt that if the Social Security concerns were erased today, another problem with the amendment would crop up tomorrow, and we would once again find ourselves in the position of being a single vote short of passage. This is already evident through the lineup of amendments we have been considering the last few weeks.

I wonder if my colleagues are aware of the massive tax increase the American people would be forced to accept if we did indeed factor Social Security surpluses out of the budget process.

Between 2002 and 2007 alone, the tax hike required to bring the budget into balance would amount to $706 billion. Yes, $706 billion.—That dwarfs the record-breaking $265 billion tax increase President Clinton ushered through Congress in 1993.

As their share, taxpayers in my home State of Minnesota could face a total Federal tax hike of about $12 billion. That is an average household tax increase of $1,085 per year. And again, that is just from 2002 to 2007.

Mr. President, Social Security is facing serious problems, and reforms are needed to ensure that retirement benefits will continue to be available to all Americans. But taking Social Security off budget does nothing to help the trust fund remain solvent.

We all know that, by law, any Social Security surpluses must be invested in Treasury securities. Without serious reform, as long as the Government is allowed to grow and to continue its deficit-spending ways, it will still borrow from the trust fund, leaving nothing but IOUs to future beneficiaries.

Therefore, first and foremost, we must overhaul the way Washington spends taxpayer dollars by imposing some constitutionally mandated fiscal discipline. We must pass the balanced budget amendment and we must take appropriate actions to protect and preserve the trust fund.

While I understand the arguments of those who have supported the various Social Security amendments during this debate, a more reasonable approach would be to take Social Security off budget after the budget is balanced. Congress should begin considering legislation that ensures Social Security benefits will be payable for the current and future generations, stops the use of trust fund surpluses on other Government programs, and puts real assets in the Social Security trust fund.

For now, let us face it: we will never achieve a balanced budget if Social Security is taken off budget and omitted from our deficit calculations. President Clinton himself has come to that very conclusion.

Mr. President, a bipartisan coalition in Congress is committed to passing a balanced budget amendment in 1997 because we believe the taxpayers deserve a responsible Government that pays its bills and saves for the future.

We also support passing the balanced budget amendment in 1997.

Ending deficits and lowering the national debt will free up public and private resources for more productive and innovative uses in the global economy of the 21st century. On a more personal level, working Americans will benefit directly when a balanced budget leads to lower interest rates that could save a middle-class family about $125 a month in lower mortgage, car, and student loan payments.

The 105th Congress has a historic opportunity and obligation to leave a legacy of responsible governing for the generations to come. The path is well marked: To one side leads the road to bankruptcy and America's fiscal ruin; to the other, the path of political promises which may or not be kept; while directly ahead lies the trail of discipline, discipline, discipline we must—pursue the road to prosperity and accountable governing marked by passage of the balanced budget amendment.

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

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I also ask unanimous consent that Jerry Reed, a congressional fellow, be allowed to have floor privileges during the pendency of Senate Joint Resolution 1.

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

SOCIAL SECURITY AND THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. REID. Mr. President, people continually talk about using Social Security. "Let's use Social Security until we balance the budget, and then after that we will not use it any more."

That argument says it all, Mr. President, because, if you use Social Security, it makes it pretty easy to balance the budget. If we want to really balance the budget let's do it the right way, the hard way, the honest way. Let's not use the surpluses—this year alone over $8 billion. That is the easy way to balance the budget. But it is not the right way.

Dorothy Ray from Reno, NV, wrote to me:

> I urge you to fight all attempts to cap, cut, tax, or otherwise cut Social Security benefits and to focus on the real causes of the Federal deficit. Social Security is an earned entitlement that does not contribute 1 cent to the Federal deficit. We workers and retirees and employers have paid and continue to pay special taxes. We fund Social Security. The Federal Government has no right to borrow our Social Security and deplete all the reserves which we contributed for this purpose. Please fight all attempts to cut or rob us of our earned benefits.
>
> Sincerely,
>
> DOROTHY RAY.

I heard also from Sparks, NV, from Bernice Murray. She wrote to me:

> DEAR MR. REID. In reference to your stand on Social Security I stand behind your views 100 percent. I have lived in Nevada since 1946, and most of that time in Sparks. I am 72 years old. My husband just passed away January 17, '97. My only income now is his Social Security. I agree with what you are trying to accomplish, and please keep up the good work. Us older Nevadans need you.

Mr. President, not only do the older Nevadans need this, but all Nevadans. All Americans need this.

The Social Security Program is for people over age 62 or 65 who are now receiving the benefit. But it is the benefit for future generations. All across America, as we speak, in certain specific regions there are huge amounts of money being spent on television, on radio, and in newspapers against people like Senator REID from Nevada. These ads say, "Why won't REID support a balanced budget amendment?" I say to those people that are spending these hundreds, thousands, and millions of dollars on these ads all over the country that I do support a balanced budget amendment. I just do not support theirs. I support mine, the one that excludes Social Security. This isn't some new-found religion for Senator REID. I have been doing this. This is the 4th year. I have offered my amendment every year, and will continue to do so until we prevail because the people about whom I speak, Bernice Murray, Dorothy Ray, and others cannot afford hundreds of thousands of dollars in the State of Nevada to run ads. All they can do is write their letters hoping that right will prevail. It has so far. I hope it will continue.

We need to balance the budget. We need to do it though, Mr. President, the right way. I have heard people say, "We will never be able to balance the budget without using Social Security." Well, we can balance the budget without using Social Security. It is going to be harder, and we may not be able to do it by the year 2002. But we can do it. And, when we accomplish that, we will have prevailed in righting one of the biggest wrongs in the history of this country; that is, depleting these trust funds for purposes other than what the money was paid in for by employers and employees.

For many people in America today, Social Security is the only money they get. Only 50 percent of America's workers have access to pensions. That does not count Social Security. Most people working in America, and especially women, have no hope of ever getting a pension. To enshrine in the Constitution any amendment that would guarantee to the American workers that these contributions are no longer going to be protected I believe is wrong.

How much of an impact does Social Security make on the lives of Americans? Nationally, in December 1995, benefits were paid to about 44 million Americans. This includes 27 million retired workers, about 5 million widows, a few widowers, 4 million disabled workers, and more.

The monthly average benefit paid to a Social Security retired worker is $720. A wife gets $354, because it usually is a wife at this stage. Most husbands have Social Security benefits. Wives have not up to this stage. It is changing in the future years.

In the State of Nevada, we have about 229,000 people who receive Social Security benefits. Said another way, that is about 15 percent of the people in Nevada depend on Social Security for support. In Nevada, 153,000 of these people are retired, 21,000 are widows, about 23,000 are disabled, and then there are, of course, some children, about 17,000 children, whose parents have been killed or died in some fashion who receive benefits.

The average benefit in the State of Nevada is $5 a month more than the national average; $725 a month is what Nevadans get on an average from Social Security. For $725 a month, they are not able to pay for ads in the larger newspapers in Nevada, full-page ads at a cost of about $5,000. They are not going to be able to do that. Ads running in radio stations today alone will cost tens of thousands of dollars, and in television, no telling how much money.

These people cannot pay for the ads, but the large corporations are helping pay for these ads or are paying for these ads. Why? Because they know, Mr. President, that if we balance the budget the right way and do not use Social Security benefits and we really want to balance the budget, they are probably going to have to chip in a few dollars or take longer or they are going to have to make more cuts. So they are willing to spend money up front to save them a few dollars.

In the State of Nevada, $2.1 billion was paid into Social Security last year. Drawing out of that was far less than $2 billion—about $1.4 billion. The rest went to surplus, the surplus the people in this body want to use to mask the deficit. I say they should not be able to do that. These moneys should be set aside for Social Security recipients.

Social Security in every State plays a vital role. It is a program that keeps people off poverty. It gives people dignity. It is not only in Nevada. This is the way it is all across the country. In fact, the amendment I offered, which was defeated by a vote of 55 to 45, had two very courageous Republicans from different parts of the country who voted in favor of it. The senior Senator from Arizona voted for it; the senior Senator from Pennsylvania voted for it.

In addition to that, we now have held up in the House the balanced budget amendment. Why? Because some very courageous sophomore Republicans are saying we will vote for a balanced budget amendment but we want to exclude Social Security benefits. My office has received some phone calls about people in this body on that side of the aisle who are now considering offering amendments of their own. I hope that there will be further thought given to that, that we will exclude Social Security from the calculations of the balanced budget amendment.

Social Security is the major source of income for 63 percent of all the beneficiaries. For 63 percent of the people who draw Social Security benefits, that is all the money they get. It is for this group that I am most concerned and speak on their behalf today. They are not going to run ads in the newspapers. They are not going to be able to pay for television or radio ads. But their thoughts are just as important, their ideas are just as important as the people who are spending hundreds of thousands of dollars trying to get out the message that they want to be able to mask the deficit.

Currently, about 90 percent of older households get Social Security benefits. Benefits keep about 15 million Americans above the poverty line and even more from near poverty. While this is nothing to be proud of, I think it is something we should reflect upon as to how much better we are doing. Today, 10.5 percent of our senior population falls below the poverty line.

It was just a few years ago that we had poorhouses where people who had no money went. Most of the counties—the States helped a little bit—had poorhouses for these people. The difference between poorhouses and no poorhouses is this program we call Social Security.

So I am concerned about approximately 44 million Americans and 229,000 Nevadans who depend on this program to maintain their dignity. This is by no means the time to turn our backs on the success of this program or the citizens who rely on this program. We must listen to the people who tell us: balance the budget but do not do it using Social Security.

The vast majority of Americans agree with my position in spite of the ads, in spite of the media blitz. The Wall Street Journal, the New York Times, NBC, CNN have all run polls showing that about 75 percent of the American people support balancing the budget but without using Social Security.

Franklin Roosevelt said upon signing the Social Security act, "We can never insure one hundred percent of the population against one hundred percent of the hazards and vicissitudes of life, but we have tried to frame a law which will give some measure of protection to the average citizen and to his family against the loss of a job and against a poverty-ridden old age."

This statement, given in August 1935, was visionary because we have done just that. We have given dignity to the old of America. They do not have to live in poverty. You can see the impact of this program, which I have said on this floor is the most successful Social Security program in the history of the world. It is my hope that Members on both sides of the aisle will think long and hard about the impact of the balanced budget amendment on Social Security and vote accordingly.

News accounts indicate that the Republican leadership is open to modifying the underlying amendment. I understand that as we speak some are shopping language they believe would address this issue. As long as they focus on Social Security, I am willing to do that. I have been very narrow in my advocacy on this floor. While I think some of the other ideas about capital budgeting, emergencies and the military are good, I am not willing to focus on those amendments. I want to focus on Social Security and the importance I think it plays in our society, and therefore I hope those who are shopping amendments will shop in a very narrow fashion and wind up supporting the amendment where we give continued dignity to the seniors of this country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

VICTIMS OF NATURAL DISASTERS

Mr. DEWINE. Mr. President, I rise today, on behalf of the people of Ohio, to express our deepest sympathy to the families of all those who have suffered injury and loss of life in this weekend's tornadoes, flooding, and other natural disasters. Our hearts certainly go out to everyone who has suffered, at this time of their need.

I personally experienced the Xenia tornado of 1974, and I know how awful such devastation can be. When I saw the pictures over the weekend of the homes totally torn apart in Arkansas, I was reminded of what I saw in 1974 in Xenia, OH. I was assistant prosecuting attorney at the time. We heard the tornado was coming and got down in the basement. After the tornado had passed over, I literally crawled out of the basement of the building, what was left of it, and looked at Xenia and saw the unbelievable devastation. So I have some understanding of what the people of Arkansas and the people of other States are going through with regard to these natural disasters.

Let me talk for a moment about the terrible tragedy that took place in my home State of Ohio this weekend, and what we possibly can do to give assistance. The southern part of our State was ravaged by the worst flooding we have experienced in at least 33 years. At least four people have died so far, and 14 counties are now in a state of emergency. Bridges have been wiped out; houses and cars have been swept away. Our thoughts and prayers go to the families of those who have lost their lives, and to all those who have been evacuated from their homes and all those who face this disaster.

Along with Senator GLENN and my colleagues from Ohio in the House of Representatives, I will be working with the administration to make sure the Federal Government helps these Ohioans get back to their homes. I am encouraged by President Clinton's swift response with Federal aid for Arkansas, and I encourage him to help Ohioans as well. We will be working to make sure everyone gets home safely as soon as possible.

Let me also talk about the tremendous job the American Red Cross, the Ohio National Guard, local volunteer groups, local fire departments, and rescue squads are doing in my home State. They have been working this weekend, they are working right now, as we speak. My hat is off to them. I send my congratulations and thanks for the tremendous amount of work they are doing. They are offering a desperately needed helping hand to some families who are having a very, very difficult time.

My wife Fran and I extend our prayers to all who have been touched in any way by this tragedy. To those who have lost their lives and those who have been forced from their homes, and to their families, I stand ready to work with all Ohioans to help their communities return to normal just as soon as possible.

PARTIAL-BIRTH ABORTION

Mr. DEWINE. Mr. President, at this point let me turn to something I have talked about on this floor on many occasions in the past 2 years, the issue of the banning of partial-birth abortion.

When the President of the United States justified his veto of the partial-birth abortion bill last year, this is what he said. I will quote now from President Clinton as he vetoed our bill:

> There are a few hundred women every year who have personally agonizing situations where their children are born or about to be born with terrible deformities, which will cause them to die either just before, during or just after childbirth. And these women, among other things, cannot preserve the ability to have further children. . . ."

That was a quote from the President, when he vetoed the partial-birth abortion bill.

In light of those remarks by President Clinton, I hope all Americans heard the media reports last week about the shocking confession of a leader in the abortion rights movement. It turns out that in every material detail the President's comments that I have just quoted, the comments he made in defense of his veto, are false. And the confession of this leader in the abortion rights movement, the confession he made last week which I am going to talk about in more detail in just a moment, that confession shows the comments made by our President were simply not true because the fact is, President Clinton based his veto on information that was not true.

For the last 2 years, a number of us here in the Senate have been trying to ban this horrible practice of partial-birth abortion, a practice in which a baby is partially removed from the mother, partially delivered, and then killed. I believe the horror of this practice is so clear, so heinous, it should truly offer some common ground for those of us who oppose abortion and those who do, in fact, support abortion rights. In my view, one does not have to join the pro-life side in order to oppose this practice. In fact, if you look to some of the Members of the House, for example, who voted with us on this issue, who voted to ban the partial-birth abortion, many of them by their own definition would be classified as pro-choice.

So, this should be an area where pro-choice and pro-life come together. The sad fact is though, Mr. President, we were not, last year, able to get our bill banning partial-birth abortion past President Clinton's veto pen, in large measure because of the rationale used by the President, which was simply wrong. The American people were assured that partial-birth abortion was an extremely rare procedure—one that occurs only a few hundred times a year—and is only used to save mothers whose lives are in extreme danger or where the child has been malformed.

Thomas Jefferson had a good phrase for arguments like this. He called them, "false facts." Because these very impressive sounding arguments, as many of us suspected, turn out to be wrong.

For those of my colleagues—and there can't be very many by now—who have not heard about the startling revelations by Ron Fitzsimmons, let me talk for a moment about them.

Mr. Fitzsimmons is the national director of the National Coalition of Abortion Providers. In 1995, when the Senate was considering the partial-birth abortion bill, he was helping lead the fight against it. In fact, he went on "Nightline" to argue that the procedure ought to remain legal.

At that time, Mr. Fitzsimmons said that the procedure was rare and was primarily performed to save the lives or the fertility of the mothers.

Now, as we found out last week, because of Mr. Fitzsimmons' own comments, own revelations, own confession, his conscience started gnawing him almost immediately after he had appeared on "Nightline." He says now that he felt physically ill at the lies that he had told. He said to his wife the very next day, according to him, "I can't do this again. I can't do this again."

Meanwhile, President Clinton was using Mr. Fitzsimmons' false statements to buttress his case for vetoing the partial-birth abortion bill. And, as I said last week, Mr. Fitzsimmons at long last came in from the cold. He admitted that, to use his own words, he "lied through his teeth."

LIED THROUGH HIS TEETH

The facts, as he now publicly acknowledges them, are clear. Partial-birth abortion is not a rare procedure. It happens all the time, and it is not limited to mothers and fetuses who are in danger. It is performed on healthy women and healthy babies all the time, and that is what the facts are.

Mr. President, it is true that everyone is entitled to his or her own opinion, but people are not entitled to their own facts. On partial-birth abortion, the facts are out, the facts are clear, and I join our distinguished colleague, the senior Senator from New York, in hoping, as he was quoted this weekend, in light of these facts, that the President will reverse his decision to veto this bill.

Mr. President, it would seem fairly simple that when one makes a decision, in this case President Clinton's decision to veto this bill that was passed overwhelmingly by the House and overwhelmingly by the Senate, that when he made his decision to veto the bill and when he publicly stated why he made that decision to veto the bill, when it turns out later that the facts are proven to be false, the underlying facts, the underlying rationale by which he apparently made his decision, it would seem that it would not be too hard for the President then to change his mind, based on a new understanding of what the facts truly are.

We will be debating this issue again on the floor, we will be holding hearings again in the Judiciary Committee, and we will be back out here again talking about this very important matter. I hope that as we do that, my friends and colleagues who opposed us on this issue will remember what Mr. Fitzsimmons said, what he said when he could no longer apparently stand it anymore, that he had, in fact "lied through his teeth," that the facts he gave the public, the facts he gave Congress, the facts he gave the President were simply not true.

I thank the Chair and yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. 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. DASCHLE. I thank the Presiding Officer and appreciate the opportunity to come to the floor.

COMPLIMENTING SENATOR JOHNSON ON HIS MAIDEN SPEECH IN THE SENATE

Mr. DASCHLE. Mr. President, let me begin by complimenting the junior Senator from South Dakota on his maiden speech in the U.S. Senate. As all of us recall, those are very important moments in the career of any Senator, and I appreciate very much having had the opportunity to listen to him. I applaud him for his comments and wish him well in his many years of service in the U.S. Senate.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. DASCHLE. Mr. President, I did not have the opportunity to hear our majority leader last week discuss matters of concern to him, especially as they related to the balanced budget amendment. But I was disappointed to read press reports, and then read the RECORD this morning, with regard to some of his comments relating to some of our colleagues.

He has noted on the floor that in the past, this has been a positive debate, an instructive debate and a debate that clarifies differences among us. I think that characterization is accurate. Oftentimes on the Senate floor, in heated debate, we say and espouse things we wish we could take back later. But this debate has largely been devoid of that. I think that has been productive and ought to be the way we conduct ourselves.

So it was somewhat surprising to me to hear the majority leader so personally attack some of our colleagues and express himself as he did. It was, in my view, uncharacteristic of the majority leader. I hope that we can retain the level of decorum and the level of civility on the Senate floor that will lend itself to a good debate on this and many other very controversial and extraordinarily contentious issues in the future. We, as leaders, need to set the example. We, as leaders, need to demonstrate that there is a threshold of civility and a standard which we should follow that, in my view, ought to be demonstrated first and foremost by the leadership.

I know of many cases where colleagues on the Senate floor, Republican and Democratic, have taken positions on any one of a number of issues and concluded, having been presented with more information, that the original position they took was not one they could accept now. That has happened in cases involving constitutional amendments, involving statutory law, and involving other legislation. I hope it would be the way we conduct ourselves in considering many of the issues affecting our country and its future.

Obviously, with new information, and under different circumstances, one comes to different conclusions. I, myself, faced a similar set of circumstances early on. I have always wanted to be on the side of those supporting a constitutional amendment to balance the budget.

On reflection, much of the language that we have resorted to in the past, that we have used in the past, is language that, in retrospect, is not as appropriate for the Constitution as we had originally thought it might be.

I am very concerned about the implications of any amendment to the U.S. Constitution, but especially one involving our economy, especially one involving our own fiscal responsibility, especially one involving our ability to cope with a myriad of circumstances that this country is going to confront at some point in the future.

So clearly, as my colleagues have indicated, new information has been presented to us this year. We have received new information from the Congressional Research Service, new information from the Office of Management and Budget, and new information from the Treasury Department, all reporting that the circumstances involving the Social Security trust fund are vastly different than what we were originally led to believe during the 1980's.

There is a difference in the interpretation of the Social Security trust fund than what I was originally presented as fact in years past. What we are now told, not by some partisan organization but by the nonpartisan Congressional Research Service, and by the Office of Management and Budget, is that funds used for Social Security purposes are going to have to be offset with other funds, such as tax increases or spending cuts, in order to be paid out at an appropriate time in the future.

Now, if we worked for a company and we were told that we had invested a certain amount of dollars—say $100,000—in our own retirement fund and then told that, before we could draw those funds out, the company would have to replenish those funds with other funds in order for that to be available, Mr. President, I think every single prospective retiree would feel very cheated. They would feel robbed.

Yet, that is exactly the circumstances now with the Social Security trust fund. Workers are paying into that fund with the expectation that it would be paid out in time to those who paid in. That will not be the case if we enshrine in the Constitution the utilization of the Social Security trust fund for purposes other than Social Security.

The same can be said for the capital budget. I know that we could have a good debate for days about whether or not we have a capital budget in this country. We all recognize that most States have them. We recognize that most businesses have them. There is not a family I know of, that pays off its

mortgage in any one year. Families, businesses, and States currently have capital budgets or a very similar budgeting concept that allow them to differentiate between long-term investment and operating expenses. My family does that. My father's business used to do that.

The question is, Should we as a country do that at some point in the future? I think the answer is resoundingly, yes, we should. We need to differentiate between long-term investment and capital costs.

Mr. President, we are not doing that. But whether we subscribe to that concept or not, the question should be, Should we forevermore preclude this country from even considering a capital budget? We are now told by the Congressional Research Service that we will preclude the consideration of a capital budget if this amendment passes in its current form.

So, Mr. President, both on the basis of Social Security as well as the analysis of the Congressional Research Service—also confirmed by the Treasury Department—that we would be precluded from even considering a capital budget, I think these are issues that ought to weigh very heavily prior to the time our colleagues vote tomorrow afternoon.

I am also very concerned about the implications for recession. When there is an economic downturn, there is no doubt that we need to respond in ways that will allow us adequate time, adequate resources, and adequate flexibility to ensure that the downturn does not get any worse. We must ensure that we have some sort of a reflexive countercyclical approach to the economic consequences that we could be facing were we to do nothing. This legislation undermines our ability to do that.

I have heard it said many times that if it is a national emergency, clearly by the very definition of "national" you are going to have a sympathetic Senate responding to the circumstances and a sympathetic House responding to these circumstances in ways that would easily allow us to reach that threshold.

Well, I ask, what about a regional recession? During the early 1990's and late 1980's, there were seven or eight very deep regional recessions. The fact is that on many occasions were we to have presented some sort of a countercyclical, antirecessionary legislative remedy, I think it would have been very difficult, if not impossible, to reach that 60-vote threshold simply because of the circumstances that involve the regional implications of a recession.

So, I think it is very disconcerting to be locking into place forevermore the requirement that a supermajority be the threshold by which a countercyclical recession package be considered.

In addition, a poorly crafted balanced budget amendment deprives us of the automatic stabilizers that cushion the blows of a weakening economy. As an economic downturn begins, Government spending automatically increases just as tax revenues decline. Such a time would prove the worst moment to increase taxes or cut spending. Yet, a balanced budget amendment could require exactly that result, with potentially devastating consequences. A recession could be turned into a depression under those circumstances.

The risk of default and shutdowns are also very disconcerting. The fact is that a supermajority requirement under this constitutional amendment may preclude our ability to reach the threshold necessary to increase the statutory debt limit at times in the future. A minority of our colleagues could hold U.S. creditworthiness hostage were we to pass an amendment that allows the minority in this country to dictate whether or not we are going to increase the debt limit. How many times have we been on the floor and struggled to find a simple majority to do what has been required? I think it is going to be extraordinarily difficult for us with the supermajority requirement to do it at any time in the future.

National security is also a very serious matter. Section 5 of the pending amendment jeopardizes our ability to prepare for situations that we know will require intervention, such as the Persian Gulf effort. For Congress to waive the balanced budget amendment, the United States must be engaged in military conflict—must be engaged.

In Desert Shield we needed to build up before the conflict. In Desert Shield we stipulated that the conflict was imminent, and, as a result, we needed to prepare to be as aggressively engaged as that resolution provided. To say that there has to be conflict before we can issue or provide for any legislative support, in my view, is extraordinarily poorly worded and ill-founded.

Finally, Mr. President, with regard to the budget itself, I think our record over the last 5 years demonstrates that where there is a will there is a way. There has been a will. We have reduced the deficit from $295 billion to $107 billion since 1993. We have reduced the deficit by 60 percent through congressional action.

Obviously, we need to go the rest of the way. But clearly, if we are going to achieve our goals in balancing the budget, we can do so if we continue to commit as successfully and as aggressively in the next 5 or 6 years as we have in the past.

But I am troubled in that regard as well, Mr. President, because there are proposals, including the one offered by the majority leader, that would create a deficit of more than $500 billion in new tax breaks were we to pass the bill that he has proposed—$500 billion over 10 years and $750 billion, three-quarters of a trillion dollars, in the second decade that that tax bill would go into effect.

So, it is very difficult for me to understand how some of my colleagues on one hand can argue that we need to pass a constitutional amendment to balance the budget, but then offer legislation which exacerbates the problem by a substantial margin of $500 to $750 billion in additional deficits if that legislation were to pass.

I might remind my colleagues, even if we balance the budget, we have a $5.5 trillion accumulated debt that we have not yet paid down.

The difference between the deficit and the debt is that the deficit, of course, is what we accumulate in new debt every year; the debt is what we have already accumulated. And we have accumulated a lot. When are we going to start buying that debt down? And how are we going to do that if we continue to exacerbate the problem, continue to complicate our situation by offering tax measures that allow a deficit of that magnitude to be added on to the troubles that we are facing over the next couple of years? Mr. President, for all those reasons, I hope my colleagues will take great care as they make their choices tomorrow afternoon.

The leader had suggested that he has a couple of potential surprises in his pocket. Well, I guess I have to announce to my colleagues that I have a couple of surprises that I do not wish to talk about right now to ensure that the vote will be as we expect it will. But I do not think it ought to be a question or a contest of surprises or parliamentary maneuvers or amendments that may or may not be in our best interest.

The question can be and will be and should be: Can we have a good debate about any one of a number of divisive issues like we know we have to face in this Senate, on a number of very, very difficult matters that will keep coming back? Can we do it in a civil way? Can we do it in a way that does not in some way question the motives or the positions taken by some of our colleagues? Can we do it with an expectation that will resolve that matter and go on to yet another and another day?

I hope we can do that. I hope the leadership will set the example as we do that. I hope that after the vote tomorrow we can move on to other things. We are prepared to debate this longer if we need to do that. I hope that will not be the case. We should move on and get work done in the body and move on with some expectation that bipartisanship is still alive and well and flourishing here in this body.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I first thank my distinguished colleague who so kindly allowed me to precede him on the floor for a few minutes.

TRIBUTE TO REMMEL T. DICKINSON

Mr. WARNER. Mr. President, I pay tribute to my most senior staff member who is departing after a well-earned career to take on other pursuits. I do so with a sense of sadness, but indeed, a great sense of recognition for an individual upon whom I have relied, as have many other Senators. Rem is meritorious among his peer group of staff in the Senate and is recognized as the type of individual who is the very foundation upon which we, the 100 Senators, have to rely every day. His support and advice enables us to represent our respective constituencies and to do what we individually think is in the best interests of our Nation.

Remmel T. Dickinson's service in my office began February 12, 1979, and he is to complete his Senate career on Wednesday, March 5, an impressive 18 years, on my staff, and serving 20 years in the U.S. Senate.

He proudly hails from Little Rock, AR, but developed early on in his career in the Senate an equal if not greater loyalty to the Commonwealth of Virginia. I must hail him for that.

From the campaign on which I was first elected, in 1978, he came on to the Senate, and like so many, he did not want to start anywhere but right down at the threshold level where he could learn the system all the way up. Indeed, he started in that all-essential institution known in the Senate as the mail room, which in many respects is the heartbeat of every Senate office.

With meticulous attention to detail and congenial personality, and I want to underline that, Rem gained the admiration of his peers in the Senate wherever they may work, and his peers throughout the Commonwealth of Virginia, because he was very loyal to many, many people in Virginia. He was a true friend, and is today and always will be, to those that are disadvantaged in our society—be it with physical problems, educational problems, health problems, or whatever it is. The bigger the problem, the bigger the challenge, the harder Rem Dickinson worked to solve it.

The Federal employees are often a very beleaguered group. He was there no matter what the challenge, to step up and advise me and other Members of the Senate, and indeed, staffers throughout this institution, on what he felt was best and equitable for the Federal employee. And not just those in the greater Metropolitan Washington area, but all across the United States he was recognized for his knowledge as it related to the essential services provided to the Federal employee by our country. Equal access for quality education opportunities and equal access in our health care system were his goals, and indeed we have achieved that and will go on to try and improve on those achievements here in the Senate.

In past years, Rem worked tirelessly on the Republican Health Care Task Force striving for solutions to the dilemma confronting millions of Americans who simply did not have health insurance and the millions more attempting to cope with the ever-increasing problems associated with increasing health costs.

In the area of education, Rem has helped in supporting our States to provide educational service for students with disabilities, known as IDEA. His attention has also focused on impact aid, a program which local school districts, those local districts colocated with military bases all across our Nation, and helping to get those funds which will enable the children of military families to receive their education in the local school districts without too severely impacting the costs of others who contribute, by and large, through local real estate taxes.

Rem believes, as I do, that education is the key to a better quality of life for all Americans. He has earned a reputation for honesty and professionalism both in the Senate and, as I said, throughout Virginia. My constituents have had an open door to the Senate's work through Rem's expertise in these areas.

As the years have passed, I am impressed by his dedication to duty, his loyalty to this Senate, to those on my staff, and to those on other Senate staffs, and indeed on a one-on-one basis with many Senators. Above all, he is a gentleman of honor in the finest traditions of the South which he loves.

Indeed, Rem has earned the loyalty, respect, admiration, recognition, and gratitude of virtually everyone with whom he has come in contact during his lifetime.

And I can only presume that the manner in which he has carried himself, and the care he has exercised in the performance of his duties will continue in whatever Rem chooses to do when he departs the Senate.

We will miss Rem's daily good counsel. I commend Rem for a career well spent and well conducted, and I congratulate him on the contribution he has made to our Nation, to Virginia, and we wish him the best in his future pursuits.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. I ask unanimous consent I be allowed to speak for up to 12 minutes in morning business.

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

RECENT REPORTS AND GROWING AGREEMENT ON THE NEED FOR HIGH ACADEMIC STANDARDS

Mr. BINGAMAN. Mr. President, first I would like to call attention to several recent reports that have come out on the issue of high academic standards and the need for high standards and national standards in our schools, and refer to those reports and perhaps put them in context.

I think it is clear from the reports that I am going to refer to here that there is a need for accelerating the progress that our country is making in developing world class academic standards. It is also clear that the States and local school districts are having great difficulties in determining for themselves what those standards ought to be, which is a large and costly task.

First, I will refer to the comprehensive Third International Math and Science Study that was recently released. It shows that math standards have not yet been implemented at the classroom level in many of our schools, and our students score at or below the average on math and science compared to students in other nations.

Mr. President, you will remember that one of the goals which the Governors and President Bush established in Charlottesville in 1989 was that the United States would be first in the world in math and science by the year 2000. In fact, the reality is very different from that lofty goal that was set 8 years ago.

This first chart here indicates the average math scores of eighth graders on international tests. We can see in the group of nations that are considered top performers that the United States is not listed. Those nations are Singapore, South Korea, Japan, Hong Kong, and Belgium-Flemish.

In the middle range, the United States is at the very bottom, far behind the Russian Federation. After us, there are the bottom performers, and the most we can say with pride is that we are not in that category.

But, Mr. President, I think most parents in this country would aspire to our doing better than we are showing we have done on this test. And I hope very much that we can.

Here is a second chart that makes somewhat the same point. This chart indicates that of students scoring among the top 10 percent of eighth graders on international tests, 45 percent of these were from Singapore, and 34 percent from South Korea. It goes on down to where, in math the United States had only 5 percent of the world's top students in math, and only 13 percent in science. So, clearly, again, we find ourselves very far down on the list of nations in this comparison.

There is also a new national report card on education that has been published by Education Week, which is a respected publication in our country. It

confirms the findings of several previous reports that the standards many States have now established may not be rigorous enough compared to other nations' standards, and, also, that there are all too few States that plan to hold students or teachers accountable for measurable results.

Let me show you these two charts to make this point, Mr. President. The first of these is a chart entitled, "Who's Accountable?" What this essentially says is that only those few States that come up on the map here as colored yellow are States that have standards for their graduates from high school. Clearly, most of the country—and, unfortunately, my State included—do not have accountability standards that students have to meet in order to graduate from high school. Clearly, this is a problem that we need to address as a nation.

Another chart, "8th Grade Math Course-Taking." This indicates very clearly that most of our eighth-graders are simply taking general math and only 19 percent, according to this analysis, are, in fact, taking algebra at the time they go into the eighth grade. This is one of the reasons we do so poorly on the international comparisons of mathematics scores.

Finally, the 1996 National Assessment of Educational Progress math scores, which were just released last week, show that over 30 percent of 4th, 8th, and 12th-graders lack basic math skills, despite recent progress.

Let me show you that chart, Mr. President. When you look at this, you can see a very modest upward trend from 1990 to 1992 to 1996 at the three different grade levels, 4th, 8th, and 12th. As you can see, we are nowhere near approaching the level of improvement that is necessary if we are going to meet any of the national goals that we have set out for ourselves.

Delays in developing standards have been made worse by the fact that, despite the abundance of tests and report cards published by State and local education agencies, very little of the information is comparable from district to district, or very little of the information is set at a high enough standard for us to make reasonable comparisons to these international tests.

As Education Week recently pointed out, "If the data that we depend on to monitor the economy were as incomplete, as unreliable, and as out of date as the data we depend on to monitor education in the United States, we might as well have the economy of a Third World country."

Instead, we have a hodgepodge of different tests and standards, most of them testing basic skills rather than world-class materials, a lot of data that only describes how students in one area are doing compared to how they did in the previous year.

Differences in student "pass rates" on State and national testing indicate enormous gaps in what we are testing for. Let me show you the final chart that I have here, Mr. President, to make that point. You can see from this chart entitled "State NAEP Scores for 4th Grade Reading Compared to the State's Own Assessment" that, for example, in the State of Wisconsin, it shows here that 35 percent of the students are shown to reach the standard that NAEP sets on their National Fourth Grade Reading Test. In their State standard test, Wisconsin shows 88 percent of their students meeting the standards. So you can see there is very little comparability between what the States are testing for and the level of performance that they are expecting and what the NAEP, the national assessment, is testing for.

As a result, we still have schools that are doing superbly, and we also have schools that are doing miserably. Many times they are in the very same areas and in the same school districts. Parents and educators often do not even know which of those types of schools their own children are in.

In response to this situation, many have come to agree that we need to set our standards much higher and we need to gather more accurate information in order to improve achievement, as has been done with great success in several parts of the private sector.

The National Association of Business, the U.S. Chamber of Commerce, and the Business Round Table have now focused their joint efforts on raising standards and promoting more accountability in our schools.

The National Education Association president, Bob Chase, spoke out about the need for his 2.2-million-member union to support key changes such as these.

Frequent education critics Checker Finn and Diane Ravitch recently offered surprising enthusiasm for standards. Let me quote: "how powerful it will be for parents and teachers to compare the math prowess of 8th graders in, say, Phoenix and Minneapolis, to the performance of their peers in Korea and the Czech Republic."

In addition to national polls showing strong support for high standards, a Public Agenda poll last month showed that high school students themselves know that our expectations for them are low, and those very high school students respond accordingly.

Raising academic standards has proven to be an immense and costly job for States and for school districts, who have been left to do the job largely on their own. They have been struggling to make the necessary progress but have been unable to do so. For these reasons, we need renewed national efforts toward making standards a reality in the near future.

ALBERT SHANKER

Mr. BINGAMAN. Mr. President, I would like to say a few words about the recent death of a great education leader, Albert Shanker, who was as committed and effective in the fight for National standards as anybody in our country. For those of us who believe that the Federal Government should do more to improve the quality of education in the country, Al Shanker's death was a great loss. More than anyone else in the Nation, Al Shanker was the visionary pushing for higher standards and national standards for teachers and students alike.

In a recent piece in the Washington Post, E.D. Hirsch, Jr., said it very well:

> If a single person could be said to be responsible for the shift in sentiment that prompted the President to call, in his State of the Union Address, for national educational standards—a proposal that would have been unthinkable a few years back—it would be Al Shanker.

Albert Shanker had an abiding belief that collectively we in America could improve the lives of all of our citizens. He dedicated his life to that belief. He also believed passionately that public schools were the great strength of our country and were the means by which we could improve the lot of Americans.

A recent essay by Albert Shanker was contained in the New York Times. I would like to read two paragraphs from that. This is an essay that he wrote in a publication a few years ago. He said:

> Why do I continue when so much of what I've worked for seems threatened? To a large extent because I believe that public education is the glue that has held this country together. Critics now say that the common school never really existed, that it's time to abandon this ideal in favor of schools that are designed to appeal to groups based on ethnicity, race, religion, class, or common interests of various kinds. But schools like these would foster divisions in our society; they would be like setting a time bomb.
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> * * * * *
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> Public schools played a big role in holding our nation together. They brought together children of different races, languages, religions, and cultures and gave them a common language and sense of common purpose. He was not outgrown our need for this; far from it. Today, Americans come from more different countries and speak more different languages than ever before. Whenever the problems connected with school reform seem especially tough, I think about this. I think about what public education gave me—a kid who couldn't even speak English when I entered first grade. I think about what it has given me and can give to countless numbers of other kids like me. And I know that keeping public education together is worth whatever effort it takes.

Al Shanker believed that the National Government needed to commit itself to improving our Nation's schools. Should we have national education goals? Al Shanker believed strongly that we should. Should we have educational standards? Al Shanker believed we should so that every parent could determine whether their

child was getting the education that they deserved.

Mr. President, I was privileged to work with Al Shanker on several issues but, most importantly, on the issue of improving standards for our schools. His vision and his strength of commitment were always an inspiration.

With his death, the American Federation of Teachers lost a superb president and all of us in America lost a tireless champion for public education and for a better America.

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

A TRIBUTE TO ROY D. NEDROW

Mr. ASHCROFT. Mr. President, I rise today to honor a lifetime commitment to law and order in the United States. On March 1, 1997, Mr. Roy D. Nedrow retired as the Director of the Naval Criminal Investigative Service, ending 33 years of law enforcement service to the community at the local, State, and Federal levels.

Mr. Nedrow began his law enforcement career in 1964 with the Berkeley, CA, Police Department and served there 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 where he distinguished 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 Service's Deputy Assistant Director for the Office of Investigations where he oversaw the investigations and protective support activities conducted by the Service's 1,200 special agents at its more than 100 field locations.

On December 28, 1992, Mr. Nedrow retired from the Secret Service to accept the appointment as the Director of the Naval Criminal Investigative Service. His induction came a critical time in the Agency's history. His strong leadership 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 it to diminish its bureaucracy, and to provide greater accountability and responsiveness to its consumers. He provided his people with a new vision, the necessary resources and support, and the inspiration to achieve positive change. Under his leadership, the Naval Criminal Investigative Service gained national recognition for its innovation in the field of homicide investigation. Its approach to the investigation of previously unresolved or cold case homicides, some as old as 28 years, was lauded in October 1996 by the International Chiefs of Police [IACP] during its prestigious Webber Seavey Award for Quality in Law Enforcement Ceremony for innovation and excellence in law enforcement programs. 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 service men and women whose deaths occurred under other than natural circumstances. He revitalized and championed a Family Liaison Program to assure responsiveness to the needs of, and issues raised by, surviving family members during the death investigation process. His legacy of additional achievements with and for the Service include a well-respected Critical Incident Debriefing Team, a proven Alternative Dispute Resolution system, and a cutting edge Computer Crimes Investigation Group.

"The final test of a leader," renowned journalist Walter Lippman wrote in 1945, "is that he leaves behind him in other men the conviction and will to carry on." The testimony to Roy Nedrow is that the Naval Criminal Investigative Service is indeed a better agency today and that he leaves it in most capable and inspired hands.

Mr. President, in closing I wish to commend Roy Nedrow for outstanding leadership and service and thank him for his dedication to the Nation as a guardian of our peace. I wish him, and his wife, Claudia, Godspeed in his retirement.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. HAGEL assumed the Chair.)

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

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

MEASURE READ FOR THE FIRST TIME—SENATE JOINT RESOLUTION 19

Mr. COVERDELL. Madam President, I send a joint resolution to the desk on behalf of myself and Senators FEINSTEIN and HELMS, a joint resolution relative to Presidential certification of Mexico regarding drugs, and ask that the joint resolution be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

To disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997.

Mr. COVERDELL. Madam President, I now ask for its second reading and object to my request on behalf of Democratic Members on the other side of the aisle.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

(The remarks of Mr. COVERDELL and Mrs. FEINSTEIN pertaining to the introduction of Senate Joint Resolution 19, Senate Joint Resolution 20, and Senate Joint Resolution 21 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Indiana.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. COATS. Mr. President, over the last 15 years, the balanced budget amendment has been debated over and over again in this Chamber. Members of one or both Chambers of Congress actually have voted on this proposal six times. The arguments, by this point, are familiar. We have heard them over the last several weeks and the last several years in these debates. So there is the disturbing process by which the vested interests of this institution are protected against the clear will of our democracy.

We are not, of course, debating about passage of a balanced budget amendment. We are debating whether or not to send that decision to the States and to the people of America. Often that gets confused. People think that the entire decision, the entire vote, rests with the 100 Members of this Senate body, when in fact the only thing that rests with us is whether or not we will make the decision to give the people of America, to give democracy, an opportunity to decide whether or not we ought to have a balanced budget directing our fiscal affairs here in Washington.

We are debating whether to prefer our interests above their wisdom, and it appears we will once again by the narrowest of margins decide to sustain this corrupt and corrupting Federal power of unlimited debt.

Once again our debate on this matter has been conducted to maximize public cynicism—not intentionally but that is certainly the result—with twisted arms, violated promises, pressure tactics, and broken commitments. We have seen it all surround this issue time and time again. And, once again, as we are debating this, people are switching their position, people pledging to their constituents during the campaign: "I will be there when the balanced budget call is taken; when the roll is called, I will be on the plus side." And, of course, now we hear the excuses as to why since the election is over that is no longer the case. Even those who have voted for the balanced

budget amendment in the past now find convenient reasons not to do so in the present.

So I guess we cannot really blame the American people for being cynical, for being apathetic about what takes place here in this body, in the Congress, in Washington. All of this in a desperate attempt to prevent the American citizen from having a voice and having a vote, all to prop up, if just for a few more years, the ability of Congress to cripple the success and the prosperity of the future.

There are many divisive issues debated in this Chamber, but this issue is unique in one way. The defeat of a balanced budget amendment represents the raw exercise of political power against the desires of over 80 percent of the American public. In my experience in politics, no proposal with support so strong and so consistent has ever been frustrated for so long by the Congress.

Make no mistake. A balanced budget amendment will eventually be sent to the States for ratification. I think that is guaranteed by the breadth of public commitment which will not go away and will only grow in strength. We can delay this process, as apparently we will do once again, but not deny it. Every year of delay increases our danger and ought to add to our shame and guilt.

Rather than rehearse the detailed arguments of this debate, let me take, if I could, a long review of what I think we have learned. First, the history of the last few decades and the nature of the political process itself argues that the Congress is incapable of self-restraint. We have a system in place, a system that allows us to vote public benefits to the very people who keep us in office. We have a system that allows us to place the burden of those benefits on the future while we gain political support from the present. We have found an efficient way to betray future generations in favor of the present. And it is easy and relatively painless because our generation can vote while future generations cannot and our silence and their anger is distant. We do not feel or hear their anger at the next election because they do not have a vote at the next election. So we please those who benefit us now at the expense of those in the future.

The only thing we sacrifice in this process—Mr. President, I would say it is a great sacrifice—is our integrity and our historical reputation. In a distortion of the Constitution, we promote the general welfare for ourselves at the expense of our posterity. As it stands, there is no weight on the other side of this balance. There is no reliable check on this process of intergenerational theft. It is politically prudent, even popular, and this political calculation will not change, will never permanently change without some kind of systematic institutional counterweight, without some measure to give posterity a voice in our affairs. Nothing, in my view, will permanently change until the accumulation of popular debt is a violation of our oath to the Constitution. Perverse incentives of the current system will not be altered until the system itself is altered, until our political interests are balanced by the weighty words of a constitutional amendment.

The second lesson I believe we have learned in the last few decades is that despite all the talk we hear in Congress, despite all the posturing, despite all the rhetoric, we are simply ignoring the coming entitlement crisis. We are not facing up to the hard question. We have chosen cheerful oblivion over public responsibility. The train wreck is a precise, measurable distance away. Trustees predict that the Medicare part A will be bankrupt by the year 2002. Trustees of Social Security believe that the system will begin to run a deficit in 2013 and could collapse by 2029.

Former Commerce Secretary Pete Peterson recently wrote that if entitlements are not reformed, the cost of Social Security and Medicare by the year 2040 will take between 35 and 55 percent of every worker's paycheck. It is a crisis propelled by demographics and propelled by Federal irresponsibility. Every year we avoid real reform we make real reform more painful.

Oh, and the attitude here is, well, 2002, 2013, 2029, I will probably be out of office by then, or hopefully something will change by then, or let us not think beyond 1998. That is the next election, isn't it. Let us see what we can do to slip by one more election. But it is always one more election, one more election, one more election.

When I came here in 1980, we were charged with the responsibility of dealing with deficit spending. We were charged with the responsibility of getting a handle on the entitlements and being straightforward and real with the American people, but each time it slipped one more election, one more election, one more election. Now we are looking at 1998.

There does not appear to be any movement out of this administration to address entitlements in a serious structural way—some tinkering at the edges suggesting but not proffered, some concerns about the political implications of making the hard choices, making the difficult decisions, but nothing concrete before us as a body. And so we will pass again for 2 more years.

Opponents of the balanced budget amendment talk a great deal about Social Security, but they do not talk about solving its most fundamental problems. Instead, their efforts are designed to move it off budget, creating the illusion that this action will somehow save the system.

This is a distraction, as I think everyone in this Chamber knows. It is not a solution. It is a distraction from the fact that our current budget rules are deceptive. We are borrowing from the Social Security trust fund and replacing real money with T-bills. There is not some giant pot of money out here waiting for Social Security recipients. It is a pay-as-you-go system. Some have called it the ultimate pyramid system. We are borrowing from it and putting pieces of paper into it to pay it back someday. That payback has to come from the general revenue. Those T-bills are a promise to pay benefits in the future, yet this borrowing is not reflected in our deficit calculations each year.

As a matter of budgeting integrity, we should stop the shell game. We need an accurate accounting of the yearly deficit and the Federal debt. In fiscal 1996, we reported a budget deficit of $107 billion, but we failed to report an additional $66 billion borrowed from and owed to Social Security. Where does that money come from? It comes from the American taxpayer. It comes from taxes imposed against their paychecks. It is money that is going to have to be paid back.

To say we can solve this problem by conveniently taking it off budget is a shell game. It is a deception of the American people. What it really amounts to is keeping two sets of books. These kinds of budget tricks make the job of balancing the budget easier in the short term—and of course it is the short term here that everyone is concerned about, the next election—but they compound the problems of future generations.

I urge my colleagues to put aside this phony debate over Social Security. It is impossible to disentangle Social Security revenues and expenditures from the budget. Congress should address the national debt by passing the balanced budget amendment and then turn quickly to real solutions, real reform of Social Security.

It is unfortunate and it is undeniable that President Clinton's budget currently on the table understands none of these lessons, and actually deepens our problems. It is a symbol of the Federal Government's failure of will and nerve.

When I came to the Congress in 1981, our total Federal debt was just under $1 trillion. In the plan the President submitted recently to this Congress, his budgets will contribute another $1 trillion to the debt before those budgets are supposed to come into balance. This is hardly an act of courage. In fact, the President's plan demands that nearly all the courage be shown by others, since it postpones real spending cuts until after he leaves office. Moreover, if the President's own optimistic estimates about future deficits do not prove accurate, he relies on triggers—automatic cuts in spending and increased taxes—to bring the budget into

balance. All of this occurring, again, after he has left office, after he no longer will be held to account.

Harry Truman's famous injunction, "the buck stops here," apparently now reads: The buck stops at the desk of the next person to occupy this office.

Now we will apparently learn from CBO later this week that even the President's budget numbers are not accurate. They are not even close. We will, in fact, be about $70 billion short of balance in 2002. This year's budgets alone will see a 20 percent increase in the deficit.

This budget is the embodiment of the point I am trying to make. Deferring responsibility is easy. Shifting hard choices to the future is easy. Deficit spending is easy. Everybody plays the game unless a constitutional amendment changes the ground rules, unless fiscal discipline is imposed from above, not from within. Unless the system is changed, exposing and ending all of our tricks and excuses, that is the only way we can be honest with the American people. That is the only way we can end the cynicism toward our efforts here in the Congress, which are falling, I am afraid, ever more on deaf ears.

There is a great deal at stake here. As others have argued at length, increasing debt has an economic cost in higher interest rates. For businesses, this means slowed or stalled expansion, and for families it means that buying that new house or sending that child to college becomes more difficult each year.

Another cost is measured in lost opportunities to meet justified public needs. By fiscal year 1998, interest payments on the national debt will approach $250 billion—$250 billion in interest payments. That figure is 21 times more money on interest than on the entire Federal expenditure for agriculture; 17 times more than the entire Federal expenditures for international affairs; 11 times more than on natural resources and the environment combined; and 4 times more than on education, training, and employment. We stand on this floor and argue, and we work in committee, just to try to scratch a little bit more money out for job training, for education, to deal with problems of the environment and our natural resources, to deal with international affairs and pressing problems in agriculture. We try to scratch a few million dollars here, a few hundred million dollars there. Yet $250 billion simply goes to pay interest.

What could we do with that $250 billion if we did not have to pay any interest? A big healthy return to the American people would be the first start, a big tax cut to give them back some more of their hard-earned money. And there may be priorities, there may be roads that need to be repaired or built, there may be education expenditures that are appropriate, there may be natural resource and environmental concerns that ought to be addressed, there may be agricultural items that ought to be funded, and a whole raft of other appropriate spending efforts. Yet those are squeezed ever more, as more and more of our budget goes to pay interest.

Beyond this, there is a moral cost of continued debt, a price paid in the character of our Nation. I have quoted Thomas Jefferson in this debate before, but let me quote him once more. It is an injunction that this Congress has ignored time after time:

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

Those were words of a great American a long time ago. I wonder what he would say today, looking at over $5.4 trillion of national debt and continuing budget deficits year after year after year after year. "We should consider ourselves unauthorized to saddle posterity with our debts and be morally bound to pay them ourselves," said Thomas Jefferson, one of the most fundamental principles of government.

In this debate we are accustomed to thinking in terms of dollars and cents. We should also be thinking in terms of right and wrong. It is simply wrong to accumulate power in the present by placing burdens on the future. And that is exactly what we are doing. We are accumulating power in the present, the power of spending, and the way we are doing it is placing burdens on the future. It is an important part of our moral tradition, to sacrifice for posterity. It is rank selfishness to demand that posterity sacrifice for us. And there is only one way to ensure that this strong and constant temptation is defeated, by making a balanced budget a fundamental institutional commitment of our Government.

After 25 years of budget deficits, the call to voluntary restraint is hollow. Too many promises have been made and broken. Congress has spent the full measure of public trust. Meaningful budget restraint, if we find it, will come from above, not from within. This fundamental principle of government should be, and hopefully someday will be, and I predict it will be, in America's fundamental law. That day cannot come too soon. We should be ashamed if that process does not begin tomorrow.

Tomorrow we will vote once again. Two years ago I sat in my seat, one row down, listening to the final debate on the balanced budget amendment, listening to the call of the roll. As every Senator sat at his or her desk, each stood to record his or her vote, and as we went through the roll we tallied the numbers and we stopped at 66. We came one vote short. One vote short, not of adopting a constitutional amendment to balance the budget, one vote short of exercising the right in a democracy of the people to determine that matter for themselves. It appears that we will stop one vote short again. I hope that is not the case. I pray that is not the case.

We desperately need to arrest the power of the purse that has so corrupted our ability to represent the will of the people. I hope tomorrow we will demonstrate the courage to finally say: Power to the people. Let them decide the fiscal course for this Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

SAY "NO" TO A BALANCED BUDGET AMENDMENT

Mr. LAUTENBERG. Mr. President, I would like to take some time to talk about the vote that is pending tomorrow and the subject of the balanced budget amendment. We are coming to the close of yet another marathon debate on this subject, and I hope that I can crystallize the perspective and detail some of the major concerns of those of us who oppose this amendment.

Mr. President, it is tempting, as the debate goes on, to accept right being on our side; the other side claims right and the moral imperative that says we should pass this balanced budget amendment, put it into the Constitution, open it up, have the courage to step forward.

The courage is to be in the minority and say, "No," though the most popular view is to amend the Constitution because the folks we represent, each of us in our States, really have not been made aware of what the penalty is if we lock ourselves into an amendment to the Constitution.

We will be saying to people that in the future, programs that you relied on to sustain your family, to take care of your health care, to take care of your child's education, to take care of your unemployment insurance, may not be available, and if this country starts to slide into a recession, we may go the whole route.

So, as we listen to the debate, it is very hard not to get to feeling rather sanctimonious about the side that we are on. I simply point out, as we talk about bipartisanship, and note that the Democrats are all of the votes in opposition, the 34 contemplated votes in opposition to the balanced budget amendment. Not the majority. The majority says, "We can't manage our own behavior; we have to be controlled by other strictures, we have to be told that we are not allowed to do these things," not that we were sent here, elected to this honorific body, one of 100 out of

260 million people, who say we have the guts to stand up and make the decisions or pay the consequences.

We talk about courage. The courage is to say, "No; we will accept the voters' decision in the future when we run for election if we insist on maintaining the posture as it is." Good news brought us to this point, to where the budget deficit has been reduced by over 60 percent in the last 4 years, where job growth is up to 11 million new jobs, as major company after major company shrinks down, closes its doors, sends its jobs overseas. The good news is inflation is under control, that our percentage of deficit to GDP is the smallest among the advanced nations of the world and the envy of all the other countries.

So, Mr. President, I would like to discuss four points that go to the heart of the debate and hope that we will stay the course as it is and say no to a balanced budget amendment and say yes to the American people, that we have the backbone to stand up to this debate and we are obliged to carry on your wishes.

First, the evidence is mounting and the public tide is turning against this amendment. Economist after economist, newspaper after newspaper, academic after academic believes this amendment is bad for the Nation, and for good reasons.

Two, we will balance the budget without a balanced budget amendment.

Third, the balanced budget amendment could wreak havoc with the economy and the economic security of millions of Americans.

And four, it would be almost impossible to undo the damage of a balanced budget amendment once the harm is done.

On the first point, the mounting opposition to the balanced budget amendment is not confined to one group of Senators or Members of the House. It is also not limited, when we consider both bodies, to a particular party or segment of the political spectrum.

Federal Reserve Chairman Alan Greenspan, former CBO Director Rudy Penner, former Solicitors General Robert Bork and Charles Freid, not to mention our former and esteemed colleague, Senator Mark Hatfield, have all weighed in against the balanced budget amendment. Even last year's Vice Presidential candidate, Jack Kemp, appearing on "Meet the Press" called the amendment "a recipe for future disaster in this country."

In the November 25, 1996, edition of Newsweek, conservative columnist George Will wrote:

> The Constitution should not be amended, unless there is a compelling reason to do so.

He goes on to say:

> Current conditions do not constitute a compelling reason.

In its November 15, 1996, lead editorial entitled "An Amendment is Poor Substitute for Backbone," USA Today said:

> Drafting a balanced budget amendment is a waste of parchment. The history of balanced-budget measures show that.

The Wall Street Journal, not exactly a bastion of liberal thought, labeled the amendment a "constitutional boondoggle," calling the amendment a "flake-out." The Journal went on to say:

> The notion of amending the Constitution to outlaw budget deficits is silly on any number of counts.

The Washington Post, too, had a scathing review of the balanced budget amendment. In its January 30, 1997, editorial, "No to a Bad Amendment," the Post concluded:

> This is a fake show of strength and abuse of the Constitution whose effect would be to harm the system of government it purports to help.

The New York Times called it "an idea that looked good in the abstract but is dangerous in the reality."

And one of my home State newspapers in New Jersey, the Bergen Record, tagged the balanced budget amendment as "a misguided measure" and a "bad idea."

On the economic policy front, Federal Reserve Chairman Dr. Alan Greenspan, who is known for choosing his words carefully, recently expressed his reservations about the balanced budget amendment. At a January 21 Budget Committee hearing, in response to a question that I asked on the balanced budget amendment, Dr. Greenspan said:

> I have not been sympathetic to the specific details of most balanced budget amendments largely because I think they are very difficult to enforce, and I am terribly much concerned about the issue of employing detailed economic policy within the Constitution itself.

Mr. President, on January 30, along with some of my colleagues, I joined with a message from over 1,000—it was printed in the paper—leading economists, including 11 Nobel Prize winners in economics, in speaking out against this amendment. At the press conference releasing this statement, one of the participants asked a very good question. He said: "Where are all of the conservative economists in favor of the balanced budget amendment?"

The answer is that most of them are keeping a safe distance from it, and with good reason. The balanced budget amendment is fatally flawed economic policy.

Mr. President, my second point is that we do not need this amendment.

During the 1980's and the early 1990's, those who supported the amendment could point to historic increases in our annual deficits and the persistent unbalanced budgets submitted by both Republican and Democratic Presidents. Their concerns were understandable. In 1979, the deficit was $41 billion. In 1979—almost 20 years ago—it was $41 billion or 1.7 percent of GDP. When President Clinton took office, the deficit was $292 billion and was expected to crest at $347 billion in 1997. The deficit as a percentage of gross domestic product stood at a whopping 4.9 percent.

This staggering rise in the deficit led many to conclude that only a constitutional amendment could force the Federal Government to be fiscally responsible. The proponents pointed to the tide of red ink flooding the Nation and argued for this stop-me-before-I-spend-any-more amendment.

But that sense of hopelessness has been now proven wrong.

Since President Clinton took office, the deficit has gone down consistently and dramatically. Last year, it fell to $107 billion and 1.4 percent of GDP. It is now the lowest deficit, as a percentage of GDP, of any major industrialized country. President Clinton has a plan to make it balance in the year 2002, and it will be a real balanced budget, not this raincheck of an amendment that may be—and it is a big "may be"—redeemed at a later date.

We have proven that the Congress and the President can be fiscally responsible. I want to state in the strongest possible terms that we do not need an outdated and dangerous constitutional gimmick to do the job. We can do the job on our own, and we will.

Mr. President, my third point is that the balanced budget amendment is a catastrophe waiting to happen. Perhaps most importantly, it would substantially aggravate economic downturn and it could turn a slowdown into a recession and a recession into a great depression. For example, during the Bush recession, real GDP fell 2 percent. If the balanced budget amendment had been in place, real GDP might have declined by 4 percent or more.

Last year, the Treasury Department issued a very interesting report on how a balanced budget amendment would have worsened the Bush recession. I want to quote from it. They said:

> A balanced budget amendment would force the government to raise taxes and cut spending in recessions—at just the moment that raising taxes and cutting spending will do the most harm to the economy and aggravate the recession.

That is what the Treasury Department said.

During a recession, we need every tool at our disposal to deal with the economic downturn. The Government must be nimble and responsive, but the balanced budget amendment autopilot could send the economy into a tailspin. One President tried to balance the budget during a recession. His name was Herbert Hoover, and the recession quickly became the Great Depression.

I am also very concerned that the balanced budget amendment could eliminate many of the automatic stabilizers, like unemployment insurance

that protects people during a downturn and cushions some of the pain. Under current law, if unemployment goes up, so do unemployment insurance payments. That not only helps the workers and their families, but it moderates the impact of a recession on industry.

Secretary Rubin estimates that without our automatic fiscal stabilizers, unemployment in 1992 may have crested at 9 percent, instead of 7.7 percent, which would have meant more than a million additional jobs could have been lost.

It is possible that eventually we could have found the three-fifths supermajority needed to waive the provisions to the amendment. But Congress moved slowly even without a supermajority requirement, and most likely by the time we had reacted to the unfolding slowdown, the damage would have been done.

Another major problem with this balanced budget amendment is that it increases the likelihood that the Government will default on its debt. The amendment includes language that requires a three-fifths majority vote in both Houses in order to raise the debt limit. This little-known provision is extremely dangerous, as one can imagine, to have a small minority denying the ability to raise the debt limit when it could very well be essential.

Mr. President, the Nation was taken to the brink of default in 1995. Fortunately, cooler heads prevailed in that feverish atmosphere, and we were able to raise the debt ceiling by a simple majority vote. But what would have happened in 1995 if the supermajority rule had been in place? A minority, as I said, in Congress could have caused a default on our financial obligations.

A default would have disastrous consequences. The Treasury would be prevented, at least temporarily, from issuing checks for Social Security, Medicare, and veterans benefits. Our creditworthiness would be shot. The Nation would suffer a profound and long-lasting increase in interest rates, harming all those who borrow. Homeowners making payments on adjustable rate mortgages would be especially hard hit. And these higher interest rates would make it even harder to balance the budget thereafter as the Nation would have to devote an even larger share of the budget to interest on the national debt.

Mr. President, my fourth and last point is that there is no fail-safe, sunset or automatic review built into this amendment. Congress has passed far lesser measures that contain at the very least a sunset, a time when this automatically stops for review. A case in point is the line-item veto that was enacted into law last year and contains a 9-year sunset.

But this balanced budget amendment, that is by far one of the most sweeping and dangerous pieces of legislation ever to come before the Congress, has none. This is most troubling to this Senator, as it should be to all Americans.

What would happen if the balanced budget amendment caused the type of problems that I just outlined? Remember, this is not a simple piece of legislation. This is a constitutional amendment. Imagine our Nation, wracked by recession or, even worse, depression. Millions are out of work. Factories are shuttered. Bankruptcy and foreclosures are rampant. Because a constitutional amendment is in force, Congress could not take the quick and responsive action that may be necessary, as we did during the Bush recession. The only legal course of action left to us would be yet another constitutional amendment to repeal this bad one and undo the damage.

But hang on a minute. The last time that happened was in 1933, over 60 years ago, when the 21st amendment was ratified repealing the 18th amendment to the Constitution. The 18th amendment was prohibition. It, too, was supposed to save us from ourselves and legislate backbone. It took 14 years to repeal it.

During a depression we could not wait that long. The American people, who depend on our sound judgment and rely on our fiscal stewardship, certainly cannot wait that long. And neither should we. We should vote against this amendment.

Mr. President, let me again emphasize that I agree with the need to be fiscally responsible, and I am committed to working toward a balanced budget. The President of the United States proposed a budget that balances in the year 2002. We have a challenge. Let us examine it. As the ranking Democratic Member of the Budget Committee, I believe we can reach a balanced budget agreement this year. But we can do it without this flawed constitutional amendment.

The former majority leader of the Senate, Mike Mansfield, said that he owed the people of his State more than an echo; he owed them his judgment. It is my best judgment, Mr. President, that this amendment is bad for the people of New Jersey, as it is bad for the people all across our Nation. I urge my colleagues to do the right thing and oppose this amendment.

I yield the floor and see my colleague, who is the right stuff, from Ohio about to take the floor. We will listen with interest.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. GLENN. Mr. President, I rise today to add my comments to the many others who have voiced their opposition to Senate Joint Resolution 1, the balanced budget constitutional amendment.

Mr. President, like the others before me, let me preface my comments by stating clearly that I support balancing the Federal budget. I have for a long time. I wanted to balance the Federal budget clear back when it was only $1 trillion way back in the days when Jimmy Carter was still President. I note that the total Federal debt at that time was still under $1 trillion, totaled up for every President between George Washington and the end of the Carter years.

So I do not come lately to this idea of balancing the Federal budget. I wholeheartedly agree we need to exercise discipline to both balance the budget and eliminate the deficit. But, Mr. President, I do not believe that changing our Constitution to require a balanced budget is in this country's best interests. For reasons I will outline, I believe that a constitutional amendment requiring a balanced budget is far more likely to cause more trouble, more harm, than good.

The amendment before the Senate would dramatically change the way our political process has worked for over 200 years. While there have been times when partisan fighting may have caused what many term gridlock, I do not believe it is necessary or desirable to turn the fundamental concept of our system of Government on its head.

Moreover, this amendment would ensure that gridlock is the rule rather than the exception. By requiring supermajorities in order to conduct the routine business of the Congress, this amendment overthrows the concept of majority rule and empowers minority factions to hold the Congress and the country hostage. I submit that this type of minority control of our Government is the exact evil the framers sought to eliminate in the drafting of our Constitution. For this reason alone I oppose the balanced budget constitutional amendment.

It is not hyperbole when I say it is dangerous to our form of Government. Compounding the problem, Mr. President, is the fact that the proponents of this amendment would topple one of the basic tenets of our Government, as I see it, for no reason at all.

First, from a historical perspective, the constitutional amendment is not needed. The only time in this country's history outside of times of war, the Great Depression, or recession that we have run up a significant deficit, one viewed as unmanageable, is in the preceding two decades through our time right now on the floor. We had the experiments in supply-side economics back during the last 12 years before President Clinton came in, which ran our debt from $1 trillion up to nearly $5 trillion.

But we are no longer debating how we got into this situation we find ourselves in, pointing fingers, or placing blame for a deficit so staggering that it is beyond our comprehension or imagination. Instead, a more productive political consensus does now exist to bring the budget into balance and eliminate our deficit. So I do not think we need a constitutional requirement to balance the budget. Congress and the President, working together, have the ability, and now, I believe, the will to bring our budget into balance.

Now, everybody describes this as being a political climate that is overly divisive. I agree. Congress in both Houses, on both sides of the aisle, and the President, all profess to want a balanced budget, and I do not doubt that. I think everyone does, and they want to eliminate the huge deficit that is the legacy of the 1980s. Now we have different ways we are looking at this thing, but we have made substantial strides in at least getting unanimous consent or unanimous opinion that this is something that we do have to deal with and do have to deal with now. But there are still some very basic disagreements on how to achieve the balance and how to reduce the deficit.

The Democrats and Republicans alike have proposed balancing the budget by the year 2002, and the deficit has been reduced from 5.1 percent of our gross domestic product in fiscal year 1986 to only 1.4 percent in fiscal year 1996. Mr. President, 5.1 of GDP in 1986 down to 1.4 percent just 10 years later in 1996. Right here and right now we are working toward achieving the very goal of the balanced budget constitutional amendment without sacrificing our democratic form of Government to get there.

I might put those figures in a different term. When President Clinton came in, our national budget deficit was running at $290 billion a year. We passed on this very floor one of the toughest votes that many of us have made since being in the Senate. We passed during the Reconciliation Act in August of 1993 the President's program, without having one single Republican vote—not a one in either the Senate or the House of Representatives; not a one—and there were all sorts of predictions about what horrible things were going to happen to the economy and the millions of unemployed that would be added to the rolls. What happened? Well, that did not happen and we have gone on with a very, very, strong economy, and we have gone from a budget deficit of $290 billion down to $107 billion for the latest estimate for what 1996 will turn out to be.

We are in the middle of doing something right here. We are doing it right now with action that we have taken in this Congress. This is not something we are waiting for and hoping for some magic wand like a balanced budget amendment. This is something that we are doing right now and we are headed toward a balanced budget. I grant anyone that wants to discuss this, we, in fact, are looking forward to some times out here where it will be tougher to do that, tougher to balance the budget. We know that. But that will require some equally tough votes on this floor.

I hope when we make those tough votes on this floor we have support from the other side of the aisle that we did not have when we made that vote the summer of 1993. Now, in Treasury Secretary Rubin's words, a balanced budget constitutional amendment "could turn slowdowns into recessions, and average recessions into more severe ones," and he added, "it would seriously increase the risk of default on our national debt."

Those are quotes taken from Secretary Rubin's February 2, op-ed in the the Washington Post. I ask unanimous consent that his Washington Post op-ed piece be printed at the end of my remarks.

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

(See exhibit 1.)

Mr. GLENN. It is a thoughtful piece that makes a very powerful argument against this amendment.

Economists consider a balanced budget requirement to be what they would call procyclical. In other words, adding to the cycle instead of correcting the cycle. It makes it worse. It is an economic autopilot. When revenues are slow coming into the Federal coffers because the economy is slow, deeper spending cuts have to be made to make up for the revenue shortfall in order to keep the budget in balance.

We have AFDC, food stamps, unemployment insurance, trade adjustments assistance, all of these things cut in during the beginning of a recessionary period, and the farther we get into that approach to a depression the more these programs sort of prime the pump or level things off. There is no way that can be shown better than the chart that has been on the floor here many, many times in the past. I will hold this up to illustrate, but we have seen this real economic growth, and you can see what happened on this chart. Way back in the 1880's and 1900's on the wide cyclical swings and what happened post World War II, and we got some of the countercyclical programs in place.

Look how the economy has just leveled out in that period of time. The economy has leveled out with no great huge swings down like we had during the Great Depression when I was a boy back home in New Concord, OH. These are things that would happen again, we would get back into the wild swings, if we, indeed, had the balanced budget amendment passed, because there is no other way to get the money to take care of the requirements of a balanced budget amendment unless you either cut many of those programs back or raise taxes. That is the other source of revenue. If you did that, either one of those things would be exactly the wrong thing to do and would add to the inclination, the trend, toward a cycle that we want to stamp out, not make worse.

It is sort of a perverse, Look, Ma, no hands approach to budget, the exact wrong thing for a slow economy. That is why Secretary Rubin says the balanced budget amendment "can take an economic slowdown and turn it into a recession and then take a recession and make it even worse."

I submit that is probably exactly an analysis that most economists would show happened back during the days of Herbert Hoover when he tried to raise taxes to make sure we were not going into more of a deficit position.

I cannot believe the proponents intend to force us into this kind of an economic straitjacket. I know the people across the country want a balanced budget. So they say, "Balanced budget amendment, oh, that sounds great, that sounds magical after the last 12 or 14 years when we had budgets run sky-high and deficits running sky-high." So that sounds very attractive.

I think when the people of this country know what will be cut, they are informed about what will be cut, informed they will have difficulty within their communities with AFDC and food stamps and unemployment insurance and things like that that are administered by the States, but partly with Federal dollars, then I think they would realize this is more of a danger than anything they have come up against for some time.

Mr. President, I grew up during the Great Depression. I was about 10 or 12 years old in the depths of the Great Depression. During those 4 years we had 20 percent of the country unemployed and 1 year when almost 25 percent were unemployed. What happened? The country had hit a situation it had never been able to handle before.

We always were proud in this country of families taking care of families, of communities taking care of themselves. They didn't look for outside help. In those days of the Great Depression, in the town of New Concord, OH, my hometown, everybody planted big gardens. My dad rented an extra couple of acres, in addition to our big garden, and we grew our own food and took it down and gave it to neighbors. We shared in those days. That's how we got by.

But everybody wasn't that fortunate. In some of our cities, we had soup kitchens on the corner where people could get something to eat in order to keep them going. We used to see what we called the "bums" going by on Route 40, and that went right by our house, as a matter of fact. We called

them the "bums" because they were people who were, quite often, walking or getting a ride in a railroad boxcar across country someplace. They would get off sometimes and come up to the house and knock on the back door and ask my mother if she could give them something to eat. She never turned anyone down that came to that back door, I can guarantee you that. They were good people, down on their luck. I'm sure some were deadbeats that weren't much to begin with. But they were Americans and they were hungry, and it was the Great Depression and it was tough.

The movie reels of those days show the Okies heading west out of the dust pit in Oklahoma with the mattress on top of the car, because communities had lost control. What happened? Programs were put in by Roosevelt—programs that we still argue about on the floor of the Senate to this day—and they primed the pump. That is the point I want to make. They primed the pump. They may have been very wasteful for 1 or 2 years, but they primed the pump and got our economy going again. You can make a million jokes about those time periods, but they are not a joke, as far as I am concerned, because I remember them very well.

I remember one conversation between my dad and mother that I will never forget as long as I live. We had finished dinner and I went in the other room. I heard them quietly talking at the kitchen table, and they were discussing whether the mortgage was going to be foreclosed on our home. You talk about striking terror in the heart of a 10-year-old boy—that was me. I didn't know where we were going to go. That was a bad one. Do you know what happened? FHA was put in, and it was possible to negotiate a mortgage then with that kind of a Government guarantee that helped people like my dad and mom have a shot at keeping the home. Lots of mortgages were foreclosed and people could not keep their homes. Those are the days we were living in then.

The point I'm making is that the pump-priming efforts at that time worked. They largely put our economy back to work again and got it going again. It wasn't perfect and never had been completely healed until we got through World War II, I guess. That was the ultimate primer of pumps, World War II. Anyway, the program of having countercyclical funds that cut in when a recession starts or when a downturn really gets serious is something that works. It works just as well as it did back in those days of the Great Depression. It worked, obviously, from the time, since 1946, that we started the first of these programs, and we have built on similar programs since that time that really do work.

A balanced budget amendment would force us, in a time when we are in deficit, to dig into those things and cut down on those funds, or raise taxes, either of which would be exactly the wrong thing to do at that cycle of depression or near depression.

Another truly frightening consequence of the adoption of a balanced budget requirement is the fact that it puts the creditworthiness of the United States of America at risk. Mr. President, this is a concept that I admit I find to be almost unimaginable. By requiring a supermajority to raise the debt ceiling, this constitutional amendment would allow 41 Members of this body—not a majority, but a minority of the Senate—to trade the creditworthiness of this country for the passage of legislation that otherwise would not pass the Senate. In other words, it is what has been termed in the past as the "tyranny of the minority."

Try and imagine what default by the Government of the United States of America would do to the world's financial markets. I can't. I am not saying this will happen necessarily, Mr. President, but I cannot support an amendment to our Constitution that would allow a minority to dictate legislation to a majority of the Senate or place our creditworthiness at risk.

I want to take a minute to talk about what this amendment would do to our ability to make expenditures in order to respond to emergencies, natural disasters, or even military operations, like Desert Shield, where we were not technically engaged in a military conflict. I will only take a minute. This amendment prevents us from doing anything in these situations without the agreement of a supermajority, for all intents and purposes—even for military. The practical implications of this amendment are that Congress may be able to offer assistance to tornado or hurricane victims, or victims of any other natural disaster, if that disaster happens early in a fiscal year because only a majority vote would probably be necessary while we are still on budget, while things are looking well. But if a disaster happens in the third or fourth quarter of the fiscal year, those disaster victims are on their own, unless three-fifths of the Congress agrees to provide some sort of assistance.

These same accounting practicalities will not be lost on our potential adversaries, either. I don't think it is too big a leap of logic to say that Saddam Hussein would not have to be a financial genius to figure out that if he wants to make another run at Kuwait, it is better to move the republican guard units in the third or fourth quarter of a fiscal year, because it will take the action of three-fifths of both Houses of Congress to approve funding for any military operations, which would bring the budget out of balance.

Mr. President, that is a completely unacceptable way for the United States of America to act, I feel. That is the straitjacket that this balanced budget amendment would put us into if it were passed.

So, to me, these are some very serious flaws in the constitutional requirement. There are also separation of powers concerns raised by this amendment. Let us take the situation in which it is discovered during a fiscal year that the budget will not balance and that outlays will exceed expenditures. If the Congress fails to approve additional spending by the required three-fifths majority, the President might feel compelled to impound funds in order to bring the budget into balance. Now, the President would decide what to fund and what not to fund. Mr. President, let me state that again. The President, in that situation, would decide what to fund and what not to fund, because that is what he would be required to do by law. This represents a shift in power to the President that once rested with a simple majority in the Congress.

A similar troubling situation would be where the budget goes out of balance or never gets into balance, and the President does not correct the situation. Say the President doesn't want to do anything about this. He says, OK, we are not going to correct it. What do we do? In that circumstance, do you know what would happen? The courts would step in and decide which programs would be funded and which programs would not be funded, again, taking away what has heretofore been a congressional prerogative.

Then there are equity issues that argue against passage of the balanced budget constitutional amendment. This amendment is a policy decision not just about how to keep the books, but also about who will benefit from Federal spending programs. It cannot be denied, and should not be overlooked, that the Tax Code's tax breaks to individuals and corporations are a type of Government spending. Not everyone realizes it, but when an individual's or corporation's tax burden is reduced by a tax break, that is Government spending, and we should not forget that. Eliminating these tax breaks is considered increasing revenues. Under the balanced budget amendment before us, Congress can increase revenues only by a majority vote of both Houses.

In contrast, cutting funding for programs requires only a majority vote by those present and voting or could even be passed on a voice vote. This is not an esoteric point, Mr. President, because in program terms, this amendment creates a presumption in favor of cutting funding for programs because it is easier to do. I argue that this presumption favors the more affluent in our society, because their Federal spending programs, known as the Tax Code, are more difficult to cut than the spending programs of the less affluent.

That kind of an imbalance just plain is not fair.

Finally, Mr. President, I must mention the relationship that exists between this balanced budget amendment and Social Security. As the baby boom generation reaches retirement age, Social Security expenditures will increase dramatically.

And despite the fact that some action has been taken in anticipation of this demographic shift in the population, this balanced budget amendment would have us pay for baby boom Social Security out of current year revenues and will likely break the bank.

Right now, we are paying more into Social Security so that we can generate surpluses to pay for the baby boomers when they reach retirement age. This approach is far sounder than expecting to pay this enormous expense out of a single year's revenues. I'm afraid that the only way we would get there under a balanced budget requirement is either to reduce substantially the benefit baby boomers receive or cut radically other Government programs.

This is just another example of where, in my view, a constitutional requirement to balance the budget in the manner proposed will do more harm than good.

Mr. President, we all want to eliminate the enormous deficits of the recent past. We all want to bring the budget into balance and keep it in balance when it makes sense to do so. And, it would be a lot easier to stand here and have the American taxpayer believe that supporting this legislation is a simple way to solve all of our problems.

But it's not the right thing to do, Mr. President. This legislation forces this country into a budgetary straightjacket and it limits democracy as we have known it for more than 200 years.

It's unsound from an economic perspective and it is unfair to the less wealthy. It puts this Nation's security at risk and it prevents us from responding to disasters.

And it could result in the elimination of virtually all Government programs except Social Security once the baby boom reaches retirement age.

As I said, Mr. President, it would be easy to say that I support the legislation before us because the concept of requiring a balanced budget appeals to the average American—but only on a superficial level.

Regrettably, for the reasons I've outlined, the solution isn't so simple and I cannot support this legislation.

Mr. President, let me just summarize once again.

We are on the way to a balanced budget now with the existing Federal budgeting processes. We have been since the summer of 1993. I do not think most Americans yet have gotten this fact driven home to them. They are so accustomed to deficits coming out of Washington that they can't believe that we really are heading toward a balanced budget. We can't do it all in 1 year or we would destroy the economy. But what we have done is, with the budget reconciliation bill that was passed in August 1993, we are proceeding step by step toward a balanced budget. It has gone from a budget deficit of $290 billion a year when President Clinton came into office down to an estimated $107 billion for the year 1996. That is certainly measurable progress. It was estimated earlier that would go down this year to about $40 billion. That may be revised up a little. We have to take some action to do that.

But to go the drastic step of a balanced budget amendment that would deal so unfairly with so many people I think is something that we do not want to do.

Mr. President, we have programs that are called countercyclical. Those programs cut in as the economy gets worse. They automatically cut in and dampen that slide and bring it back up again. It prevents things like the deep Depression of the early thirties and all of the wild swings that used to occur back before we had some of these countercyclical programs.

There is no way that you can get by it with a balanced budget amendment. You are going to be cutting some of these programs like AFDC, Social Security, food stamps, unemployment insurance, maybe Medicaid, and trade adjustment assistance. Those are all things that would be targets for potential cuts. The money has to come from somewhere. With the balanced budget amendment you have no choice but to cut, or, if you want to keep the balance, raise taxes, either one of which would be absolutely wrong on an economic cycle basis.

Mr. President, for all of those reasons, and others that I have not even mentioned here today but which Mr. Rubin refers to in his Outlook piece in the Washington Post that I asked to be placed in the RECORD, I think it would be unwise to go for a balanced budget amendment that puts us in an economic straitjacket. I think we need to continue our efforts here on a bipartisan basis, on both sides, here and over in the House, and do the things that we see are working right now with our budget. Continue those, and we can have a balanced budget if we all work together on this without violating the Constitution or without going back into the Constitution, which will enable us to do it.

EXHIBIT 1

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

THE BALANCED BUDGET BRAWL

(By Robert E. Rubin)

I spent 26 years on Wall Street before joining the Clinton administration and came to believe deeply in the profound importance of fiscal responsibility to our national economy. I have now spent four years working in government to implement this conviction, which members of both parties share.

However, I have an equally strong conviction that a balanced budget amendment is a threat to Social Security and our economic health. it will expose our economy to unacceptable risks and should not be adopted. Like the 11 Nobel Prize-winning economists and 1,000 other economists who signed a letter on Thursday to "condemn" the amendment, I believe it is strongly against our national interest.

A balanced budget amendment would reduce our ability to cope with recessions, risk putting budgetary decisions in the hands of the courts and create risks with respect to Social Security. Should we balance the budget? Yes. Do we need a new constitutional amendment? No.

Throughout our history, with the exception of wartime and the Depression, budget deficits—when they existed at all—were generally small. In the 1970s and 1980s, they began to rise and the cumulative federal debt grew sharply. But after experiencing this period of fiscal indiscipline. I believe the atmosphere in Washington has changed.

In 1993, we took an enormous step forward with the deficit reduction program, which has cut the deficit from 4.7 percent to 1.4 percent of gross domestic product. Last year, both the administration and Congress proposed budgets that would eliminate the deficit by 2002, and both are expected to do so again this year.

There is also a new enforcement factor at work, which is the emergence of global markets attuned to fiscal responsibility. Those markets will punish a national that does not address fiscal matters by imposing high interest rates that can severely impair its economy.

Today, politically, historically and economically, the forces are in place to balance the budget. And I believe we will. However, there is a distinction between that and passing a constitutional amendment. I believe the balanced budget amendment proposal would subject the nation to unacceptable economic risks in perpetuity.

First, it could turn slowdowns into recessions and average recessions into more severe ones.

Second, it could prevent us from dealing expeditiously with emergencies such as natural disasters or military threats.

Third, it would seriously increase the risk of default on our national debt.

Fourth, the escape clauses it provides are likely to be far from fully effective. The escape clauses would also enable a minority in either the House or Senate to use its leverage to subject the nation to unacceptable economic risks.

Fifth, a balanced budget amendment poses immense enforcement problems that might well lead to the involvement of the courts in budget decisions, unprecedented impoundment powers for the president or the temporary cessation of all federal payments, including, for example, Social Security. Alternatively, the balanced budget amendment might be unenforceable and therefore have no effect at all, contributing to cynicism about the process of government.

For these and other reasons, a balanced budget amendment poses unacceptable risks. Let me elaborate.

More severe recessions. As secretary of the treasury, I am deeply concerned that a balanced budget amendment could worsen recessions or downturns, first by eliminating

automatic stabilizers that protect people during a downturn and, second, by forcing tax increases or spending decreases precisely in the midst of a slowdown or recession when the economy is already suffering from lack of demand.

Since World War II, we have made substantial progress in reducing the toll of the boom-and-bust cycle through the introduction of automatic fiscal stabilizers and effective use of counter-cyclical fiscal policy. For example, if unemployment rises, unemployment insurance payments rise as well, moderating the economic impact of recessions and job losses on companies workers and their families.

A balanced budget amendment would undo this progress and put more people out of work during downturns by turning off these stabilizers and foreclosing action to soften a recession.

Even if Congress wanted to put back the stabilizers (an act that would require a three-fifths vote), slowdowns and recessions are hard to recognize or anticipate. Congressional action would almost surely come, at the very best, months later, by which time critical damage to the economy would already have been done.

Inability to cope with crises. A balanced budget amendment would also prevent us from dealing quickly and effectively with major problems, from a second savings and loan crisis to a second Hurricane Hugo to an escalating military threat.

For example, in September 1989, Hurricane Hugo struck the Carolinas, causing billions of dollars of damage. After President Bush declared a disaster, Congress immediately appropriated $2.7 billion in emergency assistance. Under the balanced budget amendment, if the budget were otherwise in balance, this could not be done until after a vote of 60 percent in both houses.

Increased risk of default. As secretary of the treasury, I am also concerned that limits on our flexibility would increase the risk of default on the federal debt. The possibility of default should never be on the table. Our credit-worthiness is an invaluable national asset that should not be subject to question.

Default on payment of our debt would undermine our credibility with respect to meeting financial commitments, and that in turn would have adverse effects for decades to come. A failure to pay interest on our debt could raise the cost of borrowing not only for government, but for private borrowers including small businesses and homeowners.

Finally, as we saw in 1995 and 1996, the history of debt limits shows that raising the statutory debt limit is never an easy process. Yet right now it is possible to raise the debt limit with a simple majority vote in both houses. By requiring a three-fifths supermajority vote, the amendment would make it far more difficult.

Potential for gridlock. Proponents argue that when necessary, Congress would waive the provision of this amendment with a three-fifths vote. But, in fact, the history of Congress shows that it can be extremely difficult to obtain such a majority, and would be even more difficult when the issue is the momentous one of waiving a provision of the Constitution.

While 60 votes are usually required in the Senate for cloture—that is, ending debate and bringing a matter to a vote—and the members have long honored the rights of a minority, the Senate also recognizes that certain matters should not be held up. It therefore permits a reconciliation bill, which can be a vehicle for passing a budget or increasing the debt limit, to be passed by a simple majority.

Under this amendment, 41 Senators or 175 House members could hold our economy hostage to a special agenda.

Enforcement difficulties. A balanced budget amendment poses immense enforcement problems. If the budget is not in balance, there is no way to compel Congress and the president to enact legislation to cut spending or raise taxes to make it so. Yet there is also no way to compel enactment of legislation to waive the provisions of the amendment. It is not hard to imagine a situation in which a two-fifths minority of Congress opposes tax increases, a different two-fifths minority opposes spending cuts, and another two-fifths minority opposes a waiver of the balanced budget amendment or a raise of the debt limit. The amendment provides no method for resolving such an impasse and it could well end up being decided by the courts.

Some proponents have suggested that under these circumstances, the president would stop issuing checks, including those for Social Security. Alternatively, judges might become deeply involved in determining budget policy, including whether Social Security or Medicare checks should be stopped. The president might also impound funds of his choosing, including Social Security. Of course, the amendment might just prove to be unenforceable, reducing respect for the Constitution. All of these potential outcomes are extremely undesirable.

A balanced budget amendment would embed economic policy inflexibility into the Constitution in the face of unknowable economic and political conditions 10, 20, 30 or 40 years from today.

I have a deep commitment to the importance of deficit reduction and fiscal discipline to our nation's economic health, and I believe that we can put in place balanced budget legislation this year. But I have an equally strong conviction that a balanced budget amendment poses real risks for our nation's economy. Congress should not adopt it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE DEATH OF DAN MANGEOT

Mr. FORD. Mr. President, millions of people watch the Kentucky Derby because it is a spectacular moment of chance.

When the 123rd Run for the Roses takes place May 3, that's what the spectators will see—a riveting 2 minutes when anything can happen. What they won't see are the thousands of small details that go into making that moment one that goes down in sport's history.

While thousands of people work to make the Kentucky Derby and the festival events a success, Kentuckians know that for the past 17 years one man has stood out in his commitment and drive to nailing down every last derby festival detail.

That man was Dan Mangeot, the Kentucky Derby Festival's long-time president. He died in February, leaving behind a legacy and equally important, many, many devoted friends and colleagues.

Described by some as a "legend" and by others as a "father figure," Dan did the impossible. He took a legendary event and somehow made it even better.

Under his management, attendance at derby festival events doubled to 1.5 million, while the economic impact on the community grew from $17 million to $53 million.

When Dan decided to focus on something, the outcome was inevitably a huge success. Whether it was selling more derby pins—going from a few thousand a year to 600,000 a year—or instituting a derby festival poster—a regular award winner—he knew how to deliver.

But Dan was about more than ringing up financial successes. He knew how to create a sense of community ownership in an event. Every year the entire community not only had a sense of pride in the festival activities surrounding the derby, but a stake in seeing them succeed.

Dan couldn't imagine doing things differently. Community ownership translated into a board of directors truly representative of Louisville's diversity. And when it came to awarding contracts, he worked to ensure that minority-owned firms weren't shut out.

It's true the derby is about the fastest horses in the world. But for Kentuckians it's also about showing the world the Commonwealth at her finest.

And thanks to Dan that's what the world saw.

Mr. President, let me close by expressing my deepest thanks to Dan's family for sharing such a great man with us. I know I speak for all Kentuckians when I tell Dan's family how very sad we are for their loss.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, February 28, the Federal debt stood at $5,349,937,360,942.68.

One year ago, February 28, 1996, the Federal debt stood at $5,016,626,000,000.

Five years ago, February 28, 1992, the Federal debt stood at $3,829,059,000,000.

Fifteen years ago, February 28, 1972, the Federal debt stood at $426,934,000,000 which reflects a debt increase of nearly $5 trillion—$4,923,003,360,942.68—during the past 15 years.

CONGRATULATIONS TO GLADYS RAYMORE WILSON CELEBRATING HER 100th BIRTHDAY

Mr. ASHCROFT. Mr. President, I rise today to encourage my colleagues to join me in congratulating Gladys Raymore Wilson of Independence, MO, who will celebrate her 100th birthday on March 16, 1997. Gladys is a truly remarkable individual. She has witnessed many of the events that have shaped our Nation into the greatest the world has ever known. The longevity of Gladys' life has meant much more, however, to the many relatives and friends whose lives she has touched over the last 100 years.

Gladys' celebration of 100 years of life is a testament to me and all Missourians. Her achievements are significant and deserve to be recognized. I would like to join her many friends and relatives in wishing Gladys health and happiness in the future.

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 a treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE AGREEMENT BETWEEN THE UNITED STATES AND CANADA WITH RESPECT TO SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT—PM 19

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 Finance.

To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act (the "Act"), as amended by the Social Security Amendments of 1977 (Public Law 95-216, 42 USC 433(e)(1)), I transmit herewith the Second Supplementary Agreement Amending the Agreement Between the Government of the United States of America and the Government of Canada with respect to Social Security (the Second Supplementary Agreement). The Second Supplementary Agreement, signed at Ottawa on May 28, 1996, is intended to modify certain provisions of the original United States-Canada Social Security Agreement signed at Ottawa March 11, 1981, which was amended once before by the Supplementary Agreement of May 10, 1983.

The United States-Canada Social Security Agreement is similar in objective to the social security agreements with Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, The Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the U.S. and foreign social security systems to eliminate dual social security coverage and taxation, and to help prevent the loss of benefit protection that can occur when workers divide their careers between two countries.

The Second Supplementary Agreement provides Canada with a specific basis to enter into a mutual assistance arrangement with the United States. This enables each Governments' Social Security agency to assist the other in enhancing the administration of their respective foreign benefits programs. The Social Security Administration has benefited from a similar mutual assistance arrangement with the United Kingdom. The Second Supplementary Agreement will also make a number of minor revisions in the Agreement to take into account other changes in U.S. and Canadian law that have occurred in recent years.

The United States-Canada Social Security Agreement, as amended, would continue to contain all provisions mandated by section 233 and other provisions that I deem appropriate to carry out the provisions of section 233, pursuant to section 233(c)(4) of the Act.

I also transmit for the information of the Congress a report prepared by the Social Security Administration explaining the key points of the Second Supplementary Agreement, along with a paragraph-by-paragraph explanation of the effect of the amendments on the Agreement. Annexed to this report is the report required by section 233(e)(1) of the Act on the effect of the agreement, as amended, on income and expenditures of the U.S. Social Security program and the number of individuals affected by the amended Agreement. The Department of State and the Social Security Administration have recommended the Second Supplementary Agreement and related documents to me.

I commend the United States-Canada Second Supplementary Social Security Agreement and related documents.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 3, 1997.*

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on February 28, 1997, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 668. An act to amend the Internal Revenue Code of 1986 to reinstate the Airport and Airway Trust Fund excise taxes, and for other purposes.

The enrolled bill was signed subsequently on February 28, during the adjournment of the Senate, by the President pro tempore [Mr. THURMOND].

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-1249. A communication from the Acting Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, a rule entitled "Ohio Regulatory Program" received on February 27, 1997; to the Committee on Energy and Natural Resources.

EC-1250. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistant Authority, transmitting, pursuant to law, a report relative to the Metropolitan Police Department; to the Committee on Governmental Affairs.

EC-1251. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Review and Analysis of the Fiscal Year 1997 Budget for the Office of Banking and Financial Institutions", to the Committee on Governmental Affairs.

EC-1252. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense, transmitting, pursuant to law, a rule entitled "Automatic Data Processing Equipment Leasing Costs" received on February 27, 1997; to the Committee on Armed Services.

EC-1253. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report concerning the Foreign Comparative Testing Program for fiscal year 1996; to the Committee on Armed Services.

EC-1254. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, six rules including a rule entitled "National Primary Drinking Water Regulations" (FRL-5689-9, 5591-5, 5699-5, 5698-4, 5692-3, 5696-2); to the Committee on Environment and Public Works.

EC-1255. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a report relative to Notice 97-21 received on February 27, 1997; to the Committee on Finance.

EC-1256. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report relative to Revenue Ruling 97-10 received on February 26, 1997; to the Committee on Finance.

EC-1257. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, a rule entitled "Narcotics Trafficking Sanctions Regulations" received on February 27, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1258. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a rule entitled "Membership of State Banking Institutions in the Federal Reserve System" received on February 28, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1259. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of salary rates for 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1260. A communication from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to directed fishing for pollock, received on February 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1261. A communication from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Atlantic Mackerel, (RIN0648–AJ06) received on February 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1262. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to directed fishing for pollock, received on February 26, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1263. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to directed fishing for flatfish, received on February 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1264. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to king mackerel, received on March 3, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1265. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to scallop fishery, received on February 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1266. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Western Pacific bottomfish fishery, received on February 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1267. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to other flatfish, received on February 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1268. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Northeast Multispecies Fishery Management Plan, received on February 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1269. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Northeast Multispecies Fishery Management Plan, (RIN0648–AJ34) received on February 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1270. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Fishery Management Plans, (RIN0648–XX80) received on February 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1271. A communication from the Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Exclusive Economic Zone Off Alaska, (RIN0648–AJ05) received on February 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1272. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report sixteen rules including one rule relative to Class E Airspace, (RIN2120–AF93, AA64, AA66, ZZ04) received on February 27, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1273. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule relative to seafarers, (RIN2115–AF26) received on March 3, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1274. A communication from the Acting Secretary of Labor, transmitting, pursuant to law, the report relative to the Regular Trade Adjustment Assistant Program; to the Committee on Finance.

EC–1275. A committee from the Executive Director of the Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions to the Procurement List received on March 3, 1997; to the Committee on Governmental Affairs.

EC–1276. A communication from the Administrator of the Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Poultry Inspection" (RIN0583–AB91) received on March 3, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1277. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled "Rulemaking Procedures" (RIN2900–AI33) received on March 3, 1997; to the Committee on Veterans' Affairs.

EC–1278. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, a rule entitled "Direct Grant Programs" (RIN1880–AA74) received on February 27, 1997; to the Committee on Labor and Human Resources.

EC–1279. A communication from the Director of Regulations Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, two rules including a rule entitled "Lowfat and Skim Milk Products" received on February 27, 1997; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CONRAD (for himself, Mr. KERREY, Mr. HARKIN, Mr. WELLSTONE, Mr. BAUCUS, Mr. COCHRAN, and Mr. INOUYE):

S. 385. A bill to provide reimbursement under the medicare program for telehealth services, and for other purposes; to the Committee on Finance.

By Mr. WYDEN:

S. 386. A bill to amend title XVIII of the Social Security Act to protect and improve the medicare program, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. NICKLES, Mr. BREAUX, Mr. GORTON, Mrs. FEINSTEIN, Mrs. MURRAY, and Mrs. BOXER):

S. 387. A bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software; to the Committee on Finance.

By Mr. LUGAR:

S. 388. A bill to amend the Food Stamp Act of 1977 to assist States in implementing a program to prevent prisoners from receiving food stamps; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ABRAHAM (for himself, Mr. BOND, Mr. NICKLES, Mr. HUTCHINSON, Mr. HELMS, and Mr. SESSIONS):

S. 389. A bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. COVERDELL (for himself, Mrs. FEINSTEIN, and Mr. HELMS):

S. J. Res. 19. Joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997; read the first time.

S. J. Res. 20. Joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997; to the Committee on Foreign Relations.

S. J. Res. 21. Joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding assistance for Mexico during fiscal year 1997, and to provide for the termination of the withholding of and opposition to assistance that results from the disapproval; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD (for himself, Mr. KERREY, Mr. HARKIN, Mr. WELLSTONE, Mr. BAUCUS, Mr. COCHRAN and Mr. INOUYE):

S. 385. A bill to provide reimbursement under the Medicare Program for telehealth services, and for other purposes; to the Committee on Finance.

THE COMPREHENSIVE TELEHEALTH ACT OF 1997

• Mr. CONRAD. Mr. President, today, I am pleased to be joined by Senator KERREY, Senator HARKIN, Senator WELLSTONE, Senator BAUCUS, Senator COCHRAN, and Senator INOUYE to introduce legislation to help improve health care delivery in rural and underserved communities throughout America through the use of telecommunications and telehealth technology.

Telehealth encompasses a wide variety of technologies, ranging from the telephone to high-technology equipment that enables a surgeon to perform surgery from thousands of miles away. It includes interactive video equipment, fax machines and computers along with satellites and fiber optics. These technologies can be used to diagnose patients, deliver care, transfer health data, read x-rays, provide consultation, and educate health professionals. Telehealth also includes the electronic storage and transmission of personally identifiable health information, such as medical records, test results, and insurance claims.

The promise of telehealth is becoming increasingly apparent. Throughout the country, providers are experimenting with a variety of telehealth approaches in an effort to improve access to quality medical and other health-related services. Those programs are demonstrating that telecommunications technology can alleviate the constraints of time and distance, as well as the cost and inconvenience of transporting patients to medical providers. Many approaches show promising results in reducing health care costs and bringing adequate care to all Americans. For the first time, technological advances and the development of a national information infrastructure give telehealth the potential to overcome barriers to health care services for rural Americans and afford them the access that most Americans take for granted. But it is clear that our Nation must do more to integrate telehealth into our overall health care delivery infrastructure.

Because I believe telehealth holds incredible promise for rural America, I formed the Ad Hoc Steering Committee on Telemedicine and Health Care Informatics to explore telehealth and related issues in 1994. The purpose of the steering committee, which includes telehealth experts from government, private industry, and the health care professions, is to evaluate Federal policies on telehealth and how to use telecommunications technology more effectively to increase access to health care throughout America.

Throughout the last few years, as the steering committee held meetings and policy forums, it became increasingly apparent that there is enormous energy and financial effort being devoted to telehealth today, both by government and private industry.

Because so many rural and underserved communities lack the ability to attract and support a wide variety of health care professionals and services, it is important to find a way to bring the most important medical services into those communities. Telehealth provides an important part of the answer. It helps bring services to remote areas in a quick, cost-effective manner, and can enable patients to avoid traveling long distances in order to receive health care treatment.

Telehealth is already making a difference in my State. The University of North Dakota has a fiber optic two-way audio and video interactive network that has been used to train students in areas like social work and medical technology. Recently, I had the opportunity to spend some time with two of the premier telehealth systems in the State of North Dakota. I was amazed at the capabilities of these systems. They currently supply speciality care to rural North Dakota clinics, manage chronic disease, lower administrative costs, and reduce the isolation felt by rural and frontier practitioners.

Because telehealth is in many respects an emerging health care application, it is particularly important to constructively capitalize on efforts like these. My proposal attempts to facilitate this in a number of ways.

The first element of my proposal builds on current demonstration projects to require the Health Care Financing Administration to put in place a reimbursement system for telehealth activities under Medicare. Medicare reimbursement policy is an essential component of helping to integrate telehealth into the health care infrastructure, and must be explored. It is particularly important in rural areas, where many hospitals do as much as 80 percent of their business with Medicare patients. While rural areas are the most in need of telehealth services, I also realize there are other groups that would greatly benefit from an expansion of this service. That is why I am also asking the Secretary of Health and Human Services to submit a report that will examine the impact of expanding telehealth reimbursement for nonrural Medicare beneficiaries who are home-bound or nursing home-bound and for whom being transferred for health care services imposes a serious hardship.

The second element of this proposal asks the Secretary of Health and Human Services to submit a report to the Congress on the status of efforts to ease licensing burdens on practitioners who cross State lines in the course of supplying telehealth services. Currently, consultation by almost any licensed health professional in this situation requires that the practitioner be licensed in both States.

In talking with telehealth providers in my State, and with experts on the ad hoc committee, I have been told repeatedly that this is one of the most significant barriers to developing broad integrated telehealth systems. More importantly, they tell me States have actively been using licensure to close their borders to innovative telehealth practice. In the past 2½ years, 11 States have taken legislative action to ensure that out-of-State practitioners must be fully licensed in their State in order to provide telehealth services, even if they are fully licensed in their own State. During a recent discussion with a telehealth practitioner from my home State of North Dakota, I was told about a group of telehealth specialists who, among their small group practice, were licensed in more than 30 different States. That means they pay 30 different fees, are responsible for 30 different continuing education requirements, and are overseen by 30 different regulatory bodies. This is a costly and burdensome procedure for many practitioners, but the burden falls particularly heavily on rural practitioners, who face long travel times to acquire continuing education, and who frequently run on lower profit margins than urban practitioners.

While I am not prepared at this time to propose that the Federal Government get involved with professional licensure, I have asked the Secretary to study the issue and report to Congress yearly on the status of efforts by States and other interested organizations to address this issue. This will allow us to reach out to the States and work together to find solutions to cross-State licensure concerns. As part of this report, I have asked the Secretary to make recommendations to Congress, if appropriate, about possible Federal action to lower the licensure barrier.

A third element of my proposal involves coordination of the Federal telehealth effort. Vice President GORE has been making outstanding contributions in the area of the information superhighway. The Department of Health and Human Services, in large part at the urging of the Vice President, has created an informal interagency task force that is examining our Federal agency telehealth efforts. This group recently completed a report on telehealth that highlights current Federal activities and also provides a thorough examination of many of the important issues in telehealth.

My bill attempts to use that task force to inventory Federal activity on

telehealth and related technology, determine what applications have been found successful, and recommend an overall Federal policy approach to telehealth. Many departments and agencies of the Federal Government are engaged in telehealth activity, including the Veterans' Administration, Department of Defense, Department of Agriculture, Office of Rural Health Policy, and many others. The more these agencies work together to coordinate the Federal effort and consolidate Federal resources, the more effective the Federal Government will be in contributing to telehealth in a positive way. I believe this is especially important in light of the recent GAO report calling for an expanded role for this group and more coordination of telehealth issues across the Federal agencies. The efforts of this group, along with the ongoing activities of the congressional ad hoc steering committee, will provide a renewed focus for telehealth across the Federal Government. Such coordination will also help protect the American taxpayer from unnecessary duplication of effort.

The fourth part of my proposal helps communities build homegrown telehealth networks. It attempts both to build a telehealth infrastructure and foster rural economic development and incorporates many of the most important lessons learned from other grant projects and studies on telehealth from across the Federal Government.

Clearly, the scarcity of resources in many rural communities requires that the coordination and use of those resources be maximized. My bill encourages cooperation by various local entities in an effort to help build sustainable telehealth programs in rural communities. It plants seed money to encourage health care providers to join with other segments of the community to jointly use telecommunications resources. Using a unique loan forgiveness program, it rewards telehealth systems that supply appropriate, high-quality care while reducing overall health care costs.

Most importantly, it does not create a system where various technological approaches are imposed upon communities. Rather it enables potential grantees to determine user-friendly approaches that work best for them. This homegrown approach to developing user-friendly telehealth systems, as well as the preference for coordinating resources within communities, will help ensure the long-term viability of such programs after the grant expires.

Mr. President, my proposal is a sound first step in our national efforts to integrate telecommunications technology into the rapidly evolving health care delivery system. This bill is very similar to legislation, S. 2171 I introduced late in the 104th Congress. I am very encouraged by the positive feedback I have received from telehealth networks across the country. Over the past few months, I have attempted to reach out to different groups and incorporate their ideas into this proposal. As a result, I have made several changes in the bill that I believe will make this a stronger proposal. But, as with any complex issue, I understand that some may prefer different approaches. By introducing this legislation early in the 105th Congress, I hope to send a message to all interested parties that now is the time to come forward with creative solutions to these important issues. It is my hope that comprehensive telehealth legislation can be attached to any Medicare reform legislation enacted in this Congress so we can improve access to needed health care services for rural and underserved populations.

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. 385

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Telehealth Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES

Sec. 101. Medicare reimbursement for telehealth services.

TITLE II—TELEHEALTH LICENSURE

Sec. 201. Initial report to Congress.
Sec. 202. Annual report to Congress.

TITLE III—PERIODIC REPORTS TO CONGRESS FROM THE JOINT WORKING GROUP ON TELEHEALTH

Sec. 301. Joint working group on telehealth.

TITLE IV—DEVELOPMENT OF TELEHEALTH NETWORKS

Sec. 401. Development of telehealth networks.
Sec. 402. Administration.
Sec. 403. Guidelines.
Sec. 404. Authorization of appropriations.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Hospitals, clinics, and individual health care providers are critically important to the continuing health of rural populations and the economic stability of rural communities.

(2) Rural communities are underserved by specialty health care providers.

(3) Telecommunications technology has made it possible to provide a wide range of health care services, education, and administrative services between health care providers, patients, and administrators across State lines.

(4) The delivery of health services by licensed health care providers is a privilege and the licensure of health care providers and the ability to discipline such providers is necessary for the protection of citizens and for the public interest, health, welfare, and safety.

(5) The licensing of health care providers to provide telehealth services has a significant impact on interstate commerce and any unnecessary barriers to the provision of telehealth services across State lines should be eliminated.

(6) Rapid advances in the field of telehealth give Congress a need for current information and updates on recent developments in telehealth research, policy, technology, and the use of this technology to supply telehealth services to rural and underserved areas.

(7) Telehealth networks can provide hospitals, clinics, health care providers, and patients in rural and underserved communities with access to specialty care, continuing education, and can act to reduce the isolation from other professionals that these health care providers sometimes experience.

(8) In order for telehealth systems to continue to benefit rural and underserved communities, the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) must reimburse the provision of health care services from remote locations via telecommunications.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To mandate that the Health Care Financing Administration reimburse the provision of clinical health services via telecommunications.

(2) To determine if States are making progress in facilitating the provision of telehealth services across State lines.

(3) To create a coordinating entity for Federal telehealth research, policy, and program initiatives that reports to Congress annually.

(4) To encourage the development of rural telehealth networks that supply appropriate, cost-effective care, and that contribute to the economic health and development of rural communities.

(5) To encourage research into the clinical efficacy and cost-effectiveness of telehealth diagnosis, treatment, or education on individuals, health care providers, and health care networks.

SEC. 3. DEFINITIONS.

In this Act:

(1) HEALTH CARE PROVIDER.—The term "health care provider" means anyone licensed or certified under State law to provide health care services who is operating within the scope of such license.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

TITLE I—MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES

SEC. 101. MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES.

(a) IN GENERAL.—Not later than July 1, 1998, the Secretary shall make payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) in accordance with the methodology described in subsection (b) for professional consultation via telecommunications systems with an individual or entity furnishing a service for which payment may be made under such part to a beneficiary under the medicare program residing in a rural area (as defined in section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D))) or an underserved area, notwithstanding that the individual health care provider providing the professional consultation is not at the same

location as the individual furnishing the service to that beneficiary.

(b) METHODOLOGY FOR DETERMINING AMOUNT OF PAYMENTS.—Taking into account the findings of the report required under section 192 of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 1988), the findings of the report required under paragraph (c), and any other findings related to the clinical efficacy and cost-effectiveness of telehealth applications, the Secretary shall establish a methodology for determining the amount of payments made under subsection (a), including the cost of the consultation service, a reasonable overhead adjustment, and a malpractice risk adjustment.

(c) SUPPLEMENTAL REPORT.—Not later than January 1, 1998, the Secretary shall submit a report to Congress which shall contain a detailed analysis of—

(1) how telemedicine and telehealth systems are expanding access to health care services;

(2) the clinical efficacy and cost-effectiveness of telemedicine and telehealth applications;

(3) the quality of telemedicine and telehealth services delivered; and

(4) the reasonable cost of telecommunications charges incurred in practicing telemedicine and telehealth in rural, frontier, and underserved areas.

(d) EXPANSION OF TELEHEALTH SERVICES FOR CERTAIN MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report to Congress that examines the possibility of making payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) for professional consultation via telecommunications systems with an individual or entity furnishing a service for which payment may be made under such part to a beneficiary described in paragraph (2), notwithstanding that the individual health care provider providing the professional consultation is not at the same location as the individual furnishing the service to that beneficiary.

(2) BENEFICIARY DESCRIBED.—A beneficiary described in this paragraph is a beneficiary under the medicare program who does not reside in a rural area (as so defined) or an underserved area, who is home-bound or nursing home-bound, and for whom being transferred for health care services imposes a serious hardship.

(3) REPORT.—The report described in paragraph (1) shall contain a detailed statement of the potential costs to the medicare program under title XVIII of that Act of making the payments described in that paragraph using various reimbursement schemes.

TITLE II—TELEHEALTH LICENSURE

SEC. 201. INITIAL REPORT TO CONGRESS.

Not later than January 1, 1998, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning—

(1) the number, percentage and types of health care providers licensed to provide telehealth services across State lines, including the number and types of health care providers licensed to provide such services in more than 3 States;

(2) the status of any reciprocal, mutual recognition, fast-track, or other licensure agreements between or among various States;

(3) the status of any efforts to develop uniform national sets of standards for the licensure of health care providers to provide telehealth services across State lines;

(4) a projection of future utilization of telehealth consultations across State lines;

(5) State efforts to increase or reduce licensure as a burden to interstate telehealth practice; and

(6) any State licensure requirements that appear to constitute unnecessary barriers to the provision of telehealth services across State lines.

SEC. 202. ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than January 1, 1999, and each July 1 thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress, an annual report on relevant developments concerning the matters referred to in paragraphs (1) through (6) of section 201.

(b) RECOMMENDATIONS.—If, with respect to a report submitted under subsection (a), the Secretary determines that States are not making progress in facilitating the provision of telehealth services across State lines by eliminating unnecessary requirements, adopting reciprocal licensing arrangements for telehealth services, implementing uniform requirements for telehealth licensure, or other means, the Secretary shall include in the report recommendations concerning the scope and nature of Federal actions required to reduce licensure as a barrier to the interstate provision of telehealth services.

TITLE III—PERIODIC REPORTS TO CONGRESS FROM THE JOINT WORKING GROUP ON TELEHEALTH

SEC. 301. JOINT WORKING GROUP ON TELEHEALTH.

(a) IN GENERAL.—

(1) REDESIGNATION.—The Joint Working Group on Telemedicine, established by the Secretary, shall hereafter be known as the "Joint Working Group on Telehealth" with the chairperson being designated by the Director of the Office of Rural Health Policy.

(2) MISSION.—The mission of the Joint Working Group on Telehealth is—

(A) to identify, monitor, and coordinate Federal telehealth projects, data sets, and programs,

(B) to analyze—

(i) how telehealth systems are expanding access to health care services, education, and information,

(ii) the clinical, educational, or administrative efficacy and cost-effectiveness of telehealth applications, and

(iii) the quality of the services delivered, and

(C) to make further recommendations for coordinating Federal and State efforts to increase access to health services, education, and information in rural and underserved areas.

(3) PERIODIC REPORTS.—The Joint Working Group on Telehealth shall report not later than January 1 of each year (beginning in 1998) to Congress on the status of the Group's mission and the state of the telehealth field generally.

(b) REPORT SPECIFICS.—The annual report required under subsection (a)(3) shall provide—

(1) an analysis of—

(A) how telehealth systems are expanding access to health care services,

(B) the clinical efficacy and cost-effectiveness of telehealth applications,

(C) the quality of telehealth services delivered,

(D) the Federal activity regarding telehealth, and

(E) the progress of the Joint Working Group on Telehealth's efforts to coordinate Federal telehealth programs; and

(2) recommendations for a coordinated Federal strategy to increase health care access through telehealth.

(c) TERMINATION.—The Joint Working Group on Telehealth shall terminate immediately after the annual report filed not later than January 1, 2002.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the operation of the Joint Working Group on Telehealth on and after the date of the enactment of this Act.

TITLE IV—DEVELOPMENT OF TELEHEALTH NETWORKS

SEC. 401. DEVELOPMENT OF TELEHEALTH NETWORKS.

(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Rural Health Policy (of the Health Resources and Services Administration), shall provide financial assistance (as described in subsection (b)(1)) to recipients (as described in subsection (c)(1)) for the purpose of expanding access to health care services for individuals in rural and frontier areas through the use of telehealth.

(b) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Financial assistance shall consist of grants or cost of money loans, or both.

(2) FORM.—The Secretary shall determine the portion of the financial assistance provided to a recipient that consists of grants and the portion that consists of cost of money loans so as to result in the maximum feasible repayment to the Federal Government of the financial assistance, based on the ability to repay of the recipient and full utilization of funds made available to carry out this title.

(3) LOAN FORGIVENESS PROGRAM.—

(A) ESTABLISHMENT.—With respect to cost of money loans provided under this section, the Secretary shall establish a loan forgiveness program under which recipients of such loans may apply to have all or a portion of such loans forgiven.

(B) REQUIREMENTS.—A recipient described in subparagraph (A) that desires to have a loan forgiven under the program established under such paragraph shall—

(i) within 180 days of the end of the loan cycle, submit an application to the Secretary requesting forgiveness of the loan involved;

(ii) demonstrate that the recipient has a financial need for such forgiveness;

(iii) demonstrate that the recipient has met the quality and cost-appropriateness criteria developed under subparagraph (C); and

(iv) provide any other information determined appropriate by the Secretary.

(C) CRITERIA.—As part of the program established under subparagraph (A), the Secretary shall establish criteria for determining the cost-effectiveness and quality of programs operated with loans provided under this section.

(c) RECIPIENTS.—

(1) APPLICATION.—To be eligible to receive a grant or loan under this section an entity described in paragraph (2) shall, in consultation with the State office of rural health or other appropriate State entity, prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a description of the anticipated need for the grant or loan;

(B) a description of the activities which the entity intends to carry out using amounts provided under the grant or loan;

(C) a plan for continuing the project after Federal support under this section is ended;

(D) a description of the manner in which the activities funded under the grant or loan will meet health care needs of underserved rural populations within the State;

(E) a description of how the local community or region to be served by the network or proposed network will be involved in the development and ongoing operations of the network;

(F) the source and amount of non-Federal funds the entity would pledge for the project; and

(G) a showing of the long-term viability of the project and evidence of health care provider commitment to the network.

The application should demonstrate the manner in which the project will promote the integration of telehealth in the community so as to avoid redundancy of technology and achieve economies of scale.

(2) ELIGIBLE ENTITIES.—An entity described in this paragraph is a hospital or other health care provider in a health care network of community-based health care providers that includes at least—

(A) two of the following:

(i) community or migrant health centers;

(ii) local health departments;

(iii) nonprofit hospitals;

(iv) private practice health professionals, including rural health clinics;

(v) other publicly funded health or social services agencies;

(vi) skilled nursing facilities;

(vii) county mental health and other publicly funded mental health facilities; and

(viii) providers of home health services; and

(B) one of the following, which must demonstrate use of the network for purposes of education and economic development (as required by the Secretary):

(i) public schools;

(ii) public library;

(iii) universities or colleges;

(iv) local government entity; or

(v) local nonhealth-related business entity.

An eligible entity may include for-profit entities so long as the network grantee is a nonprofit entity.

(d) PRIORITY.—The Secretary shall establish procedures to prioritize financial assistance under this title considering whether or not the applicant—

(1) is a health care provider in a rural health care network or a health care provider that proposes to form such a network, and the majority of the health care providers in such a network are located in a medically underserved, health professional shortage areas, or mental health professional shortage areas;

(2) can demonstrate broad geographic coverage in the rural areas of the State, or States in which the applicant is located;

(3) proposes to use Federal funds to develop plans for, or to establish, telehealth systems that will link rural hospitals and rural health care providers to other hospitals, health care providers and patients;

(4) will use the amounts provided for a range of health care applications and to promote greater efficiency in the use of health care resources;

(5) can demonstrate the long-term viability of projects through use of local matching funds (cash or in-kind);

(6) can demonstrate financial, institutional, and community support for the long-term viability of the network; and

(7) can demonstrate a detailed plan for coordinating system use by eligible entities so that health care services are given a priority over non-clinical uses.

(e) MAXIMUM AMOUNT OF ASSISTANCE TO INDIVIDUAL RECIPIENTS.—The Secretary may establish the maximum amount of financial assistance to be made available to an individual recipient for each fiscal year under this title, and establish the term of the loan or grant, by publishing notice of the maximum amount in the Federal Register.

(f) USE OF AMOUNTS.—

(1) IN GENERAL.—Financial assistance provided under this title shall be used—

(A) with respect to cost of money loans, to encourage the initial development of rural telehealth networks, expand existing networks, or link existing networks together; and

(B) with respect to grants, as described in paragraph (2).

(2) GRANTS AND LOANS.—The recipient of a grant or loan under this title may use financial assistance received under such grant or loan for the acquisition of telehealth equipment and modifications or improvements of telecommunications facilities including—

(A) the development and acquisition through lease or purchase of computer hardware and software, audio and video equipment, computer network equipment, interactive equipment, data terminal equipment, and other facilities and equipment that would further the purposes of this section;

(B) the provision of technical assistance and instruction for the development and use of such programming equipment or facilities;

(C) the development and acquisition of instructional programming;

(D) demonstration projects for teaching or training medical students, residents, and other health professions students in rural training sites about the application of telehealth;

(E) transmission costs, maintenance of equipment, and compensation of specialists and referring health care providers;

(F) development of projects to use telehealth to facilitate collaboration between health care providers;

(G) electronic archival of patient records;

(H) collection and analysis of usage statistics and data that can be used to document the cost effectiveness of the telehealth services; or

(I) such other uses that are consistent with achieving the purposes of this section as approved by the Secretary.

(3) EXPENDITURES IN RURAL AREAS.—In awarding a grant or cost of money loan under this section, the Secretary shall ensure that not less than 50 percent of the grant or loan award is expended in a rural area or to provide services to residents of rural areas.

(g) PROHIBITED USES.—Financial assistance received under this section may not be used for any of the following:

(1) To build or acquire real property.

(2) Expenditures to purchase or lease equipment to the extent the expenditures would exceed more than 40 percent of the total grant funds.

(3) To purchase or install transmission equipment (such as laying cable or telephone lines, microwave towers, satellite dishes, amplifiers, and digital switching equipment).

(4) For construction, except that such funds may be expended for minor renovations relating to the installation of equipment.

(5) Expenditures for indirect costs (as determined by the Secretary) to the extent the expenditures would exceed more than 20 percent of the total grant funds.

(h) MATCHING REQUIREMENT FOR GRANTS.—The Secretary may not make a grant to an entity State under this section unless that entity agrees that, with respect to the costs to be incurred by the entity in carrying out the program for which the grant was awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions (in-cash or in-kind) in an amount equal to not less than 50 percent of the Federal funds provided under the grant.

SEC. 402. ADMINISTRATION.

(a) NONDUPLICATION.—The Secretary shall ensure that facilities constructed using financial assistance provided under this title do not duplicate adequate established telehealth networks.

(b) LOAN MATURITY.—The maturities of cost of money loans shall be determined by the Secretary, based on the useful life of the facility being financed, except that the loan shall not be for a period of more than 10 years.

(c) LOAN SECURITY AND FEASIBILITY.—The Secretary shall make a cost of money loan only if the Secretary determines that the security for the loan is reasonably adequate and that the loan will be repaid within the period of the loan.

(d) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate, to the extent practicable, with other Federal and State agencies with similar grant or loan programs to pool resources for funding meritorious proposals in rural areas.

(e) INFORMATIONAL EFFORTS.—The Secretary shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this title.

SEC. 403. GUIDELINES.

Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidelines to carry out this title.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, $25,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2004.•

By Mr. WYDEN:

S. 386. A bill to amend title XVIII of the Social Security Act to protect and improve the Medicare Program, and for other purposes; to the Committee on Finance.

THE MEDICARE MODERNIZATION AND PATIENT PROTECTION ACT OF 1997

• Mr. WYDEN. Mr. President, as this Congress moves forward to strengthen and secure the Medicare Program for future generations, three issues are crystal clear.

First, we must have the political will to modernize Medicare to reflect both the quality and the efficiency of private health care plans now serving most working Americans, and in particular the Federal Employees Health Benefits Program which many Members of Congress, their staff and families, and other Federal employees enjoy.

Second, we must maintain our commitment to current and future Medicare beneficiaries by preserving a basic, high-quality portfolio of health services for all enrollees, irrespective

of their income, where they live, or their particular health circumstances.

Third, we must begin the transformation of Medicare financial foundations in a way that is first fair to all beneficiaries, and second insures that Medicare will be there for our children and their children, and that it will not bust the Federal budget in the bargain.

I believe that the legislation I introduce, today, The Medicare Modernization and Patient Protection Act of 1997, meets all three of these primary goals. While fully preserving traditional, fee-for-service Medicare, this legislation also will create an array of new, high-quality, cost-efficient health plans for Medicare beneficiaries, and offer those enrollees positive incentives to try them. It will provide new protections and consumer rights to Medicare beneficiaries in capitated health plans. It will mandate new penalties and enforcement mechanisms to eradicate fraud and abuse now stripping billions of dollars per year from the program. And it will create new support systems for some of Medicare's most desperately ill and poor beneficiaries, and their families.

Finally, through new cost-conscious management systems and a firm fiscal control mechanism, this plan will reduce Medicare cost growth by approximately $100 billion over the next 5 years, and with financial constraints that will continue to control runaway spending growth after fiscal year 2002.

The Medicare Modernization and Patient Protection Act will offer seniors more health plan choices by eliminating the huge variability in capitated payments to health plans in counties around the nation. At the same time, it will raise the minimum payment to 80 percent of the national average payment, leveraging higher reimbursements and I believe more plan offerings in up to 20 percent of our counties.

This proposal also establishes an outlier fund, an account fueled by withholding up to five percent of payments to Medicare health maintenance organizations. Medicare managers would have discretion to withhold those payments from plans which are being over-compensated by the HMO payment formula, and disburse those funds in the form of extra payments to plans which have avoided risk selection in their beneficiary recruitment and as a result are providing services to sicker enrollees with above-average health care costs. Compared to the meat-cleaver approach of reducing all plan payments from the current 95 percent of local average health care costs, to 90 percent, this is a surgical solution to two significant Medicare managed care plan problems: (a) plan overpayments and (b) plans which avoid enrolling older, frailer beneficiaries because they cut profit margins.

At the end of the year, any funds remaining in this account would be rolled back into the Medicare hospital insurance budget.

At the same time, this bill reforms current rules for Medicare supplemental insurance, or Medigap policies, requiring that such policies must be issued to any eligible beneficiary at any time. This change will encourage more seniors to try capitated plans, because they know the Medigap safety net always will be available to them.

Seniors would be protected from unfair denial of service decision and other health plan abuses through a strengthened and streamlined appeals process. Also, seniors would receive more informative and easily comparable information on health plans in their communities, and through the mail on a regular basis through annual enrollment fairs.

The legislation also would require the collection of customer service and satisfaction data, and performance information to be used in qualitative analysis by Medicare to produce published report cards on plan performance, and help consumers make kitchen-table assessments of their plan options.

By Federal statute, plans also would be barred from muzzling doctors and other health care practitioners in their conversations with patients about their medical condition and all treatments appropriate to their case.

New criminal and civil penalties are created for practitioners and plans who rip off the system.

Programs for hospice care, Alzheimer's respite care, and prospective payment for both home care and skilled nursing care are added to Medicare. The legislation requires Medicare to study and make recommendations on the more extensive and appropriate use of community pharmacy, telemedicine and so-called social health maintenance organization plans for dual eligibles in its portfolio of services to beneficiaries.

The fiscal integrity portion of this bill would set overall part A and part B spending limits for each of the next 5 years. These overall spending limits would include target spending allotments for each of the several major areas of Medicare activity: doctors, hospitals, diagnostic services, nursing homes, and the like.

Typically, Medicare has sought to control costs in these areas in the past by rolling back reimbursement rates for goods and services. Providers, however, have watered down Medicare's attempts at thrift by increasing volume in the face of lower per-service payments. Too often this has led to waste and inefficiency, with providers ordering procedures and services that beneficiaries really don't need, crippling Medicare with unnecessarily high costs.

With $100 billion in cumulative savings expected in 5 years, my proposal would require that Medicare practitioners live within the budget's ceiling by mandating reduced reimbursements if cumulative billings otherwise would bust an individual service sector's annual spending plan.

Despite these restraints, Medicare fee-for-service providers will enjoy generally healthy annual increases under this proposal. Beneficiaries should see no change in the level or quality of care they receive. Expensive, unnecessary care, however, could be sharply curtailed.

Mr. President, I believe that this Congress should not as a first step relinquish Medicare restructuring to a special commission. I think most of us have an acute awareness of what is needed to fix the program for the long term. Some steps will be harder than others. But as the old Chinese proverb reminds us, a trip of a thousand miles begins with the first step.

I hope my colleagues will agree with me that the Medicare Modernization and Patient Protection Act is that good first step, and join with me in cosponsoring this legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

THE MEDICARE MODERNIZATION AND PATIENT PROTECTION ACT OF 1997—SECTION-BY-SECTION ANALYSIS

TITLE I: PROMOTING COMPETITION, QUALITY, AND BENEFICIARY CHOICE IN MEDICARE

Section 1: Short title; table of contents, definitions.

Section 2: Findings

Section 101: Establishment of Plan Inprovement and Competition Office

Subsection (a) establishes an office within Health Care Financing Administration to carry out several of the pro-quality, pro-consumer mandates of the legislation.

Subsection (b) defines duties.

Subsection 102: HMO and Competitive Pricing Demonstration Projects

Subsection (a) directs the Secretary to conduct demonstration projects for competitive bidding between HMO contractors in counties in which the AAPCC rate is 120 percent of the national average AAPCC rate, or higher.

Subsection (b) directs reports to Congress.

Subsection (c) waives certain requirements under the Social Security Act.

Subsection (d) requires that the projects be conducted within existing department funding.

Subsection 103: Medigap amendments

Subsection (a) guarantees issues of Medicare supplemental insurance regardless of preexisting health conditions.

Subsection also requires community rating of Medigap policies. Further, this subsection guarantees offer of Medigap coverage to persons who leave Medicare risk plans for any one of several reasons, including voluntary disenrollment at any time during the first 12 months of enrollment in a risk plan (and had not been in a risk plan, earlier).

Subsection (b) limits exclusion from coverage due to pre-existing health conditions.

Subsection (c) clarifies non-discrimination requirements during initial enrollment periods.

Subsection (d) extends the six-month initial enrollment period to non-elderly Medicare beneficiaries.

Subsection (e), sets effective dates.

Subsection (f) defines transition rules including a directive that the National Association of Insurance Commissioners amend its Model Regulation to reflect Medicare supplemental insurance policy changes required by the section.

TITLE II: INCREASING MEDICARE COVERAGE OPTIONS

Subtitle A: Risk Plan Improvements

Section 201: Changes in medicare managed care program

Subsection (a) HMO payments, amends the current formula for determining local HCFA annual reimbursement rate increases for persons insured by risk-sharing plans providing both Part A and Part B benefits (Medicare Risk plans). The reformulation would, beginning in 1998, set a new minimum payment "floor" requiring that HCFA pay no plan less than 80 percent of the national average for payments to all plans in 1997. For each community, payment increases in subsequent years would be determined by selecting the highest figure from three alternative formulas; (1) 102 percent of the previous year's rate, (2) in 1999, 80 percent of the 1998 national average, and in 2000 and in subsequent years increasing the rate by the previous year's national average growth rate for Medicare managed care plan reimbursements, or (3) an increase determined by a "melded" rate of local and national managed care average reimbursements, according to the following formula:

1998: area specific percentage of increase is determined by the sum of 80 percent of the local average increase in the average adjusted per capita cost (AAPCC) in previous year, and 20 percent of the national AAPCC increase.

1999: area specific percentage determined by the sum of 75 percent of the local AAPCC increase in the previous year, and 25 percent of the national AAPCC increase.

2000: area specific percentage determined by the sum of 70 percent of local AAPCC increase in previous year, and 30 percent of the national AAPCC increase.

2001: area specific percentage determined by the sum of 65 percent of the local AAPCC increase in previous year, and 35 percent of the national AAPCC increase.

2002: area specific percentage determined by the sum of 60 percent of the local AAPCC increase in previous year, and 40 percent of the national AAPCC increase.

2003, and in each subsequent year: area specific percentage determined by the sum of 60 percent of the local AAPCC increase in previous year, and 40 percent of the national AAPCC increase.

This section also contains certain budgetary protections for beneficiaries receiving treatment for end-stage renal disease, and for high-cost-growth metropolitan counties.

Subsection (b) creates additional quality standards for section 1876(c)(6) of the Act, requiring Medicare managed care plans to meet new standards established by the Secretary of HHS in consultation with private accreditation organizations, and addressing such issues as ongoing quality assurance programs stressing (1) health outcomes, and (2) providing review by physicians and other certified health professionals.

Plans meeting these additional standards may waive the requirement of at least 50 percent non-Medicare beneficiary enrollment for participation as a Medicare Risk contractor.

Subsection (c) requires coordinated enrollment and disenrollment periods for Medicare managed care plans, similar to so-called "open season" periods for Federal Employee Health Benefit Program plans.

Subsection (d) sets service area requirements for participating plans, including requirements that plans provide enrollment within all of a metropolitan statistical area if such organization provides enrollment in any part of the metropolitan area. Some limited exclusions may be allowed.

Subsection (e) provides other enhanced enrollee protections involving provision of emergency room care and services, renal dialysis, and reimbursement of services outside the plan's services area (specific to renal disease).

Subsection (f) allows the Secretary in certain instances to make additional payments to plans insuring certain individuals, for reasonable costs related to anomalies in specific service areas.

Subsection (g) provides for intermediate sanctions against plans for program violations, short of termination. These intermediate sanctions may include civil penalties of not more than $25,000 per offense, and suspension of new enrollment. The section also provides for reasonable notice to the organization and a right of appeal.

Subsection (h) requires that Medicare managed care plans must submit to standardized quality review through independent organizations to determine and demonstrate that they have maintained the new, higher quality performance levels required under this legislation. The section also requires a review of plans' quality performance by the U.S. General Accounting Office, no later than July 1998.

Subsection (i) sets an effective date for Section 101 as the contract years beginning with 1998.

Section 202: Quality report cards and comparative reports

Subsection (a) requires that beginning in calendar year 1998, the Secretary will begin distribution of quality report cards to beneficiaries on eligible managed care plans and on Medicare supplemental policies, including a comparison of benefits, costs and quality indicators developed under this section.

Subsection (b) directs the Secretary to develop quality indicators on (1) disenrollments statistics, (2) care outcomes, (3) population health status, (4) appropriateness of care, (5) consumer satisfaction, (6) access to care, including waiting time for scheduled appointments and access to emergency room care, and (7) preventative care programs.

Subsection (c) directs the Secretary to develop standardized reports comparing plans on the basis of (1) monthly premiums, (2) choice of doctors, (3) choice of hospitals, (4) service area, (5) emergency room care coverage, (6) hospital charges, (7) physician charges, (8) prescription drug coverage, (9) ambulance coverage, (10) coverage of routine eye exams and eyeglasses, (11) coverage of skilled nursing facilities and home health care, (12) coverage of hearing exams and hearing aids, (13) coverage of mental health therapy, (14) the number of beneficiaries in the plan, and several other indicators of plan coverage.

Subsection (d) requires that plans divulge to the Secretary information required to complete this comparative analysis. The Secretary also is empowered to collect, on a pro rata basis, costs from plans to carry out the requirements of this section.

Subsection (e), definitions.

Section 203: Preemption of state laws restricting managed care

Subsection (a) preempts states from establishing care mandates for health insurance coverage in Medicare.

Subsection (b) preempts state laws restricting managed care arrangements. This preemption would lift state laws which (1) prohibit or limit carriers from offering incentives to enrollees to use services of participating providers, (2) prohibit or limit carriers from limiting services to participating providers, and other state restrictions on managed care plans.

This subsection also includes a number of definitions.

Subsection (c) preempts state laws restricting utilization review programs. However, the section specifies that this preemption *exempts* laws preventing denial of lifesaving medical treatment pending transfer of enrollees to another health care provider.

Subsection (d) effective date, January 1, 1998.

Section 204: Appeals

Subsection (a) requires all Medicare Risk contractors to designate an independent ombudsman to assist enrollees in exercising rights to dispute plan decisions, and in other grievances.

This section also directs the Secretary to establish no later than January 1, 1998, an office for the collection of data on each plan pertaining to decisions on the disallowance of services to beneficiaries, in full or in part.

Subsection (b) requires that plans provide enrollees with clear and understandable description of grievance and appeal procedures.

Subsection (c) creates an expedited HCFA grievance and appeals procedure.

Section 205: Medicare HMO Enrollment Fair

Subsection (a) mandates that the Secretary require and coordinate annual enrollment fairs in each Medicare payment area to inform beneficiaries of plans offered by health care organizations.

Subtitle B: Maintaining Fee-for-Service Program

Section 211: Failsafe budget mechanism

Subsection (a) requires payment adjustments to achieve specified Medicare targets. Sets annualized, five-year spending targets for Medicare, Parts A and B, according to budget estimated under Clinton Administration plan.

Includes a "fail-safe" budget mechanism allowing the Secretary to undertake proportional reductions in provider reimbursements if spending targets otherwise would be exceeded by billing volume.

Section 212: Maintenance of part B premium at current percentage of part B program costs

Subsection (a) maintains monthly premium setting formula at the current percentage of actual Part B program costs.

Subsection (b) sets effective date, applying to premiums paid for months beginning with January 1997.

TITLE III—PROMOTION OF PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE) AND OF SOCIAL HEALTH MAINTENANCE ORGANIZATIONS (SHMOS)

Section 301: Definitions

Section 302: Expanding the availability of qualified organizations for frail elderly community projects (program of all-inclusive care for the elderly (PACE))

Subsection (a) directs the Secretary to establish PACE provider status for public or nonprofit organizations to provide comprehensive health care services, on a

capitated basis, to frail elderly patients who are at risk of institutionalization in skilled nursing facilities, and who would qualify for benefits under both Medicare and Medicaid. Such organizations would qualify for three-year periods, with re-qualification procedures. Requirements for assuming financial risk are specified.

The subsection, the Secretary would be required to act on applications within 90 days.

Subsection (b) provides for terms and conditions of approval, equivalent to those contained in conditions of approval for an On Lok waiver, section 603C of the Social Security Amendments of 1983, as extended by OBRA 1985. The section also defines other entry requirements, and certain responsibilities of the Secretary to assure quality and feasibility of the plan.

Subsection (c) defines eligibility for participation by PACE plans.

Subsection (d) sets reimbursement to the organization through a capitation basis.

Subsection (e) applies Section 302 statutes to plans currently operating under an On Lok waiver.

Subsection (f) applies current Social Security Act statutes relating to income and resources of institutionalized spouses to any individual receiving services from an organization operating as a PACE provider.

Subsection (g) allows participating plans to also offer services to frail populations other than the elderly, except where the Secretary finds provision of such services may impair the ability of the organization's performance as a SHMO.

Section 303: Application of spousal impoverishment rules

Applies protections against spousal impoverishment to couples receiving services through PACE organizations.

Section 304: Permitting expansion and making permanent SHMO waivers

The section lifts limitations on how many SHMOs may be approved by the Secretary, as well as limitations on how many individuals may be enrolled in any such project.

Section 305: Repeals; effective date; and application to existing waivers

Subsection (a) repeals certain federal statues which are non-conforming to the intent and purpose of this legislation.

Subsection (b) requires that the Secretary within nine months of enactment make effective interim final regulations on the provisions of this title. Until then, all existing PACE providers and OnLok waivers will remain in effect. After implementation of new regulations, SHMOs which at that point have completed three years of activity will attain PACE provider status without need for reapplication.

Demonstration sites operating less than three years will be accorded PACE provider status, but will be required to undergo annual review for three years.

TITLE IV—OTHER MEDICARE CHANGES

Section 401: Application of competitive acquisition process for part B Items and services

Subsection (a) authorizes the Secretary to describe appropriate competitive acquisition procedures for awarding contracts for items or services. Selected areas of acquisition to be governed by competitive bidding will be left to the Secretary's discretion. The section applies to the acquisition of durable medical equipment, clinical lab services, prosthetic devices, diagnostic tests, surgical dressings, and other items and services which may be identified by the Secretary.

Section 401 sets a number of requirements to assure the health and safety of Medicare beneficiaries.

Subsection (b) sets limitations and requirements with respect to exclusive and non-exclusive competitions.

Subsection (c) sets an effective date of January 1, 1997.

Section 402: Simpler procedure for inherent reasonableness determinations

Subsection (a) and Subsection (b) revise, strike or extend existing status to reform Medicare acquisitions procedures for both goods and services, and improve efficiency within those activities.

Subsection (c) makes those changes effective on January 1, 1997.

Section 403: Promoting advanced directives

Subsection (a) requires that persons who have executed advanced directives are ensured that such documents are included in hospital medical charts.

Subsection (b) would require development and dissemination of standard national forms by the Secretary.

Subsection (c) encourages health plans in Medicare to encourage use of advanced directive forms through education and dissemination of promotional material.

Subsection(d) directs the Secretary to develop and implement a promotional campaign with respect to advanced directives.

Section 404: Antifraud efforts

Subsection (a) increases penalties for Medicare fraud, and includes definitions.

Subsection (b) establishes new definitions of punishable offenses.

Subsection (c) requires a study on standardization of claims administration focused on determining the feasibility and desirability of establishing a standardized Medicare claims administration process, implementing other measures to improve record keeping, and taking other appropriate steps to reduce waste, fraud and abuse in making payments in the Medicare program.

Subsection (d) directs the Commission on Reinventing Government to report to Congress on the effectiveness of current efforts to combat waste, fraud and abuse in Medicare, and whether these efforts would be enhanced by establishing a coordinated, all-payer, multijurisdiction antifraud program.

Section 405: Hospice benefits

Subsection (a) restructures the benefit period for hospice care, extending such benefits to an unlimited number of 60-day periods. This section includes a number of conforming amendments.

Subsection (b) provides new language for reimbursement of related services including ambulance, diagnostic tests, chemotherapy and radiation therapy within the hospice environment.

Subsection (c) allows for contracting with independent physicians and physician groups for hospice care services.

Subsection (d) waives certain staffing requirements.

Subsection (e) limits liability of beneficiaries and providers with regard to certain hospice coverage denials.

Subsection (f) extends the period for a physician to medically certify an individual's terminal illness.

Subsection (g) sets effective date.

Section 406: Study providing pharmacy services to medicare beneficiaries

Subsection (a), directs the Secretary to identify cost savings which may be achieved through expanding the role of pharmacy services under the program.

Subsection (b) describes services which should be analyzed in the study.

Subsection (c) and (d), require development of recommendations and a report to Congress.

Section 407: Respite Benefit

Subsection (a) describes entitlement structure for service not exceeding 32 each year.

Subsection (b) further describes conditions and limitations on payment.

Subsection (c) definitions.

Subsection (d) defines payments from supplementary insurance trust fund for individuals with only hospital insurance coverage.

Subsection (e) effective date.

TITLE V—PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

Section 501. Payment for home health services

Subsection (a) amends the Social Security Act to mandate that home health services be reimbursed through a prospective payment system. This provision describes discrete areas of services.

(b) directs establishment of a per visit rate for home care services.

(c) sets aggregate limits for services and for patients.

(d) sets a medical review process for the system of payments described in the act, and supervision to insure that individuals receive appropriate care.

(e) provides for adjustments to payments and for the tracking of patients who may switch home health agencies. This section also provides for monitoring features that determine changes in the quality and level of health care. The provision also requires that the Secretary report annually to Congress regarding recommendations for ensuring access to appropriate home health services.

(f) provides for payment to Christian Science providers.

(g) requires an annual report to Congress during the first three years of this payment plan by the Medicare Prospective Payment Review Commission on the effectiveness of the payment methodology.

(h) mandates development of an "episodic" prospective payment system for home health care.

(i) requires the Secretary to develop a data base upon which managers may develop a fair and accurate case mix adjustor as required elsewhere in this act for the determination of prospective payment.

Subsection (b) appeals process.

Subsection (c) sunsets reasonable cost limitation.

Subsection (d) effective date.

Section 502. Review by peer review organization of home health services

Subsection (a) requires utilization and quality review of home health services by an appropriate peer review organization. These reviews would occur under conditions including a health agency's determination that a patient did not meet conditions for care, that the patient no longer requires care, that the patient's level of care is inconsistent with the prescription of the attending physician.

This provision also requires written notification to the patient by the agency and the peer review organization.

Subsection (b) describes hearing rights.

Section 503. Retroactive reinstatement of presumptive waiver of liability.

Reconciles OBRA 1986 and other statutes to allow implementation of prospective payment for home health services.

TITLE VI: PROSPECTIVE PAYMENT SYSTEM FOR NURSING FACILITIES

Section 601: Definitions for acuity payment, aggregated resident invoice, allowable costs, case mix weight and other items to be cited in the determination of prospective payment.

Section 602: Sets payment objectives, including maintaining a fair and equitable balance between cost containment and quality of care.

Section 603: Defines powers and duties of the Secretary.

Section 604: Reconciles provisions of this title with the Social Security Act.

Section 605: Establishes a resident classification system to be used to adjust payment rates to practical care requirements.

Section 606: Establishes a "cost-center" system for establishing appropriate reimbursement to facilities based on overhead expenses and general operating costs.

Section 607: Resident assessment. Requires facilities to assess needs of each resident in accordance with the reimbursement requirements of the title.

Section 608: Establishes a system for formulating per diem rates of reimbursement for enrolled residents.

Section 609: Establishes a per diem reimbursement system for compensating facility administrative and general costs.

Section 610: Establishes payment system for fee-for-service ancillary costs.

Section 611: Provides for reimbursement of selected ancillary services and other costs.

Section 612: Establishes per diem payment for property costs related to rentals required by facilities.

Section 613: Creates a procedure for mid-year rate adjustments.

Section 614: Creates payment rate exceptions for new and low-volume nursing facilities.

Section 615: Creates a process for appealing decisions by HCFA regarding payments in the amount of $10,000 or more.

Section 616: Phases in prospective payment for skilled nursing facilities over a three-year period. First year would have payments based on 25 percent of new system, 75 percent of old system. Second year goes to a 50–50 split. Third year is 75 percent new system, 25 percent old system. Fourth year fully exercises all payment requirements under the title.

TITLE VII: TELEMEDICINE

Section 701: Internet access for health care providers for rural areas.

Subsection (a) amends the Communications Act of 1934 by adding minimum requirements for Internet access for health care providers for rural areas. Requires carriers to provide access "necessary for the provision of health care services" and at rates described in the title. Sets threshold requirements for infrastructure and bandwidth, to be determined by "commission."

Subsection (b) definitions.

Subsection (c) conforming amendments.

Section 702: Establishes a congressional Commission on Telemedicine to undertake requirements of the title.

Subsection (a) defines membership, term of office, payment.

Subsection (b) describe duties, including "a thorough study and develop(ment) of recommendations on all matters relating to which Telemedicine service should be covered under Medicare."

Title also requires a report on these issues not later than one year following enactment.

Subsection (c) through (f) describe powers, personnel, termination and appropriations for the commission.•

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. NICKLES, Mr. BREAUX, Mr. GORTON, Mrs. FEINSTEIN, Mrs. MURRAY, and Mrs. BOXER):

S. 387. a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software; to the Committee on Finance.

THE SOFTWARE EXPORT EQUITY ACT

Mr. HATCH. Mr. President, I rise today to introduce the Software Export Equity Act. I am pleased to be joined in this bipartisan effort by my colleagues on the Senate Finance Committee, Senators MAX BAUCUS, DON NICKLES, JOHN BREAUX, as well as PATTY MURRAY, SLADE GORTON, DIANNE FEINSTEIN, and BARBARA BOXER. Identical legislation has been introduced in the House by Representative JENNIFER DUNN and a strong bipartisan group of her House colleagues.

This bill highlights an issue that I have mentioned many times in the Finance Committee. Currently, the section of the Internal Revenue Code outlining what qualifies for foreign sales corporation [FSC] treatment and tax benefits is unclear and has left out software that is exported overseas. Our bill would clarify the treatment of software.

What is a foreign sales corporation? It is a corporate entity established by Congress to help facilitate the export of American made goods to foreign markets. The FSC rules allow a corporation a tax benefit on a portion of its earnings generated by the sale or lease of export property. It is consistent with sound U.S. policy to promote U.S. exports.

When the foreign sales corporation statute was enacted in 1971, the computer software industry was relatively new. The original FSC statute was drafted with the intent that only U.S. job-creating property manufactured or produced in the United States and sold or leased outside the United States qualifies for export benefits. The FSC rules are designed to assist U.S. exporters in competing with products made in other countries that have more favorable rules for taxing exports.

Mr. President, it is in our best interests to encourage the export of American goods and services. The United States is currently the world leader in software development, employing approximately 2 million people in software development jobs. As this industry continues to grow, much of the expansion of the industry is due to the growth of exports. However, as the software industry has grown in response to global markets, the tax laws have not kept up.

Currently, the statute allows films, tapes, records or similar reproductions to qualify for FSC benefits. However, because of a narrow interpretation of the FSC rules, software does not generally receive this export incentive.

Let me provide an example that I have shared before with my colleagues on the Finance Committee. Suppose you have two CD-ROM's—one containing a musical recording, the other containing dictionary software with musical recordings included. The two look the same and are very similar except for the software. If the you export a master CD-ROM of the musical recording to another country for reproduction, the export qualifies for FSC benefits. However, if you export a master copy of the software CD-ROM with a license to make additional copies, you will be denied FSC benefits. This is simply wrong and unfair. In an age where many computer products are multipurpose—with music and software—this makes no sense.

Now this problem is not beyond repair. The Treasury Department does not believe that it has the authority to issue regulations to correct this problem. However, they support the legislative fix I am introducing today. The FSC statute must be clarified to allow exported software with the right to reproduce to receive fair and equitable treatment.

Mr. President, this problem hits home in my State of Utah. There are a number of software manufacturers in Utah that have developed a worldwide presence. Watching musical and other intangible items receive FSC treatment while highly sophisticated software is left out, is simply discouraging for these sometimes small software companies. This legislation corrects this inequity and reestablishes our commitment to promoting American competitiveness.

I am please to introduce the Software Export Equity Act today. I urge all of my colleagues to support this bipartisan effort and cosponsor this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 387

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 "Software Export Equity Act".

SEC. 2. CLARIFICATION OF APPLICATION OF FOREIGN SALES CORPORATION RULES TO SOFTWARE.

Subparagraph (B) of section 927(a)(2) of the Internal Revenue Code of 1986 (relating to property excluded from eligibility as FSC export property) is amended by inserting ", and software, whether or not patented" after "for commercial or home use".

Mr. NICKLES. Mr. President, I am pleased to join Senator HATCH, Senator BAUCUS, and Senator BREAUX in the introduction today of the Software Export Equity Act, a bill to provide that software exports receive the same tax treatment as other products made in the United States. Our bill will help ensure that the U.S. software industry, the current world leader, maintains their competitive edge.

The Software Export Equity Act simply clarifies that software produced in

the United States for export fully qualifies for foreign sales corporation [FSC] export incentives the same as most other U.S. products. The bill proposes no special or unique benefit for the software industry, just equal and fair treatment under existing law.

The FSC statute and its predecessor, the domestic international sales corporation statute, were enacted by Congress to help U.S. companies compete abroad. The FSC statute provides a tax exemption of up to 5 percent of a company's income attributable to export sales of U.S.-made products. Only those products manufactured or produced in the United States for export to a foreign market qualify for FSC benefits to ensure domestic economic growth and job creation.

Unfortunately, the fledgling software industry was not specifically considered by Congress when the FSC statute was enacted, and subsequent Treasury Department rules disqualified them for FSC benefits. Indeed, Treasury's narrow interpretation allows nearly identical products, exported in an identical manner, such as movies and compact disc recordings, to fully qualify for FSC benefits, but not software.

Repeated attempts to convince the Treasury Department to modify their rules have failed, Mr. President, leaving only the alternative of amending the law. Fortunately, this issue has broad bipartisan support in the House and Senate and was recently included in President Clinton's fiscal year 1998 budget request.

Employing over 2 million people and exporting more than $26 billion in software each year, the U.S. software industry is an important and growing part of our economy. They lead the world in the development of innovative products and cutting-edge technology. In today's competitive global economy, incentives to encourage firms to develop products here for export abroad are vitally important. The enactment of this legislation will assure that we provide these incentives to all U.S. products equally.

I encourage all my colleagues to join us in supporting this legislation.

Mr. BREAUX. Mr. President, I am pleased today to join Mr. HATCH, Mr. NICKLES, and Mr. BAUCUS in introducing the Software Export Equity Act. This legislation is extremely important to maintaining the U.S. software industry's competitiveness and the growth of high-skilled, high-paying software industry jobs in the United States. The Software Export Equity Act has broad bipartisan support and was included in the fiscal year 1998 budget that the President submitted to Congress. I urge my colleagues to join with us in support of swift enactment of this legislation.

The U.S. software industry is a vital and growing part of the U.S. economy, creating many new high-paying, high technology jobs in the United States. Much of the expansion of the software industry is due to the growth of export sales. The Software Export Equity Act clarifies the application of the foreign sales corporation [FSC] rules to exports of U.S. software.

The FSC rules were enacted to address the competitive disadvantages faced by U.S. exporters vis-a-vis exports from other countries that have more favorable tax systems, particularly those that effectively exempt export sales from home country tax. The goal of the FSC provisions was to prevent manufacturing and production jobs from moving out of the United States. Unfortunately, a narrow IRS interpretation of these rules precludes exports of U.S. software from fully qualifying for the FSC incentive. I am very concerned that this problem could cause U.S. software companies to begin examining such options as moving high-skilled, high-paying software development jobs overseas where highly skilled labor is available at much lower wages. The FSC incentive will help offset higher U.S. labor costs by providing benefits on the export of products developed in the United States. Moreover, there is no justification to deny U.S. software exports the FSC incentive. Virtually every other U.S. exporter fully qualifies for these incentives. I believe it is vital to quickly enact legislation that would clarify these rules to reflect the Congress' intent with respect to software, not only to protect U.S. software development jobs, but also to preserve ownership of this technology in the United States.

Mr. BAUCUS. Mr. President, I am pleased today to join Senator HATCH in cosponsoring the Software Export Equity Act. I believe the continued vitality of the U.S. software industry is extremely important to the U.S. economy. The Software Export Equity Act will not only help us to retain high-paying U.S. software development jobs with successful U.S. software companies, but also will help smaller U.S. software companies to enter the export market by helping to offset the high costs of exporting.

The Software Export Equity Act ensures that U.S. software exports qualify for the benefits of the foreign sales corporation [FSC] rules, which are very important to maintaining a high level of U.S. exports. The foreign sales corporation rules were enacted to provide an incentive for U.S. companies to manufacture their products in the United States for export overseas, thus retaining U.S. development and manufacturing jobs. It is clearly as important to Congress to retain U.S. software development jobs, which are among the highest paying jobs in the United States, as it is to retain other manufacturing and development jobs. Nonetheless, the IRS has questioned the application of the FSC rules to software because independent software products did not exist when this incentive was originally enacted in 1971. Our tax laws must keep up with changes in technology and recognize that FSC rules should apply to software.

This legislation is about fairness, but more importantly, this legislation is about jobs and preserving the ownership of technology in the United States. The Department of Commerce estimates that every $1 billion of export trade is worth 19,000 domestic jobs. Today there are nearly 600,000 U.S. employees working directly in the software industry, with at least another 1.5 million software developers employed in related industries. These are high-paying jobs, with average compensation in 1992 of $55,000 per employee. The Software Export Equity Act will prevent U.S. software companies from moving those high-paying software development jobs overseas, where highly skilled labor is available for much lower wages. The Software Export Equity Act will also help smaller software companies to enter the export market by helping to offset the high cost of exporting, which was one of the principal purposes for creating the FSC rules. FSC treatment is as important to exports of software as it is to exports of other U.S. products that are clearly covered by these rules.

Finally, the Software Export Equity Act will protect U.S. ownership of technology. If software development jobs were moved outside the United States, ownership of the technology created would also move outside the United States. Today the software industry has revenues of $200 billion a year and a growth rate of 13 percent per year. To lose U.S. ownership of the future of this industry would mean not only a tremendous direct loss to the GDP, but also would mean a loss of the spillover benefits that U.S.-developed technology has on other U.S. industries. In summary, the loss of ownership of this technology would be devastating to the growth potential of the U.S. economy.

I appreciate the fact that the administration supports our position and has recommended FSC treatment for computer software in the budget. Enactment of this legislation will make that recommendation reality. I urge my colleagues to join Senators HATCH, BREAUX, NICKLES, and myself in support of swift action on the Software Export Equity Act.

• Mr. GORTON. Mr. President, I am pleased to join Senator HATCH today in introducing the Software Export Equality Act. In 1971, Congress created foreign service corporations [FSC] in order to encourage U.S. exports and increase U.S. competitiveness in the international marketplace. Under current law, FSC legislation gives U.S. manufacturers a tax incentive for exports of domestically produced goods.

Today, virtually every U.S. product manufactured for export abroad qualifies for FSC benefits. Yet current tax laws continue to discriminate against one of the America's fastest growing exports: software.

Due to the IRS's narrow interpretation of FSC rules, the software industry is precluded from qualifying for any FSC benefits despite the fact that approximately 85 percent of products sold by U.S. software companies are developed in the United States and it currently ranks seventh in U.S. industry exports. This bill will clarify that computer software qualifies as export property and is eligible for FSC benefits. Continuing to deny the benefits of FSC rules to the software industry is not only unfair, it poses a serious impediment to the competitiveness of U.S. manufactured software.

Software is one of the America's fastest growing industries, with revenues of more than $200 billion and a growth rate of 13 percent per year on average. As the world leader in software development, the United States is home to more than 8,000 software companies that provide, directly and indirectly, millions of high-paying, high-skilled American jobs in many States.

Software is a vital and growing part of many State economies, including my own State of Washington. In Washington State, the software industry accounted for $3.5 billion worth, and 12 percent, of Washington State exports and employed over 22,509 people in 1995. Microsoft, the State's largest software producer, alone supported 1.5 percent of the State's economy in 1995. But these impressive numbers do not even take into account the significant impact the numerous small and middle-sized software companies that make up the majority in Washington State have on the State's economy.

The worldwide market for software is exploding and global competition is quickly on the rise. In this increasingly competitive world economy, incentives to encourage firms to develop and export from the United States are more important than ever to job creation and economic stability. This bill provides a simple way to ensure the U.S. software industry remains the world leader in software manufacturing and American software jobs are protected.

I encourage my colleagues to join me in support of this very important legislation and urge its quick passage in the Senate.•

By Mr. LUGAR:

S. 388. A bill to amend the Food Stamp Act of 1977 to assist States in implementing a program to prevent prisoners from receiving food stamps; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD STAMP ACT AMENDMENTS

• Mr. LUGAR. Mr. President, I rise today to introduce a bill that will stop prisoners from getting food stamp benefits. My bill will assist States in implementing a program to ensure that prisoners are not counted as members or heads of food stamp households, thus either increasing the households' benefits or allowing an individual to illegally receive benefits in the prisoner's name.

I was disturbed to read in the newspaper about a draft General Accounting Office report showing over $3 million in food stamp benefits being overpaid to households in which a member has been incarcerated. Current law prohibits prisoners from receiving food stamp benefits and requires that households notify their local welfare office of any changes in the makeup of the household. I am concerned to see that there is a breakdown in the system, allowing millions of dollars to be paid out illegally.

Briefings by USDA's Food and Consumer Service and the General Accounting Office have confirmed that although a few States are performing computer matches of data on States' food stamp participants and verified inmates, most are not. All States should be doing these computer matches. This bill requires the Secretary of Agriculture to collect information from States already doing computer matches to prevent prisoners from receiving food stamp benefits, then evaluate, summarize, and disseminate this information to all States not later than 180 days after the bill's enactment. The Secretary must then provide the States with technical assistance to implement a computer matching system.

The problem of prisoners illegally receiving Federal benefits is not limited to the Food Stamp Program. Another recently released General Accounting Office report shows that the Social Security Administration has made erroneous payments to prisoners who were incarcerated in the jail system at the time of the study. In response to this study, the Personal Responsibility and Work Opportunity Act of 1996 included language authorizing the Commissioner of the Social Security Administration to enter into agreements with institutions to prevent these erroneous payments. We should make a similar effort to prevent these erroneous payments in the Food Stamp program.

The Food Stamp Program provides a safety net for millions of people. We cannot allow fraud and abuse to undermine the Food Stamp Program. Integrity is essential to ensure a program that can serve those in need. It is Congress' responsibility to play a role in ending fraud and abuse in all federally funded programs. This legislation is an important step in ending fraud and abuse in the Food Stamp Program.

I urge my colleagues to support this legislation.

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. 388

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

SECTION 1. DENIAL OF FOOD STAMPS FOR PRISONERS.

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

"(q) DENIAL OF FOOD STAMPS FOR PRISONERS.—

"(1) COLLECTION AND DISSEMINATION OF INFORMATION.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall—

"(A) collect information on policies and procedures used by States that conduct computer matches or other systems to prevent prisoners from receiving food stamp benefits; and

"(B) evaluate, summarize, and disseminate to each State the information collected under paragraph (1) that describes the best practices of the States (including information related to verifying prisoners' social security numbers with the Social Security Administration).

"(2) ASSISTANCE TO STATES.—The Secretary shall assist States, to the extent practicable, in implementing a system to conduct computer matches or other systems to prevent prisoners from receiving food stamp benefits.".•

By Mr. ABRAHAM (for himself, Mr. BOND, Mr. NICKLES, Mr. HUTCHINSON, Mr. HELMS and Mr. SESSIONS):

S. 389. A bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

THE MANDATES INFORMATION ACT OF 1997

Mr. ABRAHAM. Mr. President, I rise today to introduce the Mandates Information Act of 1997. This bill in my view furthers the cause of careful deliberation in this, the greatest deliberative body in the world. It will force Members of Congress to carefully consider all aspects of potential legislation containing mandates affecting consumers, workers, and small businesses.

I am proud to say that my colleagues and I aided the cause of careful deliberation during the last Congress. We passed the Unfunded Mandates Reform Act of 1995. That legislation required the Congressional Budget Office to make two key estimates with respect to any bill reported out of committee: First, whether the bill contains intergovernmental mandates with an annual cost of $50 million or more; and, second, whether the bill contains private sector mandates with an annual cost of $100 million or more. The 1995 act also established a point of order against bills meeting the $50 million cost threshold for intergovernmental mandates. Although the point of order can be waived by a simple majority

vote, it encourages Congress to think carefully before imposing new intergovernmental mandates.

The 1995 act did not apply its point of order to private sector mandates. This was understandable, given the bill's focus on intergovernmental mandates. But States and localities are not alone in being affected by Federal mandates. Consumers, workers, and small businesses also are affected when the Federal Government passes along the costs of its policies. This is why the Mandates Information Act of 1997 will apply a point of order to bills meeting the $100 million cost threshold for private sector mandates, while also directing the CBO to prepare a "Consumer, Worker, and Small Business Impact Statement" for any bill reported out of committee.

These reforms are necessary in my view, Mr. President, because the 1995 act, while effective in its chosen sphere of intergovernmental mandates, does not contain the necessary mechanisms to force Congress to think seriously about the wisdom of proposed mandates on the private sector. This leaves our private sector faced with the same dilemma once faced by our States and localities: Congress does not give full consideration to the costs its mandates impose. Focusing almost exclusively on the benefits of unfunded mandates, Congress pays little heed to, and sometimes seems unaware of, the burden that unfunded mandates impose on the very groups they are supposed to help.

Unfunded mandate costs by definition do not show up on Congress' balance ledger. But, as President Clinton's Deputy Treasury Secretary Lawrence Summers has written, "[t]here is no sense in which benefits become 'free' just because the government mandates" them. Congress has merely passed the costs on to someone else.

And that "someone" is the American people. As economists from Princeton's Alan Krueger to John Holohan, Colin Winterbottom, and Sheila Zedlewski of the Urban Institute agree, the costs of unfunded mandates on the private sector are primarily borne by three groups: consumers, workers, and small businesses.

What forms do these costs take? For consumers, mandate costs take the form of higher prices for goods and services, as unfunded mandates drive up the cost of labor.

For workers, the costs of unfunded mandates often take the form of significantly lower wages. According to the Heritage Foundation, a range of independent studies indicates that some 88 percent of the cost of private sector mandates are shifted to workers in the form of lower wages.

And mandates can cause workers to lose their jobs altogether. Faced with uncontrollable increases in employee costs, our job creators too often find that they can no longer afford to retain their full complement of workers. The Clinton health care mandate, for example, would have resulted in a net loss of between 200,000–500,000 jobs, according to a study conducted by Professor Krueger.

Small businesses and their potential employees also suffer. Mandates typically apply only to businesses with at least a certain number of employees. As a result, small businesses have a powerful incentive not to hire enough new workers to reach the mandate threshold. As the Wall Street Journal recently noted, "The point at which a new [mandate] kicks in * * * is the point at which the [Chief Financial Officer] asks 'Why grow?'"

That question is asked by small businesses all over the country, but let me cite one example from my State. Hasselbring/Clark is an office equipment supplier in Lansing, MI. Noelle Clark is the firm's treasurer and secretary. Mindful of the raft of mandates whose threshold is 50 employees, Ms. Clark reports that lately "we have hired a few temps to stay under 49." Thus, unfunded mandates not only eliminate jobs, but also prevent jobs from being created.

Much as Members of Congress may wish it were not so, mandates have a very real cost. This does not mean that all mandates are bad. But it does mean that Congress should think very carefully about the wisdom of a proposed mandate before imposing it.

Such careful thinking, Mr. President, is the goal of the Mandates Information Act of 1997. Just as the Unfunded Mandates Reform Act of 1995 protects State and local governments from hasty decisionmaking with respect to proposed intergovernmental mandates, the Mandates Information Act would protect consumers, workers, and small businesses from hasty decisionmaking with respect to proposed private sector mandates. It would do so, in essence, by extending the reforms of the 1995 act to private sector mandates.

The bill I introduce today would build on the 1995 act's reforms in two ways. First, to give Congress more complete information about the impact of proposed mandates on the private sector, my bill directs CBO to prepare a "Consumer, Worker, and Small Business Impact Statement" for any bill reported out of Committee. This statement would include analyses of the bill's private sector mandates' effects on the following: First, consumer prices and [the] actual supply of goods and services in consumer markets; second, worker wages, worker benefits, and employment opportunities; and third, the hiring practices, expansion, and profitability of businesses with 100 or fewer employees.

But providing Congress with more complete information about the impact of proposed private sector mandates will not guarantee that it pays any attention to it. This we know from experience. In 1981, Congress enacted the State and Local Government Cost Estimate Act, sponsored by Senator Sasser. Pursuant to that act, CBO provided Congress with estimates of the cost of intergovernmental mandates in bills reported out of committee. But Congress routinely ignored this information. It did so because the 1981 act had no enforcement mechanism to force Congress to consider the CBO estimates. As Senator Sasser himself explained in introducing a follow-up bill in 1993, "[t]he problem [with the 1981 act], it has become clear, is that this yellow caution light has no red light to back it up."

To supply that "red light," Senator Sasser's Mandate Funding Act of 1993 contained a point of order. Of course, the Unfunded Mandates Reform Act of 1995 likewise contained a point of order, which is why it succeeded where Senator Sasser's 1981 act had failed.

The Mandates Information Act of 1997 will provide this red light for proposed private sector mandates. It contains a point of order against any bill whose private sector mandates exceed the $100 million threshold set by the 1995 act. Like the 1995 act's point of order against intergovernmental mandates, the 1997 bill's point of order can be waived by a simple majority of Members. Thus it will not stop Congress from passing bills it wants to pass.

But the point of order will serve a vital purpose. It will ensure that Congress does not ignore the information contained in the consumer, worker, and small business impact statement. It will do so by allowing any Member to focus the attention of the entire House or Senate on the impact statement for a particular bill.

The Mandates Information Act of 1997 will provide Congress with more complete information about proposed mandates' effects on consumers, workers, and small businesses. It will also ensure that Congress actually considers this information before reaching a judgment about whether to impose a new mandate. The result, Mr. President, will be focused, high-quality deliberation on the wisdom of private sector mandates.

Because of the success of the 1995 act, Congress is now much more careful to consider the interests of State and local governments in making decisions about unfunded mandates. But Congress must be just as careful to consider the interests of consumers, workers, and small businesses in making such decisions. This bill will ensure that care, helping produce better legislation; legislation that imposes a lighter burden on working Americans.

Mr. President, I ask unanimous consent that the following sample of letters from small business groups supporting the bill be introduced in the

RECORD, along with a list of groups that have expressed their support for it.

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

ORGANIZATIONS SUPPORTING THE MANDATES INFORMATION ACT OF 1997

NATIONAL ORGANIZATIONS

Chamber of Commerce of the United States; National Association of Wholesaler-Distributors; National Federation of Independent Businesses; National Retail Federation; Small Business Survival Committee; National Restaurant Association; National Association for the Self-Employed.

MICHIGAN ORGANIZATIONS

Associated Underground Contractors, Inc.; Grand Rapids Area Chamber of Commerce; Michigan Association of Timbermen; Michigan Chamber of Commerce; Michigan Farm Bureau Family of Companies; Michigan NFIB; Michigan Retailers Association; Michigan Soft Drink Association; Small Business Association of Michigan.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, February 11, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the more than 600,000 members of the National Federation of Independent Business (NFIB), I want to express support for the Mandate Information Act of 1997

In 1995 with the passage of the Unfunded Mandates Act, Congress acknowledged the significant problem that federal government mandates have on the operation of states and localities. Government mandates create equally burdensome problems on the private sector and especially small employers. These federal mandates discourage small business start-ups, growth and job creation.

Our members have consistently ranked unreasonable government regulation as one of their top concerns. The Mandate Information Act works to address the problem of federal mandates on small businesses by applying the reforms put in place by the Unfunded Mandates Act of 1995 for state and local government to the private sector. This would require Congress to weigh more carefully the impact of proposed legislation on small businesses and their employees.

We commend you on your efforts to reduce the government mandated burdens a small business must shoulder and look forward to working with you to ensure that this positive reform becomes law.

Sincerely,

DAN DANNER,
Vice President,
Federal Governmental Relations.

CHAMBER OF COMMERCE,
Washington, DC, January 7, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: I am pleased to offer the support of the U.S. Chamber of Commerce Federation for your proposed legislation, the Mandates Information Act of 1997.

One of the key success stories of the 104th Congress was the adoption of bipartisan unfunded mandates reform requiring Congress to consider the cost and consequences of federal requirements on state and local government. Another important component of this law was the requirement that significant federal mandates on the private sector be measured and made public. Such mandates have an enormous impact on consumers, small businesses and workers in the form of higher prices, fewer jobs, declining goods and services and reduced workers benefits. Moreover, these mandates are likely to escalate as scarce budgetary resources will place even greater pressure on utilizing federal regulations as a means of implementing government programs and initiatives.

[The Mandates Information Act would provide the next necessary step to promote greater public and congressional accountability regarding the impact of federal mandates.] It builds upon the success of the unfunded mandates law by requiring Congress to have more information on who will be affected and ultimately pay the costs associated with these mandates. It would allow Members of Congress to vote on each mandate—considering not only its benefits but its effect on the private sector as well as the economy, jobs and consumers.

[It is good government policy for Congress to engage in the practice of legislating with the necessary information concerning the impact of their actions. Policymakers have the responsibility and obligation to make informed decisions and to be accountable for the consequences of those decisions.] Such a proposal would help ensure that when resources are diverted from jobs, wages and families into government rules, the impact are fully considered.

The U.S. Chamber of Commerce Federation, the world's largest federation of business, chambers of commerce and business organizations representing every size and sector of the nation's economy, looks forward to working with you in seeking adoption of this common sense, good government proposal.

Sincerely,

R. BRUCE JOSTEN.

NATIONAL RETAIL FEDERATION,
Washington, DC, February 12, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senator,
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the National Retail Federation, the world's largest retail trade association, I am writing to support your legislation, the Mandates Information Act of 1997.

Too often Congress passes new mandates on entrepreneurs without understanding the actual cost. Many times, mandates look good on paper, but can have a disastrous effect once implemented. Your legislation will correct that once and for all.

The costs associated with mandates, as you well know, are more than direct cash outlays, these costs mean less economic growth, fewer jobs created and higher costs to consumers. Congress' worthy goal of balancing the budget, combined with desires of some to "deliver more things" to voters that the government doesn't have to pay for, will put more pressure than ever on Members of Congress to burden business.

New mandates automatically won't be stopped, only automatically considered under this bill. That's right in line with Main Street. The Abraham legislation assures retailers and other entrepreneurs that Congress will consider the impact of proposed mandates set forth in the CBO Consumer, Worker and Small Business Impact Statement before they are simply enacted into law.

Again, thank you for your leadership against new mandates. We look forward to working with you to pass this legislation.

Sincerely,

JOHN J. MOTLEY,
Senior Vice President,
Government and Public Affairs.

MICHIGAN CHAMBER OF COMMERCE,
Lansing, MI, January 31, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SPENCE: Your proposed "Mandates Information Act of 1997" is a great idea!

As you know, the Michigan Chamber and many other taxpayer groups supported—and voters approved—the Headlee Amendment to the State Constitution in 1978 that required state mandates on local government to be funded by the State. This has caused greater legislative and executive branch evaluation of state program mandates and related costs on local units of government and resulted in funding of any mandates by the state. The Michigan Chamber also supported adoption of unfunded mandates reform during the 104th Congress.

It's important that Congress now consider protection for the private sector from new unfunded mandates. Careful consideration of the impact of federal mandates on state and local government should be extended to job providers and consumers.

The Michigan Chamber of Commerce and our 6,500 member firms are pleased to support this needed legislation.

Sincerely,

JIM BARRETT,
President.

SMALL BUSINESS ASSOCIATION OF MICHIGAN,
Lansing, MI, January 31, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senate, Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR ABRAHAM: The Small Business Association of Michigan (SBAM) is pleased with your decision to introduce the "Mandates Information Act." Your bill will help protect small businesses from the financial impact of Congressional mandates.

Congressional mandates imposed on the private sector are already driving down worker wages, increasing consumer costs and reducing the availability of goods and services. These mandates could multiply as a result of the effort for a balanced budget. As funding becomes increasingly scarce, advocates of increased government intrusion in the private sector will try to shift program costs to small businesses in the form of new mandates.

A key provision of your legislation is the small business impact statement—to inform Congressional members about mandates and their impact on the private sector. The bill will direct the CBO to estimate the impact of a bill's mandates on consumer cost, worker wages, the availability of goods and services and small business job creation.

SBAM is Michigan's latest state based small business association representing 8,000 businesses in all of Michigan's 83 counties.

We look forward to working with you on this important small business issue.

Sincerely,

BARRY S. CARGILL,
Vice President,
Government Relations.

Mr. BOND. Mr. President, I rise today in support of the Mandates Information Act of 1997. I am pleased to be an original cosponsor of this important legislation, and I applaud my distinguished colleague from Michigan, Mr. ABRAHAM, for his leadership in this effort.

The bill we are introducing today continues the work begun in the 104th Congress with the enactment of the "Unfunded Mandates Reform Act of 1995—the 1995 act—authored by Mr. KEMPTHORNE to ensure that Congress is well advised of the cost unfunded mandates would impose on State and local governments. I was a cosponsor of the 1995 act, and I believe the time has come for us to expand its provisions to require similar detailed information and accountability on unfunded mandates affecting the private sector—so we can protect consumers, workers, and small businesses.

As chairman of the Senate Committee on Small Business, I am all too aware of the disproportionate burden Federal regulations impose on our Nation's small businesses. A 1995 study found that an average firm with less than 20 employees spent approximately $5,500 per employee in 1992 to comply with Federal regulations—compared with $3,000 per employee by firms with 500 or more employees. The overall cost to the economy is between 6 and 9 percent of gross domestic product—between $420-670 billion—in 1995 dollars—in regulatory compliance. Before we permit the Federal Government to adopt any new mandate that would add to this burden, the Congress needs to be fully informed of the new costs to be imposed on the economy so we can make an informed judgment.

The reforms proposed in this bill are needed to ensure that the Congress gives careful and thoughtful consideration to the impact unfunded mandates impose on the private sector. The ability of small businesses to compete and create new jobs can be hindered by unfunded mandates, we need to be aware of the magnitude of any future adverse effects. The Committee on Small Business will continue its work to ensure that the Government's actions here in Washington foster the growth of small businesses located on Main Street. This bill will help to ensure that all Members of Congress are equally informed of the effects a bill would have on the customers, employees, and owners of America's small businesses, the engine of our Nation's economic growth.

The legislation Senator ABRAHAM and I are introducing today will ensure that the private sector impact of unfunded mandates is addressed during deliberations on legislation imposing those mandates. Consumers, workers, and small businesses will benefit from the reforms to enhance congressional deliberations on unfunded mandates affecting the private sector. The Mandates Information Act of 1997 establishes a new parliamentary point of order against any bill that will impose private sector mandates exceeding a $100 million cost threshold. The measure directs the Congressional Budget Office to estimate the impact of the proposed unfunded mandates on consumer costs, worker wages, and the availability of goods and services.

As with the Unfunded Mandate Reform Act of 1995, the point of order authorized by the bill would bar the House or Senate from further action on a proposed measure unless a majority agrees to move forward with the initiative. By authorizing a point of order triggered by private sector impacts, the legislation introduced today puts teeth into the law to ensure that Congress addresses the costs that would be imposed by the unfunded mandates on small businesses, consumers, and workers. This change requires Members of Congress to go on record as either supporting or opposing an unfunded mandate that would add costs to the private sector.

With the aid of a consumer, worker, and small business impact statement, Members of Congress will have the information required to make an informed decision on the merit of imposing a mandate without also providing funding for compliance. The impact statement would be prepared by the Congressional Budget Office—which the bill directs to estimate the economic impact of a proposed mandate on consumers, wages, and the availability of goods and services.

All in all, this bill is about good governance. It provides information to ensure that Congress is fully informed on the impact of an unfunded mandate on the economy and the private sector in particular. By tasking the Congressional Budget Office with preparing an impact statement, the bill also provides important information to educate Congress on the effect of pending legislation. This, in itself, is an important step toward ensuring that the needs and concerns of small businesses, and the workers and customers that depend on small businesses, are given the attention they deserve by Congress. As with the Small Business Regulatory Enforcement Fairness Act of 1996—or the Red-Tape Reduction Act as I prefer to call it—today's bill seeks to ensure that the Government treats small business fairly. The Mandates Information Act has the support of the National Federation of Independent Business, the National Restaurant Association, the U.S. Chamber of Commerce, the National Retail Association, the National Association of Wholesaler-Distributors, and the Small Business Survival Committee—I urge my colleagues to join our efforts to enact this bill and enhance our efforts to ensure good governance.

By Mr. COVERDELL (for himself, Mrs. FEINSTEIN, and Mr. HELMS):

S.J. Res. 19. A joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997; read the first time.

S.J. Res. 20. A joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997; to the Committee on Foreign Relations.

S.J. Res. 21. A joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding assistance for Mexico during fiscal year 1997, and to provide for the termination of the withholding of and opposition to assistance that results from the disapproval; to the Committee on Foreign Relations.

DISAPPROVAL LEGISLATION

Mr. COVERDELL. Mr. President, I have introduced today three separate joint resolutions to disapprove the President's decision to certify Mexico as fully cooperating in our war on drugs. The first joint resolution will eventually be placed on the calendar by way of rule XIV of the Standing Rules of the Senate. The second resolution is identical to the first joint resolution; however, it will be referred to the Senate Foreign Relations Committee for their consideration.

Finally, Mr. President, the third joint resolution I have just introduced would disapprove the President's certification and instead decertify Mexico but authorize a national interest waiver.

Mr. President, I have been joined today by a coauthor of these resolutions, Senator FEINSTEIN of California, who will make remarks in a moment. I will take just a few minutes to visit this subject and then yield the floor to Senator FEINSTEIN.

First, let me say, Mr. President, that this is a most difficult issue, and it has very broad ramifications. Mr. President, I stand here as a friend of Mexico and the Mexican people, but I believe the actions on the part of the administration were a resounding endorsement of the status quo. Mr. President, the status quo is unacceptable. The status quo sees the Government of Mexico under siege by perpetrators of fraud and corruption and destabilization. Mr. President, the status quo sees millions of new victims being ravaged by the assault of drugs within our community. I suspect that the actions on the part of the administration, of President Clinton, were an effort to be supportive of

President Zedillo. I can understand that, but I believe this decision to certify without condition, versus to decertify and waive as our resolution calls for, misleads both nations. It suggests that things are going along fairly well and we just need to keep doing what we have been doing.

The President of Mexico himself said the greatest single threat to the security of his republic are the drug cartels. Mr. President, we are losing this war. That is what the status quo represents. We are losing. The people of Mexico are losing through destabilization of their government at all levels, the American people are losing through the victimization of millions of American citizens, and the democracies of the hemisphere are losing because this is a pervasive cloud over our future as we enter the new century.

All the opportunity one can envision about this hemisphere, the fact that 40 percent of our trade occurs in this hemisphere, the abounding opportunities that one can easily look at when you see what commerce can produce in the uplifting of all of our peoples, the single most serious threat to all those opportunities are the drug cartels. It hangs as a cloud, Mr. President. I believe the actions on the part of the administration do a disservice to all of our people on both sides of the border. And I hope that we can come at this question more honestly and admit that we have deep problems here, and that the good will that exists between our peoples is vibrant enough and strong enough that it can face an honest problem head on. No one is served by sweeping it under the rug for yet another year. Every day that goes by, we lose a little bit more and we come closer and closer to a time when this becomes unresolvable.

Mr. President, we will hold hearings on these resolutions in the very near term. I compliment my colleague from California for her extended work in this area for a considerable period of time.

At this point, I yield the floor to my colleague from California, Senator FEINSTEIN.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair and I thank the Senator from Georgia. I am pleased to join with him in this joint resolution, disapproving the certification of Mexico.

Mr. President, my disappointment in the administration's decision to certify Mexico's antidrug efforts last week, I think, was known to all. I believe that decision was a mistake, and I said so.

The decision to certify Mexico in the face of what I consider to be an overwhelming lack of cooperation undermines the integrity of the certification process itself, as well as damaging the credibility of the United States in our dealings with other countries with whom we seek cooperation.

I rise today to join with the Senator from Georgia and a number of my colleagues in introducing this resolution. But I do so with some regret. I regret the need for the resolution for two reasons. First, Mexico is a neighbor, a friend, and an ally of our country. Second, I very much regret the need to disagree with my President on this issue. I believe he made what he believes to be the right decision, but I respectfully disagree with him.

Our intention is clear: We believe that the evidence overwhelmingly supports decertification of Mexico, and then if the President sees fit, invoking a vital national interest waiver. For that reason, Senator COVERDELL has introduced a second resolution that allows the President to waive the sanctions on grounds of vital national interest after we enact our resolution of disapproval.

Last week, a bipartisan group of 39 Senators sent a letter to the President urging that this be his decision.

I ask unanimous consent that this letter be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. President, section 490 of the Foreign Assistance Act requires the President to certify that Mexico has cooperated fully with the United States, or taken adequate steps on its own to combat drug trafficking. It's just not tenable to claim that Colombia did not meet that standard, but Mexico did. Let me read one sentence from the decertification of Colombia in 1996. It reads:

> Critical to the U.S. judgment that the Government of Colombia did not fully cooperate on counternarcotics in 1995 is the assessment that corruption remains pervasive, despite the efforts of some dedicated Colombians to root it out.

That is no different from the situation in Mexico today. There are dedicated efforts in Mexico, but the corruption is pervasive.

I think the events of last week are an example in point.

Just hours before the President's decision on certification of Mexico was to be announced, Mexican officials were touting the arrest of a reputed cartel leader, Humberto Garcia Abrego, brother of Juan Garcia Abrego, who was expelled from Mexico during last year's certification process.

Then, just a few hours after the decision to certify was announced, guess what? Garcia Abrego simply walked away from Mexican custody a free man. The Mexican Attorney General's office claimed responsibility for setting him free. His release was "inexplicable," they said.

Mr. President, this is just one example of the kind of cooperation the United States has received. It has tightened up just before certification and then, just after certification, it's business as usual.

With 70 percent of the cocaine, a quarter of the heroin, 80 percent of the marijuana, and 90 percent of the ephedrine used to make methamphetamine entering the United States from our southern border, Mexico's drug problem is America's drug problem, and the problem is getting worse, not better.

Last year at this time, Senator D'AMATO and I compiled a list of actions we considered necessary for the Mexican Government to take in order to show progress on their antidrug efforts. Regrettably, I believe the evidence shows there has been little or no progress on nearly all of the items on this list.

Some of these failures are due to inability; others are due simply to a lack of political will.

For example, some questions: Has Mexico extradited one Mexican national on outstanding drug charges? The answer is no. I was puzzled because the Secretary of State, in her statement on certification, made this statement: "Mexico has set a precedent by extraditing its own nationals." One might conclude that this includes Mexicans wanted on drug charges. Yet, to the contrary, both the Department of Justice and the DEA tell me that not a single Mexican national has been extradited to this country on drug-related charges.

If the State Department has information that Mexican nationals are being extradited on drug-related charges—and there are 52 of them on the extradition list—I ask them now to make that list public. Tell us which Mexican nationals have been extradited on drug-related charges.

Francisco Arellano-Felix of the notorious Tijuana cartel is currently in custody in a Mexican prison and wanted on narcotics charges here in the United States. I say to Mexico, why not show good faith and extradite him?

Mexican authorities tell us that there has been an agreement in principle on extraditing Mexican nationals, but there has been no change in their actions.

Question 2: Has Mexico implemented new laws aimed at curbing the rampant laundering of drug money? No.

Nearly a year ago, the Mexican Parliament passed criminal money laundering laws. But the new laws are a far cry from the stronger legislative action sought by U.S. officials. The new laws do not even require banks to report large or suspicious currency transactions. Promises to enact such regulations have, so far, gone unfulfilled.

To my knowledge, not one money exchange house in Mexico has changed its operations.

Have Mexican authorities significantly increased their seizure rate of cocaine or their arrest of drug traffickers? Let's take a look at it. The answer to that clearly is no. Cocaine seizures by Mexico, which increased

slightly last year, are barely half of what was seized in 1993.

Here are seizures in 1993—46.2 tons. Here they are in 1995—22.2 tons. And they are just slightly above that in 1996. Actually, instead of 22.2 tons, in 1996 they are 23.5.

So that is the record. It has been effectively downhill, and then a straight line, and a small little jog up.

Let's take a look at drug-related arrests in Mexico. Drug-related arrests last year are less than half of what they were in 1992. Here are the figures. In 1992, 27,369; down in 1993; down in 1994; and way down in 1995, all the way to 9,700. We don't have 1996 on this chart yet, but the 1996 figures are 11,245. That is a startling drop since 1992.

So here is a country being certified as fully cooperative, and drug seizures have gone down and drug arrests have gone down in the last 3 years.

One has to ask then: What is "full cooperation"?

Mr. COVERDELL. Mr. President, will the Senator yield?

Mrs. FEINSTEIN. I certainly will.

Mr. COVERDELL. I have a comment on the statistics just demonstrated, because I was reading in the New York Times, and they begin the data in 1994. So it shows a slight increase. But the dramatic case that the Senator made is absolutely correct. You have to go back to 1992 and 1993 to see what really is happening with arrests and seizures of narcotics.

I just point out that it is good that the Senator is making the point because our adversaries like to start measuring statistics in 1994. We can't do that.

Mrs. FEINSTEIN. The Senator is correct. I thank him very much for that comment because he is absolutely right. The jog up is so small when you compare it with the drop which is so steep and pronounced. So I thank the Senator very much.

It leads me to the conclusion that the situation with Mexico has never been worse. DEA has suspended American agents going into Mexico because, just last month, Mexico forbade United States drug agents from carrying weapons on the Mexican side of the border.

I understand that there may be some agreement again to enable our agents to be armed, and then they will go in again. However, it should be pointed out that death threats against our agents are up.

I would like to ask that all Members, if they would be willing, to simply read the testimony provided by Thomas Constantine, Administrator of the Drug Enforcement Administration, before the House Government Reform and Oversight Committee, the National Security, International Affairs, and Criminal Justice Subcommittee, last week. It was played about three times on C-SPAN over the weekend. I heard it. I also read the remarks. And the remarks are really very, very profound.

In this report, Mr. Constantine points out again:

> Since 1993, 23 major drug-related assassinations have taken place in Mexico. Virtually all of these murders remain unsolved. Many of them have occurred in Tijuana, or have involved victims from Tijuana in the last year. Twelve law enforcement officers, or former officials, have been gunned down in Tijuana, and the vast majority of the 200 murders in that city are believed to have been drug related.

The Administrator also points out that of the 1,200 firings firings of Government officials for corruption made by President Zedillo, no successful prosecutions of these individuals have ever taken place. So of the 1,200 Government officials fired for corruption, there has not been a single successful prosecution.

The arrest last month of Gen. Jesus Gutierrez Rebollo brings, I think, the level of drug-influenced corruption in Mexico into some glaring relief. It is frightening. But, as I have pointed out, it is just the tip of the iceberg.

In September, a federal police commander, Ernesto Ibarra, who had vowed to take down the Tijuana cartel, was murdered, and some of the assailants were his own officers.

That should tell us a great deal about the level of corruption.

The celebrated army raid of a wedding last month of the sister of Amado Carillo-Fuentes, Mexico's most powerful cartel leader, seems to be an elaborate charade. The raid, which was organized by General Gutierrez, who we now know was on the Carillo-Fuentes payroll and the target of the raid, was tipped off in advance and either never did come to the wedding or escaped. Federal police were found to be protecting the drug traffickers at that wedding. The federal police were protecting drug traffickers. I find that just amazing.

As former DEA Administrator Robert Bonner said, "It would be hard for anyone to say with a straight face that the Mexican Government is taking effective action against the major drug traffickers at this juncture."

Yet, they were just certified as so doing.

The purpose of section 490 was not to deliver merit badges to nations whose leaders have good intentions. The world is filled with leaders who have good intentions. The act was designed to measure uniformly the actions taken by countries to assist the United States in antidrug efforts.

Colombia was decertified last year and again this year because their efforts were ineffectual.

How Mexico cannot be held to the same standards I have a hard time understanding. To certify Mexico in the face of overwhelming evidence to the contrary undercuts the certification process.

So I ask all of my colleagues to join the distinguished Senator from Georgia and myself in voting to disapprove the President's decision on certification of Mexico but to allow him, if he sees fit, to enact a national-interest waiver.

Then we should work with the President to devise conditions under which Mexico would be eligible for recertification.

EXHIBIT 1

U.S. SENATE,
Washington, DC, February 26, 1997.

The PRESIDENT,
The White House, Washington, DC

DEAR MR. PRESIDENT: We are writing to urge you to deny certification that Mexico has taken sufficient actions to combat international narcotics trafficking when you report to Congress on the anti-narcotics efforts of major drug producing and drug-transit countries. We believe a reasonable examination of the facts leads to no other decision.

Regrettably, we have concluded that there has been insufficient progress, or no progress, on a wide range of key elements of an effective counternarcotics program in Mexico. Some of these failures are due to inability; others are due to a lack of political will. But all have set back the urgent effort to end the plague of drugs on our streets.

We want to bring to your attention a number of the most significant examples of Mexico's inability and unwillingness to deal with the drug trafficking problem effectively:

Cartels: There has been little or no effective action taken against the major drug cartels. The two most powerful—the Juarez Cartel run by Amado Carillo Fuentes, and the Tijuana Cartel, run by the Arellano Felix brothers—have hardly been touched by Mexican law enforcement. Those who have been arrested, such as Hector Palma, are given light sentences and allowed to continue to conduct business from jail. As DEA Administrator Thomas Constantine says, "The Mexicans are now the single most powerful trafficking groups"—worse than the Colombian cartels.

Money Laundering: Last year, the Mexican parliament passed criminal money laundering laws for the first time, but the new laws are incomplete and have not yet been properly implemented. These laws do not require banks to report large and suspicious currency transactions, or threaten the banks with sanctions if they fail to comply. Promises to enact such regulations—which prosecutors need to identify money-launderers—have so far gone unfulfilled. Mexican officials said that such regulations would be developed by January, but they were not produced.

Law Enforcement: While there have been increases in the amounts of heroin and marijuana seized by Mexican authorities, cocaine seizures remain low. Although slightly higher than last year's figures, the 23.6 metric tons seized in 1996 is barely half of what was seized in 1993. A modest increase in drug-related arrests brought the total to 11,245 in 1996—less than half of the 1992 figure.

Cooperation with U.S. Law Enforcement: Our own drug enforcement agents report that the situation on the border has never been worse. Last month, the Mexican government forbade U.S. agents to carry weapons on the Mexican side of the border, putting their lives in grave danger. Recent news reports indicate that death threats against U.S. narcotics agents on the border have quadrupled in the past three months. Some

U.S. agents believe that all their cooperative efforts are undone almost instantly by the corrupt Mexican agents with whom they work.

Extraditions: Mexico also has made very little progress in the area of extraditions. In the past year, they have failed to capture and extradite a single high-ranking member of any of the major drug cartels. There are 52 outstanding U.S. extradition requests for drug dealers, and Mexico has failed to comply with a single one of them. No Mexican national has ever been extradited to the United States on drug charges. In the last year, Mexico has fired two directors of its National Institute to Combat Drugs, one Attorney General, and several high-ranking officials in the federal police for their corrupt involvement with the drug lords. We should expect Mexico to pursue the cartel leaders with the same level of intensity used to expose and punish corruption by government officials.

Corruption: Mexico's counternarcotics effort is plagued by corruption in the government and the national police. Among the evidence are the eight Mexican prosecutors and law enforcement officials who have been murdered in Tijuana in recent months. There has been considerable hope that the Mexican armed forces would be able to take a more active role in the counternarcotics effort without the taint of corruption. But the revelation that Gen. Jesus Gutierrez Rebollo, Mexico's top counternarcotics official and a 42-year veteran of the armed forces, had accepted bribes from the Carillo Fuentes cartel, casts grave doubts upon that hope.

Recent news reports indicate that U.S. law enforcement officials suspect judges, prosecutors, Transportation Ministry officials, Naval officers, and Governors of corruption and actively facilitating the work of drug traffickers. The National Autonomous University of Mexico estimates that the drug lords spend $500 million each year to bribe Mexican officials at all levels, and many consider that figure to be a gross under-estimation.

Mr. President, we believe that the evidence is overwhelming and can lead to no decision other than the decertification of Mexico. It would send a strong signal to Mexico and the world that the United States will not tolerate lack of cooperation in the fight against narcotics, even from our close friends and allies. Accordingly, we urge you to establish a clear set of benchmarks by which you will judge if and when to recertify Mexico for counternarcotics cooperation. These benchmarks must include, but not be limited to: effective action to dismantle the major drug cartels and arrest their leaders; full and ongoing implementation of effective money-laundering legislation; compliance with all outstanding extradition requests by the United States; increased interdiction of narcotics and other controlled substances flowing across the border by land and sea routes; improved cooperation with U.S. law enforcement officials including allowing U.S. agents to resume carrying weapons on the Mexican side of the border; and a comprehensive program to identify, weed out, and prosecute corrupt officials at all levels of the Mexican government, police, and military.

You may feel, as many of us do, that U.S. interests in Mexico, economic and otherwise, are too extensive to risk the fall-out that would result from decertification. That is why Congress included a vital national interest waiver provision in Section 490 of the Foreign Assistance Act. But other vital interests are not a valid reason to certify when certification has not been earned. If you feel that our interests warrant it, we urge you to use this waiver. But an honest assessment of Mexico's cooperation on counternarcotics must fall on the side of decertification.

Sincerely,

Wayne Allard, Jeff Bingaman, Barbara Boxer, John Breaux, Richard Bryan, Max Cleland, Susan M. Collins, Kent Conrad, Paul Coverdell, Larry Craig, Alfonse D'Amato, Pete Domenici, Byron Dorgan, Dick Durbin, Russ Feingold, Dianne Feinstein, Wendell Ford, Slade Gorton, Judd Gregg, Chuck Hagel, Jesse Helms, Kay Bailey Hutchison, Tim Hutchinson, Dirk Kempthorne, Bob Kerrey, Jon Kyl, Mary Landrieu, Frank Lautenberg, Connie Mack, Patty Murray, Frank Murkowski, Daniel Patrick Moynihan, Carol Moseley-Braun, Jack Reed, Harry Reid, Rick Santorum, Ted Stevens, Robert Torricelli, and Ron Wyden.

ADDITIONAL COSPONSORS

S. 102

At the request of Mr. BREAUX, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 102, a bill to amend title XVIII of the Social Security Act to improve Medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes.

S. 146

At the request of Mr. ROCKEFELLER, the names of the Senator from Missouri [Mr. BOND], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 146, a bill to permit Medicare beneficiaries to enroll with qualified provider-sponsored organizations under title XVIII of the Social Security Act, and for other purposes.

S. 148

At the request of Mr. DASCHLE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 148, a bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome.

S. 211

At the request of Mr. WELLSTONE, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of S. 211, a bill to amend title 38, United States Code, to extend the period of time for the manifestation of chronic disabilities due to undiagnosed symptoms in veterans who served in the Persian Gulf war in order for those disabilities to be compensable by the Secretary of Veterans Affairs.

S. 242

At the request of Mr. MCCAIN, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 242, a bill to require a 60-vote supermajority in the Senate to pass any bill increasing taxes.

S. 317

At the request of Mr. CRAIG, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 317, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 341

At the request of Mr. ROTH, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 341, a bill to establish a bipartisan commission to study and provide recommendations on restoring the financial integrity of the Medicare Program under title XVIII of the Social Security Act.

S. 355

At the request of Mr. GRAMM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 355, a bill to amend the Internal Revenue Code of 1986 to make the research credit permanent.

S. 381

At the request of Mr. ROCKEFELLER, the names of the Senator from New Hampshire [Mr. GREGG), and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 381, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for Medicare beneficiaries with cancer who are enrolled in an approved clinical trail program.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

ADDITIONAL STATEMENTS

TRIBUTE TO SHIRLEY SMITH-POINTER

• Mr. MCCONNELL. Mr. President, I rise today to recognize Shirley Smith-Pointer who is retiring from the Social Security Administration after 34 years of Federal service.

Ms. Smith-Pointer held the positions of claims development clerk, data review technician, and claims representative—the position she held upon retiring. Her duties as a claims representative involved assisting the public in filing claims for retirement, survivors, disability, and Medicare, and also determining entitlement and making final adjudication for those claims.

In addition to her good work as a Social Security employee, Ms. Smith-Pointer was very active in, and helpful to, her community. She served as secretary, usher, and Sunday school teacher for her church. She has also been a member of the National Council of Negro Women and served the Chestnut Street YMCA's Black Achievers' Program.

Mr. President, I ask you and my colleagues to join me in recognizing Shirley Smith-Pointer for 34 years of dedicated service to the Federal Government.•

CHICAGO BOARD OF TRADE AND THE CHICAGO MERCANTILE EXCHANGE

• Ms. MOSELEY-BRAUN. Mr. President, today's Chicago Sun-Times contained an editorial headlined, "Loosen reins on CBOT, Merc." The editorial, talking about the Chicago Board of Trade, and the Chicago Mercantile Exchange, made the point that:

"Congress must loosen the regulatory reins on the Chicago Board of Trade and the Chicago Mercantile Exchange. Otherwise, officials argue convincingly, Chicago will lose business and jobs to the unregulated over the counter markets or overseas exchanges."

The Sun-Times had it exactly right. As in so many other areas of financial policy, the law has not kept up with economic reality. The world has changed. There is a revolution underway in finance, and, if the United States sits back and ignores the new realities of the marketplace, the result will be to seriously damage American financial marketplaces vis-a-vis their global competition, and to increasingly warp and distort the competition between and among various American financial markets.

We must respond; we must respond vigorously; and we must respond now. Chicago's future and option exchanges are an American treasure; their innovations literally created this industry and are in no small part responsible for American leadership in finance. And the creativity of the Chicago exchanges has had a huge payoff for the Chicago area. As the Sun-Times editorial pointed out:

"The stakes are high. For example, the exchanges calculate that have created 151,000 jobs in the Chicago area."

It is imperative, therefore, that we act quickly to reform the Commodity Futures Trading Act as quickly as possible, and that we do so in a way that enhances the ability of the American futures and options industry to meet both their less regulated competition here in the United States, and their evermore formidable competition abroad. I intend to work for quick enactment of the legislation put forward by the distinguished chairman of the Senate Agriculture Committee, Senator LUGAR. I urge my colleagues to join me, and to ensure that a procompetitive, commonsense approach that allows the futures exchanges to meet and compete with all comers passes this body before the snow melts in Illinois.

Mr. President, I ask that the full text of the Sun-Times editorial be printed in the RECORD.

The editorial follows:

[From the Chicago Sun-Times]

LOOSEN REINS ON CBOT, MERC

The futures markets have made Chicago a powerful player in world finance. Now that role is threatened by a regulatory system hamstringing the ability of the Chicago exchanges to compete in the rapidly changing global financial marketplace.

Congress must loosen the regulatory reins on the Chicago Board of Trade and the Chicago Mercantile Exchange. Otherwise, officials argue convincingly, Chicago will lose business and jobs to the unregulated over-the-counter markets or to overseas exchanges. The stakes are high. For example, the exchanges calculate that they have created 151,000 jobs in the Chicago area.

Exchange officials want Congress to lift all but a few reasonable restrictions for markets that are used solely by professional traders, money managers, mutual fund operators and the like. Asking for a level playing field is a reasonable request.

For example, anyone who sells futures on the Chicago exchanges must make regular reports on all trading activity regardless of size. This costly paper trail could be replaced with an on-call system. Also, anyone who sells futures is fingerprinted, an unwelcome burden on exchange customers. Over-the-counter markets require neither.

The futures market is an arcane, volatile world, inhabited mostly by people making their living taking huge risks and big businesses seeking to hedge their risks. It is a dangerous place for amateurs.

But market professionals, without looser restrictions, will move business out of Chicago to over-the counter or overseas exchanges as the financial futures marketplace grows. Congress should act on pending legislation to update the rules for the CBOT and the Merc.

The futures markets were to a large degree developed by finance pioneers in Chicago. The city—and the nation—can ill afford to see their role in world finance diminished.•

TRIBUTE TO J.P. BLEVINS

• Mr. McCONNELL. Mr. President, I rise today to congratulate a truly outstanding young man on the realization of his dream. J.P. Blevins, son of John P. and Martha Blevins, of Edmonton, KY, has been awarded a scholarship to play basketball for the national champion University of Kentucky Wildcats.

To date, this 17-year-old junior at Metcalfe County High School has had an outstanding basketball career. It all began in kindergarten when he was selected to play with third-graders during gym class. As a seventh grader he played point guard for the varsity team in the district final. And as a high school freshman he scored his 1,000th point. When he was 5 years old he disciplined himself to dribble with both hands by wearing cutoff jean shorts and then shoving his right hand into his right pocket. The result? This season a 26 point scoring average. These achievements were the result of many hours of discipline and hard work and—most of all—an intense passion for the game. Remarkably, his zeal for basketball did not cause him to neglect his studies; he is a straight A student.

Perhaps what is most remarkable of all is that J.P. Blevins has remained modest throughout the attention and praise lavished on him. This is especially refreshing and encouraging in an age where many of our athletic stars demonstrate a profound disregard for others, an appalling arrogance, and gross self-indulgence. In a Courier-Journal article, Blevin's father was quoted as saying: "I really believe he has continued to stay humble, even though this is the greatest thing that has happened in his life."

In Metcalfe County, and indeed, throughout the State, basketball occupies a special place in the lives of Kentuckians. It is not just entertainment, but rather a source of pride and glory. The community which helped to raise Mr. Blevins is justifiably proud of their native son. Despite numerous offers from out-of-State universities, some having sent 4 or 5 letters a day, Blevins has decided there's just no place like home.

According to a recent article, each night, as J.P. is falling asleep, the last thing he sees is a blue flag emblazoned with a white "K" which hangs on his bedroom wall. On the white "K" is an autograph from the Wildcats' coach, Rick Pitino. In his scrapbook, according to the Courier-Journal, Blevins wrote "Pitino's autograph to me is more important than the President's."

You may recall the University of Kentucky's recent NCAA championship victory. I am sure that this fine young man will help them to secure many further triumphs. Mr. President, I ask that a recent article from the Courier-Journal be included in the CONGRESSIONAL RECORD.

The article follows:

[From the Courier-Journal, Jan. 25, 1997]

BIG BLUE DREAM COMES TRUE FOR TOWN AND TALENTED TEEN

(By Mark Woods)

EDMONTON, KY.—The first autograph request came two years ago.

J.P. Blevins, then a freshman at Metcalfe County High School, was sitting on the bus after a basketball game at Marion County when his coach, Tim McMurtrey, told him he had left his shoes in the locker room.

"I knew I hadn't, so I wasn't sure what was going on," Blevins said.

He went into the locker room and found a man and a young boy standing there.

The boy was crying. The father explained that his son thought Blevins had already left.

"We're big Kentucky fans," the father said. "And we hear they're going after you.

My son is dying for an autograph. Could you sign this?"

It would be one thing if Edmonton, a rural town east of Bowling Green a couple miles off the Cumberland Parkway, had produced another kind of prodigy.

For instance, suppose John Paul Blevins were a violinist who had been invited to play Carnegie Hall.

That would be noteworthy, but, let's be honest, it wouldn't create quite the same fuss as this . . . a point guard who has been asked to play Rupp Arena.

This is a boy who at age 5 devised a system for learning to dribble with both hands—wear cutoff jean shorts, shove the right hand in the back pocket, spend all summer in the backyard dribbling with only the left hand.

This is a boy who in kindergarten was put with the third-graders in gym class, who as a seventh-grader played point guard for the varsity team in the district final, who as a freshman scored his 1,000th point and who a month ago, as only a junior, heard University of Kentucky coach Rick Pitino saying seven magical words:

"We want you to be a Wildcat."

What does this mean to Edmonton that 17-year-old Blevins has said, yes, he will take a scholarship to play for UK in 1998?

Put it this way: The blue sign on Randolph Road says Edmonton's population is 1,630; the gym at the high school holds 2,000 and is usually near capacity for games.

Put it another way: They say the phone lines in Edmonton could go down during a Kentucky basketball game and nobody would know.

"The phone never rings during UK games," said John P. Blevins, Metcalfe County attorney and father of the future Wildcat player. "Everybody is either watching or listening. The game is on in all the restaurants. It's on in the nursing homes. It's on in all the households."

Put it one more way: No Metcalfe County player has ever been offered a scholarship to play for UK.

In the early '60s, Doug Clemmons did get a basketball scholarship. But that was at Eastern Kentucky University. Heidi Coleman playing for Wake Forest.

And then there are the local boys who formed the country band "The Kentucky Headhunters" and made it in Nashville.

But this is different.

This about making it at UK.

It isn't the Commonwealth's version of the Damon Bailey story. It's even more wonderfully far-fetched.

Bailey, who during his junior years of high school made a verbal commitment to play for Indiana University, came from a small town, but he had plenty of help catching the eyes of college coaches. He went to a larger high school. He had media attention.

Blevins' school graduates about 11 students each year. Trips to the state tournament are once in a lifetime (1985 is the only one) and media coverage is nearly as rare.

As you enter the place, you see a banner that seems fitting these days. "Our school . . . a place where HOPE begins and DREAMS come true."

Although Metcalfe County High has made plenty of other dreams come true—for instance, one of J.P.'s two older brothers, John, is a sophomore at Yale University right now—it will be tough to top what his story means to this town.

"We're all very proud," said Harold Chambers, the assistant principal and athletic director. "I'm sure it won't be repeated in my lifetime."

It wouldn't be right to call this a one stoplight town. There are two of them—both flashing red hanging over one intersection on the corner of a town square that brings to mind make-believe places like Mayberry and Bedford Falls.

In the middle of the square sits the courthouse, a two-story white building. One the four streets that surround it are the library, the bank, the funeral home, the post office, an office for the county attorney, one for the judge, Nunn's Drugs, Rexall's Drugs, Red Wing Shoes, Cliff and Judy's Coffee Shop.

If it's not a sleepy little town, it certainly was nodding off.

"About the only excitement we had around here in a while is when someone shot my jukebox with a 9mm," says Cliff Shew, owner of the coffee shop.

There are equal numbers of parking meters and liquor stores in sight Zero. This is a dry county. But if you're looking for a church, Metcalfe County can offer 39 options.

The county's 8,963 residents are spread out over rolling land, 200 square miles of it. Most vote Republican. Most farm. Most have never been in Rupp Arena for a Wildcat game.

But, if there's any doubt about whether this is UK country, it disappears with a walk around the square.

UK DREAM COMES TRUE FOR SMALL TOWN AND TALENTED TEEN

Three doors down from Blevins' office is Murrell's clothing store. A sign in the corner of one window says "Tuxedo Rental." The rest of the window is filled with Wildcat and Metcalfe County Hornets souvenirs.

The store has plenty of everyday clothing. Jeans. Dress pants. Sweaters. But the woman at the counter is purchasing the tiny sweatshirt and sweatpants that say. "I'm a Little Wildcat."

Lourene Hurt, 65, has barely finished ringing up the sale when the phone rings.

"Someone else placing an order (for the sweats)," she says afterward.

Maybe Blevins' commitment has nothing to do with this. but it certainly makes it easier to believe it's possible to go from being a little Wildcat in Edmonton to a real one in Lexington.

"We had a cheerleader up there a few years ago," Hurt says. "But I believe this is a first. . . . We're all real proud."

A couple doors down is the coffee shop. It has pool tables in back. And in front, behind the counter, the shelves are stocked with candy bars, Skoal and shotgun shells.

Ask a few of the regulars if they know J.P. Blevins and they look at you like it's a silly question.

"I knew his granddaddy," says Bill Cooksey, 77. "I used to drive him in my cab."

In one corner of the square sits a memorial erected by Edmonton Post No. 154 of the American Legion. It lists the names of the soldiers who lost their lives in our wars: eight in World War I, 17 in World War II, two in Vietnam.

The people here say they share in each other's losses.

They also say they share in each other's victories.

When the big announcement came, said Carol Perkins, one of Blevins' teachers, "We were all teary-eyed, hugging the coach, hugging J.P. When something good happens to one of us, it happens to all of us."

Straight A's. A face and haircut that look kind of like Ron Howard in the Richie Cunningham days. And a head that everyone insists hasn't swollen one centimeter with the news that he will be going to Kentucky on a basketball scholarship.

"He's not flamboyant about his talents, athletically or academically," said Perkins, who had Blevins in her English honors class last semester. "You might think he would saunter in and say, 'Look at me.' But he's not like that at all. He makes a point to blend."

Not always, though. Take that time in seventh grade when after dinner he asked a couple of the older varsity teammates if they could give him a lift home.

Sure, they said, get in the back of the truck.

They ended up driving around town for 45 minutes, honking the horn and yelling, "J.P. Blevins, homecoming candidate."

An embarrassed Blevins eventually just lay down in the flatbed.

That incident seems to epitomize Blevins' demeanor. He wouldn't mind being the homecoming king, the basketball star, the valedictorian. But he's not going to be the one looking to call too much attention to it.

Blevins never went around bragging that he had been invited to three of UI's Midnight Madnesses. He didn't bother telling classmates that he was getting letters from basically every big-time college in the country. Even on the day after he made the verbal commitment to UK he seemed like the same old J.P.

"I have to say that's one of his most admirable traits," his father said. "I really believe he has continued to stay humble . . . even though this is the greatest thing that has happened in his life.

"It was his dream since he was a little boy. And you figure it's OK to let him dream, OK to let him aim high. But no one knew it would become reality."

How did it become a reality?

McMurtrey tried to answer that question as he watched over an elementary school gym class patiently handling interruptions such as one group of young girls running over and yelling, "Mr. Mac, Mr. Mac, those boys are making faces at us."

Later in the afternoon, before practice, Mr. Mac would be driving a city bus.

This is life in the small city.

Yet, somehow McMurtrey and Edmonton managed to produce this 6-foot-2 guard with the 26-point scoring average and the amazing ease with a basketball in his hands.

Although McMurtrey has worked with Blevins since kindergarten, he doesn't try to take credit. Nor do Blevin's parents. Nor his two older brothers. All of them point back to the determination of the little boy in the cut-off shorts.

That was the start.

He wasn't even in kindergarten when his oldest sibling, half-brother David Garmon, came home from college and told him he should work on his left hand.

He might be giving a lecture, thinking all the balls were put away, when he would see Blevins playing with one.

"He'd always wind up with a ball in his hands," McMurtrey said. "And even though you weren't happy he had the ball, you couldn't get too mad."

To understand what happened from there, perhaps it is best to take a tour of the Blevins' two-story brick house.

His mother pulls out a scapbook-like "autobiography" that J.P. had to put together as a class project in eighth grade.

On one of the first pages, there is a picture of J.P. taking a jump shot in his "favorite basketball shoes." His first ones. A pair of red and black Air Jordans.

There's a team photo from second grade—the year he made the two game-winning free throws.

"We couldn't get his uniform off him afterward," she said. "He slept on it."

There aren't any shots of Blevins wearing an "I'm a Little Wildcat" sweatshirt. But in the basement, surrounded by all the basketballs he has won through the years at UK basketball camps, is a photo of him climbing in a tree, wearing a somewhat prophetic T-shirt.

"Hang on Joe, I'm on my way," it says.

Joe B. Hall, of course, didn't hang on, and Eddie Sutton came and went.

But then Pitino arrived in time for young J.P.'s first UK basketball camp. It was there in the summer of 1989 that The Picture was taken.

It is on the shelf in the basement. It is in his bedroom. It is in the autobiography. Under the photo, of J.P. at age 9 and a certain basketball coach at age 37, Blevins wrote: "Pitino's autograph to me more important than president's."

On the last page of that project, it reads: "Big Blue Dream. I can."

By this time, he already was a starter on the varsity team. He had begun his seventh-grade season on the freshman team, but quickly began seeing more time with the junior varsity team and eventually the varsity.

"We found out that he was one of our best seven, eight players," McMurtrey said. "In the district final, our point guard, a senior, got three fouls. J.P. ended up playing 22 minutes, scoring eight points. He played very, very well. Even at that age, people couldn't take the ball away from him."

"He'd go out to the court behind our house, stick his right hand in the back pocket and dribble for 30 to 40 minutes, take a break to get a drink of water and then do it all over," his father said.

When he got to kindergarten, he already was a better ballhandler than children years older. So he was put in a group of third-graders.

It was about this time that McMurtrey began to notice the ever-present ball.

"We would have had to do some redecorating if he had gone somewhere else," his mother says on the way to the room.

On one side of the bed, there is a poster of Rupp Arena and a license plate that says, "I'm 4 UK." Above the headboard is a print of "the Unforgettables." On the wall opposite the foot of the bed is a poster autographed by his favorite player—former UK star Rex Chapman.

A UK bean bag chair sits on the floor, not far from a UK championship floor mat. And hanging on the wall next to the bedside reading lamp is the most prized possession: a blue flag with a white K.

Inside the K is a fading Rick Pitino signature from the camp he attended at age 9. Blevins points at it and says, "The last thing I see before going to bed is this flag."

It's not hard to figure out why Blevins bleeds blue. It's a matter of heredity. Dad can recall listening to UK games B.C. (before Cawood). Mom—Martha, a fifth-grade teacher—can debate which UK player had the sweetest jump shot ever (Jack Givens is her pick).

Shortly after Christmas, he got the offer from UK.

"He had to wait a couple days to make his decision," McMurtrey said. "But I think his mind was made up before the phone was hung up."

Blevins could have waited until his senior season. He could have weighed the options a little more. But why bother? All that practicing—sometimes sneaking into the gym with borrowed keys, once even climbing through a window—was done with one thing in mind:

"To play for Kentucky . . .," he said. "When I put on that blue jersey, I'll know what that means."•

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–3

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that the Injunction of Secrecy be removed from the following treaty submitted to the Senate on March 3, 1997, by the President of the United States: Agreement with Hong Kong for the Surrender of Fugitive Offenders (Treaty Document No. 105–3). I further ask that the treaty be considered as having been read the first time, that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The President's message is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification as a treaty, I transmit herewith the Agreement Between the Government of the United States of America and the Government of Hong Kong for the Surrender of Fugitive Offenders signed at Hong Kong on December 20, 1996 (hereinafter referred to as "the Agreement"). In addition, I transmit for the information of the Senate, the report of the Department of State with respect to the Agreement. As a treaty, this Agreement will not require implementing legislation.

This Agreement will, upon entry into force, enhance cooperation between the law enforcement communities of the United States and Hong Kong, and will provide a framework and basic protections for extraditions after the reversion of Hong Kong to the sovereignty of the People's Republic of China on July 1, 1997. Given the absence of an extradition treaty with the People's Republic of China, this Treaty would provide the means to continue an extradition relationship with Hong Kong after reversion and avoid a gap in law enforcement. It will thereby make a significant contribution to international law enforcement efforts.

The provisions in this Agreement follow generally the form and content of extradition treaties recently concluded by the United States. In addition, the Agreement contains several provisions specially designed in light of the particular status of Hong Kong. The Agreement's basic protections for fugitives are also made expressly applicable to fugitives surrendered by the two parties before the new treaty enters into force.

I recommend that the Senate give early and favorable consideration to the Agreement and give its advice and consent to its ratification as a treaty.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 3, 1997.*

ORDER FOR RECORD TO REMAIN OPEN

Mr. LOTT. Mr. President, I ask unanimous consent that the RECORD remain open until 5 p.m. for the introduction of legislation and submission of statements.

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

ORDERS FOR TUESDAY, MARCH 4, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Tuesday, March 4. I further ask that immediately following the prayer, the routine requests through the morning hour be granted and 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.

Mr. LOTT. I ask unanimous consent that the Senate stand in recess between the hours of 12:30 and 2:15 p.m. tomorrow in order for the weekly party caucuses to meet.

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

PROGRAM

Mr. LOTT. For the information of all Senators, tomorrow the Senate will, under previous order, as I just stated, resume consideration of Senate Joint Resolution 1. From 9:30 a.m. to 12:30 p.m., time will be equally divided between the two managers for closing remarks on Senate Joint Resolution 1.

Mr. President, following the weekly recess for the lunches, the Senate will resume consideration of the constitutional amendment at 2:15 p.m., with the manager on the Democratic side controlling the first hour of debate, with Senator BYRD being recognized for 20 of those minutes. The following hour will be under the control of Senator HATCH. The Democratic leader or his designee will control the next 30 minutes. Debate on Senate Joint Resolution 1 will conclude with 30 minutes under the control of the majority leader or his designee, and at 5:15 p.m. the Senate will vote on the passage of Senate Joint Resolution 1.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is 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 5:31 p.m., adjourned until Tuesday, March 4, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, March 3, 1997:

DEPARTMENT OF COMMERCE

ROBERT S. LARUSSA, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE SUSAN G. ESSERMAN.

DEPARTMENT OF JUSTICE

JOEL I. KLEIN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ATTORNEY GENERAL, ANNE BINGAMAN, RESIGNED.