SENATE—*Monday, February 24, 1997*

The Senate met at 11:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Our prayer today is George Washington's "Prayer for the United States of America," as it is preserved on the chapel wall at Valley Forge. Let us pray.

"Almighty God: We make our earnest prayer that Thou wilt keep the United States in Thy holy protection; that Thou wilt incline the hearts of the citizens to cultivate a spirit of subordination and obedience to the government, and entertain a brotherly affection and love for one another and for their fellow citizens of the United States at large. And finally that Thou wilt most graciously be pleased to dispose us all to do justice, to love mercy, and to demean ourselves with that charity, humility, and pacific temper of mind which were the characteristics of the Divine Author of our blessed religion, and without a humble imitation of whose example in these things, we can never hope to be a happy Nation. Grant our supplication, we beseech Thee, through Jesus Christ our Lord. Amen."

READING OF WASHINGTON'S FAREWELL ADDRESS

The PRESIDENT pro tempore. Pursuant to the order of the Senate of January 24, 1901, as modified on February 12, 1997, the Senator from Tennessee, Mr. FRIST, shall now read Washington's Farewell Address.

Mr. FRIST, at the rostrum, read the Farewell Address, as follows:

To the people of the United States.

FRIENDS AND FELLOW CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those, out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken, without strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest; no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in the office to which your suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust, were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government, the best exertions of which a very fallible judgment was capable. Not unconscious in the outset, of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and, every day, the increasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is to terminate the career of my political life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country, for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that under circumstances in which the passions, agitated in every direction, were liable to mislead amidst appearances sometimes dubious, vicissitudes of fortune often discouraging—in situations in which not unfrequently, want of success has countenanced the spirit of criticism,—the constancy of your support was the essential prop of the efforts, and a guarantee of the plans, by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave, as a strong incitement to unceasing vows that heaven may continue to you the choicest tokens of its beneficence—that your union and brotherly affection may be perpetual—that the free constitution, which is the work of your hands, may be sacredly maintained—that its administration in every department may be stamped with wisdom and virtue—that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation, and so prudent a use of this blessing, as will acquire to them the glory of recommending it to the applause, the affection and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me, on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a people. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The unity of government which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence; the support of your tranquility at home: your peace abroad; of your safety; of your prosperity; of that very liberty which you so highly prize. But, as it is easy to foresee that, from different causes and from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed; it is of infinite movement, that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth, or choice, of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess, are the work of joint counsels, and joint efforts, of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest.—Here, every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

The *north*, in an unrestrained intercourse with the *south*, protected by the equal laws of a common government, finds in the productions of the latter, great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry.—The *south*, in the same intercourse, benefiting by the same agency of the *north*, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the *north*, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength, to which itself is unequally adapted. The *east*, in a like intercourse with the *west*, already finds, and in the progressive improvement of interior communications by land and water, will more and more find a valuable vent for the commodities which it brings from abroad, or manufactures at home. The *west* derives from the *east* supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the *secure* enjoyment of indispensable *outlets* for its own productions, to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as *one nation*. Any other tenure by which the *west* can hold this essential advantage, whether derived from its own separate strength; or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts, greater strength, greater resource proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value, they must derive from union, an exemption from those broils and wars between themselves, which so frequently afflict neighboring countries not tied together by the same government; which their own rivalship alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues, would stimulate and embitter.—Hence likewise, they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who, in any quarter, may endeavor to weaken its hands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by *geographical* discriminations,—*northern* and *southern*—*Atlantic* and *western*; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourself too much against the jealousies and heart burnings which spring from these misrepresentations: they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head: they have seen, in the negotiation by the executive, and in the unanimous ratification by the senate of the treaty with Spain, and in the universal satisfaction at the event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government and in the Atlantic states, unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the union by which they were procured? will they not henceforth be deaf to those advisers, if such they are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute; they must inevitably experience the infractions and interruptions which all alliances, in all times, have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a constitution of government, better calculated than your former, for an intimate union, and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers,

uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government.—But the constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power, and the right of the people to establish government, presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberations and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency.—They serve to organize faction, to give it an artificial and extraordinary force, to put in the place of the delegated will of the nation the will of party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils, and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men, will be enable to subvert the power of the people, and to usurp for themselves the reigns of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular opposition to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretext. One method of assault may be to effect, in the forms of the constitution, alterations which will impair the energy of the system; and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments, as of other human institutions:—that experience is the surest standard by which to test the real tendency of the existing constitution of a country:—that facility in changes, upon the credit of mere hypothesis and opinion, exposes to perpetual change from the endless variety of hypothesis and opinion: and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable. Liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name, where the government is too feeble to withstand the enterprises of fraction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular references to the founding them on geographical discrimination. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind.—It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism.—But this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purpose of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it in the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms; kindles the animosity of one part against another; forments occasional riot and insurrection. It opens the door to foreign influence and corruption, which finds a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This within certain limits is probably true; and in governments of a monarchial cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent it bursting into a flame, lest instead of warming, it should consume.

It is important likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominate in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern: some of them in our country and under our own eyes.—To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the constitution designates.—But let there be no change by usurpation; for through this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil, any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish

them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths which are the instruments of investigation in courts of justice? and let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect, that national morality can prevail in exclusion of religious principle.

It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering, also, that timely disbursements, to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions, in time of peace, to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should co-operate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind, that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper object (which is always a choice of difficulties), ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue, which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all. Religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt but, in the course of time and things, the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it; can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan, nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachment for others, should be excluded; and that, in place of them, just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity, or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another, disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence, frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times, it makes the animosity of the nation's subservient to projects of hostility, instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty of nations, has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest, in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducements or justifications. It leads also to concessions, to the favorite nation, or privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained, and by exciting jealously, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted or deluded citizens who devote themselves to the favorite nation, facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding with the appearances of virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils!—Such an attachment of a small or weak, towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence, (I conjure you to believe me fellow citizens,) the jealousy of a free people ought to be *constantly* awake; since history and experience prove, that foreign influence is one of the most baneful foes of republican government. But that jealously, to be useful, must be impartial, else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike for another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people, to surrender their interests.

The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little *political* connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith:—Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon, to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation, when we may choose peace or war, as our interest, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliance with any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than private affairs, that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary, and would be unwise to extend them.

Taking care always to keep ourselves by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, and a liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing; establishing with powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another; that is must pay with a portion of its independence for whatever it may accept under that character; that by such acceptance, it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect, or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish; that they will control the usual current of the passions, or prevent our nation from running the course which has hitherto marked the destiny of nations, but if I may even flatter myself that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism; this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far, in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is, that I have, at least, believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April, 1793, is the index to my plan. Sanctioned by your approving voice, and by that of your representatives in both houses of congress, the spirit of that measure has continually governed me, uninfuenced by any attempts to deter or divert me from it.

After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound, in duty and interest, to take a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance and firmness.

The considerations which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without any thing more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress, without interruption, to that degree of strength, and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration, I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence; and that, after forty-five years of my life dedicated to its service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a man who views in it the native soil of himself and his progenitors for several generations; I anticipate with pleasing expectation that in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow citizens, the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

GEO. WASHINGTON.

UNITED STATES,
17th September, 1796.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. KYL). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1:30, with the time equally divided between the two leaders.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

SCHEDULE

Mr. DEWINE. Mr. President, on behalf of the leader, I wish to announce that today the Senate will be in a period of morning business until the hour of 1:30 p.m., with the time equally divided between the two leaders.

At 1:30 today, the Senate will resume consideration of House Joint Resolution 36 regarding U.N. population funding. Following 2 hours of debate on that resolution, the resolution will be temporarily set aside and the Senate will then resume consideration of Senate Joint Resolution 1, the constitutional balanced budget amendment.

From 3:30 today to 5:30 today, the Senate will debate Senator BYRD's amendment relating to section 6 of the balanced budget amendment. All Senators should be reminded that at 5:30 this afternoon there will be a rollcall vote in relation to the pending Byrd amendment.

Following that vote this afternoon, Senator REID will be recognized to offer his amendment regarding Social

Security. The Senate will continue debating that amendment tomorrow morning and afternoon, with a vote occurring on or in relation to that amendment at 6 p.m. on Tuesday.

Also, I remind our colleagues that we will be voting on the U.N. population funding resolution at 2:15 on Tuesday afternoon immediately following the weekly policy conferences. Following the vote on Senator REID's amendment to Senate Joint Resolution 1, Senator FEINSTEIN will offer an amendment. We will debate that amendment from 9 a.m. to 11 a.m. on Wednesday, with the vote occurring at 11 a.m. on that amendment.

The majority leader thanks his colleagues for their cooperation in allowing the Senate to move forward on both of these matters.

I further remind all Senators that the leadership hopes to complete action on the balanced budget amendment as soon as possible, and the leader will continue to update all of us as we make progress on this issue.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative 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. Without objection, it is so ordered.

SENATOR JOHN GLENN'S ANNOUNCED RETIREMENT

Mr. DEWINE. Mr. President, I rise today to commemorate a very important milestone in the history of the State of Ohio and in the history of this body on this, the first day the Senate has met since my colleague Senator JOHN GLENN announced that he was retiring from this body. On behalf of the people of Ohio and on behalf of the U.S. Senate, I have the privilege of paying respects to Senator GLENN, to pay respects to my senior Senator, our friend and our colleague, on the occasion of the announcement of his retirement from the U.S. Senate. Senator GLENN has served Ohio and the Senate for a longer consecutive period than any other individual in the history of our State. When he leaves office 2 years from now, he will have served in this body for 24 consecutive years. Over this almost quarter of a century of service, Senator GLENN has established a reputation as a man who knows the importance of details. Senator GLENN realizes that the most important work done in this Chamber is not the sound bites, not the press conferences, but the nitty-gritty of making this complicated legislative process work for the people who sent us here.

Despite the fact that I have only been in the Senate for a little over 2 years, in many ways I feel I know Senator GLENN better than many who have served with him for a lot longer period of time. This is true, in part at least, I suspect, because he and I fought a very tough campaign against each other in 1992. It was a tough, hard-fought campaign. Let no one doubt—I can say this from personal experience—let no one doubt that behind JOHN GLENN's kind, grandfatherly exterior beats the heart of a true marine, a man who is willing to fight very hard for what he believes is right. That has been something that has really been the hallmark of JOHN GLENN's life of service to this country, from his service in World War II and Korea to his service in the military to his work in the space program to this very day, as he continues his service to this country in the U.S. Senate.

Two years after that campaign, I was elected to the Senate, and it became important, then, for Senator GLENN and me to build a relationship, to build a relationship to benefit all Ohioans. I think we have done that. In the 2 years since then, I have found that Senator GLENN's attitude to the work of the Senate really should serve as a model for all the rest of us. In a campaign, you fight hard, but when you are in the Senate, when you are one of the 100 Members of the U.S. Senate drawn from all over this country, there is a different kind of work to be done. I have worked with Senator GLENN on the floor, worked with him on different issues, and he has unfailingly put the interests of Ohio and the interests of this country first.

I am sure we will continue to disagree on some issues, but our disagreements are buried whenever we have a chance to accomplish something for Ohioans by working together. Some may say that Senator GLENN's style of leadership is too bipartisan for modern politics, too bipartisan for this day and age, too bipartisan for this town. If that is true, it is a shame, because the dedication to bipartisanship exemplified by JOHN GLENN, through his service in the Senate, I think should serve as an example for all of us.

It was significant that Senator GLENN chose the 35th anniversary of his three orbits around the Earth to make his announcement that he was leaving the Senate.

I think as an Ohioan, it was also significant to see where he made that announcement. He went back home to Muskingum College, New Concord, OH, a town where he had been raised, where he grew up, a town where there is now a high school named after him, the John Glenn High School. He went home to make this announcement to the people of the State of Ohio.

I think it was also significant that he made the announcement in front of an audience of primarily young people. JOHN GLENN has always been someone who has thought about the future. How many times have we heard him come to the floor and talk about young people, talk about investment in young people, talk about what we have to do to prepare them and us for the next century? So it was significant that he went home to make this speech and significant that he was talking to young people when he did it.

I was reminded, as I think many Americans were, when I heard the official news that JOHN GLENN was going to retire, where I was 35 years ago—at least those of us who are old enough to remember—when he made that historic flight. My future wife and I were freshmen at Yellow Springs High School, Yellow Springs, OH. On the particular moment that he took off, I happened to be in Ed Wingard's science class and remember listening on the radio, and watching on TV later in the day, as we followed his progress for the next few hours. JOHN GLENN, on that date, captured the hearts of Americans, and he guaranteed his place in the history of this country and the history of this world.

We took a great deal of pride, those of us from Ohio, in what our native son was doing on that date. It was clear that NASA had selected the right person to make the trip, not just because of his nerves of steel, not just because of his technical ability, but it was also clear why they picked JOHN GLENN when he came back. It was clear that this was a person who young people across the country could look up to, that this was someone who should be considered a national hero and a national treasure.

We should not talk today as if JOHN GLENN will not be with us. JOHN GLENN is going to be with us for 2 more years in this body. We are going to argue about some things, agree on some things, but JOHN GLENN will continue for the next 2 years to do what he has done throughout his lifetime, and that is serve the people of the State of Ohio and serve this great country that he loves so very much.

So let me, on behalf of the people of the State of Ohio, again say thank you to JOHN GLENN for his service to his country, for his service to the State of Ohio, and thank him for being a role model for all of us 35 years ago and for continuing to be a role model today.

Mr. President, I yield the floor and 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. Without objection, it is so ordered.

SAFETY OF OUR CHILDREN

Mr. DEWINE. Mr. President, I rise today to thank President Clinton for

lending his voice to one of the most important efforts underway in this Congress. On February 14, the President unveiled a proposal that would help provide children with safe homes and loving families, something that every child deserves. This is a victory for America's children, and I believe a victory for good common sense. It recognizes that the safety of our children must always be our most important consideration.

Mr. President, let no one doubt how important this issue is and why action by this Congress is so necessary. On a number of occasions over the last year, I have come to the floor of the Senate to discuss a provision in Federal law, that has tragedy in it, which has proven dangerous to the safety of America's children. I have on those occasions discussed the fact that too many children are spending their most important, most formative years in a legal limbo, a legal limbo that denies them their chance to be adopted, that denies them what all children should have: the chance to be loved and cared for by parents.

Mr. President, we are sending too many children back to dangerous and abusive homes. We are sending them back to the custody of people who have already abused them, already tortured them, and we do it, tragically, knowing that that has already taken place.

The statistics are frightening. Every day in this country, three children actually die of abuse and neglect at the hands of their own parents or caretakers. That is over 1,200 children per year. Almost half of these children—almost half of them—are killed after their tragic circumstances have already come to the attention of local authorities. That means 600 children die every year in cases where we, as a society, already know that they have been abused, already know that they may have been tortured, already know that they really should never go back into that home again.

Mr. President, some of the tragedies in the child welfare system are the unintended consequence of a small part of a law passed by the U.S. Congress in 1980—basically, Mr. President, a good law. Under the Federal Child Welfare Act—the law I am referring to—for a State to be eligible for Federal matching funds for foster care expenditures, the State must have a plan for the provision of child welfare services approved by the Secretary of HHS. The State plan must provide—here I quote from statute—"that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home."

In other words, Mr. President, no matter what the particular circumstances of a household may be, a State must make reasonable efforts to keep it together, and to put it back together if it has fallen apart.

There is strong evidence, Mr. President, strong evidence to suggest that, in practice, reasonable efforts have become extraordinary efforts, efforts to keep families together at all costs, efforts, I might add, to keep families together that are families in name only and to put children back in homes that are homes in name only.

As a result of this, Mr. President, children have died. That law simply has to be changed. One of my first legislative acts of the Congress was to introduce a bill that would accomplish this.

My bill would change the law to make it absolutely clear that the best interests of the child have to come first. Pretty basic, pretty simple—best interests of the child, safety of a child. You would not think we would have to clarify that.

I tell you, Mr. President, based on my experience in talking to judges, prosecutors, in talking to children service advocates, children service caseworkers across the State of Ohio, and from talking to some of my colleagues from other States, and from hearing testimony in our committee, it is abundantly clear to me that we have to spell this out, that it is being misinterpreted, that reasonable efforts to put families back together many times take precedence over the best interests of the child and the safety of the child.

As I said, Mr. President, my bill would change the law to make it clear that the best interests of the child must come first. We do this by enacting the following simple, straightforward amendment to the Child Welfare Act. And this is what language I would add, not taking anything away, just add this:

> In determining reasonable efforts, the best interests of the child, including the child's health and safety, shall be of primary concern.

Pretty simple, Mr. President, pretty straightforward, pretty basic, but darn important.

In November, Mr. President, I chaired a hearing of the Senate Labor and Human Resources Committee on this issue. I assembled some of America's chief experts on child welfare. And I was encouraged by what they had to say.

Peter Digre, the director of Los Angeles County's Department of Children and Family Services—an unbelievably huge department, and a man who has to deal with gut-wrenching problems and decisions every single day of his life—this is what Peter Digre said. He said that "we should emphasize child safety as our first priority."

Dr. Digre's department has about 73,000 children under its protection—73,000. He sees the real-life consequence of unreasonable attempts to reunite families that are families in name only.

But, Mr. President, I believe our most eloquent testimony that day came from Sharon Aulton, a grandmother in Annapolis, MD. Sharon Aulton had warned the local children services that her daughter was neglecting her children, her grandchildren, but the officials failed to intervene. Sharon Aulton's daughter ended up blockading her children in a room and setting the room on fire. Both these beautiful young children died.

Mr. President, this happens too often in this country. Last August a 4-year-old girl named Nadine was found starved to death in her mother's apartment in New York. The mother had kept Nadine in a crib covered by a blanket so she did not have to see her. She did not feed the child regularly for the year preceding her death. In the last few months before the child's death, she did not seek medical help despite the fact that the child could not walk, could not stand, could not even sit up.

Apparently, Mr. President, city social workers had visited the apartment in May 1995 after an anonymous complaint about the little girl's treatment. The commissioner of the Administration for Children Services was unable to provide any information as to the conditions found in the apartment or what action was taken at that time by the city. However, the commissioner did say the city investigators found enough credible evidence of neglect to open an investigation after they visited the apartment, but yet the case was closed 5 months later. Nadine only weighed 15 pounds at the time of her death—a week before her 5th birthday.

Mr. President, I have a daughter who is almost 5, my daughter Anna. Those of us who have children, those of us who care about kids, have to be heartsick and shocked by the recounting of this poor little child's death. According to the ambulance workers, Mr. President, Nadine was found in the crib, dirty, with arms as thin as a half-dollar, her eyes sunken, her hair in patches, her ribs protruding. Her mother at that time, when the emergency folks responded, was sitting on a bed near the crib eating a hot dog. That is how they found the mother when the medics arrived at the home.

The New York Daily News obtained secret documents which indicate how city child welfare workers and public school officials repeatedly ignored warning signals in Nadine's case. That is from the New York Daily News.

School officials never turned in Nadine's mother for not showing up for school, nor did anyone report the fact she did not show up for medical appointments. Officials did not notify the State child abuse hotline when Nadine's siblings were out of school for long periods of time.

In May 1995, the anonymous caller I mentioned earlier reported to the State child abuse hotline that Nadine was, in fact, starving.

Mr. President, tragically, Nadine is far from alone in falling through the cracks in our system. In December, a 10-month-old girl named Delores died after savagely being beaten by her mother's boyfriend; ten weeks earlier, child welfare officials had been warned that she and her siblings were in danger.

Mr. President, let me be very clear—I cannot stress enough that I am not trying to lay the blame on children's services officials in these cases. I worked with children services officials for many years, going back in time to when I was an assistant county prosecutor in 1973. These are good people, people who try to do their job. They generally are overworked and have too many cases and have many challenges to face.

I think it is clear as we look at these cases of abuse, as we recount the fact that we lose at least three kids every day to child abuse in this country—and those are just the kids who die, let alone the other ones who are savagely beaten or abused—I think it is clear that there is one part of this problem that Congress can fix. We cannot fix it all by passing legislation. We can try. But one part of the problem can be fixed, and that is to move forward in fixing, in clarifying the 1980 law that I refer to, to make it clear that we want these professionals, children's service workers, to have the flexibility to do what we all want done, and what they want to do, and that is to save the kids first, save the children, to set as a priority the best interests of the child and the safety of the child, and that priority has to take precedence over everything else.

These case workers work very hard to meet, many times, conflicting mandates. We should make their job a little easier and say to them that Federal law from now on will be abundantly clear, that the primary mission should always be to save the children.

Mr. President, some families are families in name only, and simply should not, should not be reunited. Mr. President, my proposed legislation would change the law to make this the key goal. I think Washington Post columnist Mary McGrory made the case in a very compelling way in her column of February 9. I ask unanimous consent that column be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DEWINE. Mr. President, let me conclude by saying once again how pleased I am that the President has joined our efforts. I am confident that his proposal will help us speed up the adoption process in this country and bring us closer to the day when every child in America will be cared for by a loving family. Mr. President, I will continue to come to the floor and talk about this issue until we make that change in Federal law. It is a change that is urgently needed.

I simply conclude by saying what I have said many times on this floor, and that is that it was never, I am sure, the intent of the authors of the 1980 law—which has done a great deal of good in this country—it was never their intention to in any way tell case workers who are making life and death decisions every day in this country that anything other than the best interests of the child, anything other than the safety of children should be their primary concern. But it is also abundantly clear to me, I have traveled through Ohio and talked to people from other States, that this law is being misinterpreted day after day after day. We should clarify it. We should make the job of a case worker simpler, and by doing that, I believe we will save some children.

EXHIBIT 1

[From the Washington Post, Feb. 9, 1997]

SAVE THE KIDS, NOT THE MOM

(By Mary McGrory)

Richard Gelles, an authority on child welfare, is boldly intervening in a custody case that may be without parallel in the sorry annals of the Family Reunification Act. Latrena D. Pixley, a District mother who, at 19, killed her 6-week-old baby, is asking to be reunited with two of her three other children—a boy of 6 and another of 1 year. Gelles is volunteering to come at his own expense from Rhode Island—where he is director of the Family Violence Research Program of the state university—to offer his view that a woman who has committed infanticide is not a fit mother.

"In these cases, we're often too late," says Gelles, who wrote "The Book of David," the story of a baby who was murdered by a mother who had abused an older child. Social workers had a watchful eye on the mother all along. "This time, I'd like to be early. Most of the time the children are dead or greviously injured by the time I get involved."

The Pixley case has already attracted major attention because it could answer the question of what limits, if any, there are to the Family Reunification Act, which puts preservation of the family over the protection of children. It could also provide a measure of how far our culture has advanced in victimhood: Can a mother who kills her baby succeed in portraying herself as a victim?

Gelles knows what it's like to get involved in the Pixley case and with the District bureaucracy. Last year, at the request of Jerome Miller, the receiver in charge of the D.C. Department of Human Services, Gelles did a study of Pixley. He told Miller that he did not think she could then or at "any foreseeable date" provide adequate care for her children. He says he was not paid for his work; the receipt of his report was never acknowledged.

Miller is one of several figures in the Pixley case who believe in her. He hired her as a clerk while she was serving her sentence for infanticide. Social workers were indignant, and Pixley abused his trust by engaging in credit card fraud, but Miller remains a fan. She's still in jail for fraud (not murder). He told the weekly City Paper this week, "I'll take her back in a minute." Social workers who are critical of him, he says, are "probably lousy social workers."

Striking as Miller's tolerance is, it pales beside the mercy shown by Superior Court Judge George W. Mitchell, who seems stricken with sympathy. He accepted Pixley's attorney's plea that she killed 6-week-old Nakya in 1992 as a result of postpartum depression. Pixley has testified that, after she had suffocated the crying baby under a blanket, she stuffed the body in a dumpster and went off to a barbecue with her boyfriend.

Social workers and therapists speak well of Pixley's cooperativeness and progress. Her lawyer told Judge Mitchell that, apart from the smothering, Pixley had been a good mother to the infant. Gelles observed that she was a quiet, "compliant" person but "seriously damaged." Mitchell, in imposing his feather-light sentence—weekends in jail for three years—said he wanted to give Pixley's plea as much respect as that of "some high society woman."

The judge is sending Pixley to a halfway house where she will be joined in time by 1-year-old Cornilius, who is in the care of an acquaintance of is mother. She will be taught "parenting" and could eventually get custody of 6-year-old Edward, whom, Gelles thinks, should be made eligible for adoption.

Gelles says he has no choice but to volunteer as a "complaining witness' for the two little boys whose lives he feels are in danger. He finds it ironic that this test of the Family Reunification Act comes at a time when so many are trying to undo it. Both the president and the First Lady have held White House conferences about it. Sen. Michael DeWine (R-Ohio) has introduced a bill making the safety of the child the prime consideration—a concept sinking out of sight in our addled, victim-struck culture.

TRIBUTE TO LAWRENCE GRESSETTE, JR.

Mr. THURMOND. Mr. President, in any State, there is a core group of businessmen and women who help promote and guide development and economic success. These are the people who serve as the leaders of the private sector, individuals who work in concert with elected officials to create jobs, opportunity, and growth. Lawrence Gressette, Jr., has been one such leader in South Carolina, and I rise today to pay tribute to him and the many contributions he has made in helping South Carolina become one of the fastest growing centers for commerce and industry anywhere in the Nation.

Though Lawrence Gressette presides over one of the biggest corporations in our State, he did not begin his professional career with ambitions to become a captain of industry. As a matter of fact, Mr. Gressette started out as a country lawyer, which is about as far away from corporate America as one can get.

Born in rural St. Matthews, SC, Lawrence Gressette, Jr. was the son of a

well-respected attorney who also served as one of the Palmetto State's most influential elected officials, State Senator L. Marion Gressette, Sr. Early on in life, Lawrence learned the importance of being a man of integrity and dedication, and he approached all his tasks with a keen sense of purpose. These characteristics have helped shape Lawrence's life and are a direct correlation to the many successes he has enjoyed. Whether it was during his days at Clemson, where he played football for the Tigers on scholarship and served as student body president; graduating first in his class at the School of Law at the University of South Carolina; building a successful practice as an attorney; or rising to the position of chairman and chief executive officer of the SCANA Corp., it was a commitment to hard work and honesty that paved the way for Lawrence Gressette to become one of the most influential and respected citizens of South Carolina.

While he did not follow his father's footsteps into public service, Lawrence Gressette, Jr. has certainly been a public spirited person, and he has repeatedly lent his time, name, and efforts to many causes, all of which had the goal of making the Palmetto State an even better place to call home. A devoted family man, he served his Nation as an infantry officer in the U.S. Army, he serves on several boards and committees throughout the State, and he is very active in his community. For his efforts, he has been recognized on several occasions with awards and commendations, and most significantly, he has been awarded two honorary degrees from colleges and universities in South Carolina.

Mr. President, Lawrence Gressette, Jr., is about to step down as the head of the SCANA Corp. We are grateful for all his hard work and leadership in running not only one of our State's most important organizations, but for his commitment to helping make South Carolina one of the Nation's most economically dynamic States. We wish him great health and happiness in the years to come, as well as continued success in whatever endeavors he chooses to undertake.

TRIBUTE TO DR. JAY PHILIP SANFORD

Mr. THURMOND. Mr. President, perhaps one of the best kept secrets in the American medical community can be found not far from this Chamber, the Uniformed Services University of the Health Sciences [USUHS], located in Bethesda, MD. For more than the past 20 years, this institution has trained in excess of 2,000 doctors who have gone on to serve our Nation either in one of the branches of the military, or in the Public Health Service. Without question, this university has greatly benefited the people and military personnel of the United States, and a tremendous debt is owed to the man who is known as the founding dean of this institution, Dr. Jay Philip Sanford. Unfortunately and sadly, Dr. Sanford passed away in October of last year.

To those who willingly risk their lives in order to ensure the security of the United States, there is probably no more comforting thought than to know that should they be wounded, they will receive excellent medical care. Indeed, advances in military medicine have helped to ensure that our service personnel will have access to the very best possible treatment and care no matter where they are located or what the conditions in which they are carrying out their duties. Whether it be the rugged and frigid mountains of Bosnia, or the harsh and hot deserts of Kuwait and Iraq, American military personnel do not want for the most advanced and competent medical care available. Without question, the corps of military medical professionals who have graduated from the Uniformed Services University of the Health Sciences, and the research conducted at that facility, have a great deal to do with that success.

The success of USUHS is directly attributable to the guidance and hard work of Dr. Sanford, who truly molded that university into the respected institution it has become. Established in 1972 at the direction of Congress, USUHS was to become a school that would prepare men and women for medical service careers in the Armed Forces and the U.S. Public Health Service. Not only creating a reliable source for military doctors, the university was to stress the instruction of the highly specialized fields of military medicine, preventive medicine, tropical medicine, and disaster medicine. It was the responsibility of Dr. Sanford to help build the university from the ground up, establishing curriculum, securing the necessary books and equipment required of a first-rate medical school, and ensuring that the first class of doctors would graduate from that school in 1980, as required by law. Dr. Sanford rose to the daunting challenge presented him, and in the finest traditions of the military, succeeded in achieving his mission and opening the doors of USUHS on schedule.

For his many impressive achievements, as a doctor, a researcher, and an educator, Dr. Sanford was awarded no shortage of tributes and recognitions. Regrettably, space does not permit a complete recitation of all the accolades he was granted in his life, but I think my colleagues would be interested to know that his alma mater, the University of Texas Southwestern Medical School established the Jay P. Sanford Lectureship in Infectious Diseases, and the Jay P. Sanford Professorship; and, USUHS established the Sanford Chair in Tropical Medicine, as well as creating the Jay P. Sanford Distinguished Alumnus Award. Furthermore, in addition to serving as the third president of USUHS, Dr. Sanford was awarded the doctor of military medicine degree [Honoris Causa], the USUHS Distinguished Service Medal, and the Department of Defense Civilian Service Medal.

Despite all these recognitions, one cannot help but think that the distinction of which Dr. Sanford was most proud would be the creation and success of the Uniformed Services University of the Health Sciences. In the years since the first class of doctors graduated from that school, USUHS trained physicians have supported American military operations throughout the world as well as have made many important contributions to the country through the Public Health Service. There is perhaps no greater legacy Dr. Sanford could have left than this institution which is dedicated to helping others. I do not exaggerate when I say that Dr. Sanford was a man who gave his all to our Nation and has left the United States a better place for his service. He will certainly be missed by all those who knew him, and his family has my deepest sympathies.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. Morning business is now closed.

APPROVING THE PRESIDENTIAL FINDING REGARDING THE POPULATION PLANNING PROGRAM

The PRESIDING OFFICER. Under the previous order, the hour of 1:30 p.m. having arrived, the Senate will now proceed to the consideration of House Joint Resolution 36, which the clerk will report.

The assistant legislative clerk read as follows:

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

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. There will now be 2 hours of debate evenly divided.

Mr. LEAHY. I suggest the absence of a quorum equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. 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. McCONNELL. Mr. President, I rise in opposition to the resolution that the President has submitted requesting the early release of population planning funds.

Last fall, in the waning hours of Congress, an agreement was reached by the White House and the leadership to make $385 million available for family planning at a rate of 8 percent a month beginning in July. That date was agreed to so there would be no overlap of 1996 and 1997 funds.

The effect of the resolution before the Senate would be to virtually double the amount made available for population planning for 4 months this year. If the Senate passes the President's resolution, $123 million more in funding will be available for organizations that support abortions and lobby to undermine laws which protect the unborn.

There are those who would like to suggest that this is merely a question of shifting dates. We are not arguing over whether money becomes available but when, so the argument goes. In fact, this debate centers on how much will be available, to which groups, and under what circumstances.

I believe those of us who support the pro-life position made significant concessions during the negotiations over the omnibus resolution. Not only did we agree to raise the overall level of funding from $356 million in 1996 to $385 million, the disbursal rate was increased from roughly 6 percent to 8 percent a month. Now the President wants to move up the date when disbursal begins.

Very few of us actually oppose making family planning funds available. There is general consensus that a responsible family planning policy has a positive impact on a nation's development. Everyone appreciates the consequences exploding population rates have on every aspect of a nation's well-being, from the availability of education, food and jobs, to the condition of the environment.

So let us all agree that there is no question that U.S. family planning funds are extremely helpful in the developing world. But there is also absolutely no question that when the United States decided to provide resources only to organizations that agreed not—not—to perform abortions and agreed not to lobby to legalize abortions, we were still the single largest global donor of family planning funds. This understanding is the heart of the so-called Mexico City policy, a policy that resulted in steady increases in responsible U.S. family planning support, a policy that at the end of the Bush administration meant the United States contributed 45 percent of all family planning funds made available around the world.

There is a deep irony to this debate. On the one hand, the administration argues that the population program is in dire straits and beginning the funding in July will cause the closeout or reduction of at least 17 projects. Virtually all of those programs could be fully funded because they are carried out by organizations which meet the criteria of not supporting abortion or efforts to legalize abortion. In the misguided interest of protecting a few organizations, the administration is withholding support for the many willing to provide family planning services consistent with the Mexico City guidelines. They complain about the negative impact of cuts on funding yet are willing to forego an increase if it is linked to Mexico City. It does not make sense.

I support family planning, but I cannot and will not vote to provide funds to organizations which in the name of family planning take the lives of innocent, unborn children. I urge my colleagues to vote against this resolution.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, there are several people on this side of this issue who will speak, and so I will be brief to retain time for them, and I will yield myself now such time as I need.

All Senators should understand what this vote is. It is really whether to approve the President's finding. The President's finding is that withholding until July 1 the release of the funds that Congress appropriated last September for international family planning would result in more unwanted pregnancies and abortions and harm programs to protect the health of women and children.

This is not whether you are for abortions or against abortions, whether you are for family planning or against it. We know in many parts of the world family planning is abortion because we do not have everything from birth control devices to training, so people rely on abortion. What this would do would really give alternatives to it. In a misguided effort by some foes of abortion last year, the funds were held up until now and, if anything, will result in more abortions, not less.

What I would like to see us do is release the funds for family planning and give people an alternative to abortion as a form of family planning. In fact, 2 weeks ago the House voted by a substantial margin to uphold the President's finding. That meant that Republicans and Democrats voted to uphold the President's finding, and the Senate is going to vote tomorrow.

Some say that approving the President's finding would result in spending an additional $123 million on abortion. Of course, that is false, totally, patently false. This vote will not change the amount spent on family planning by one dime. And, none of this money can be spent on abortion or to promote abortion. Our law prohibits that.

This is an extremely important vote, and there should be no confusion about what it is about. So let me first talk about what this is not, so all Senators, no matter on which side of the abortion issue he or she is, will understand why they can support this resolution. This vote is not about how much we are going to spend on international family planning. We already decided that. We decided that, I believe, last September when we passed the foreign aid bill. That bill contained $385 million for family planning, and if we pass this resolution that amount is not going to change at all. If the resolution is defeated, the amount still will not change. So nobody should think we are voting to add or take away money.

The vote will also not affect how we spend the $385 million. It will not affect, for instance, which family planning organizations receive the funds. So, no matter which way we vote today, we do not determine which groups receive the funds. It does not affect that. Nor will this vote decide in any way, no matter which way we vote, if the funds can be used for abortion or to promote abortion.

This vote will decide only one thing. All this vote decides is, what date do we start spending the $385 million that we appropriated last year in the last Congress? It does not decide whether to spend it or how to spend it or what to spend it on, only whether we start spending the funds on July 1, 9 months after the start of the fiscal year, or March 1, 5 months after the start of the fiscal year.

You may ask, what difference does 4 months make, March 1, July 1, so what? If it did not make any difference, we would not even be here. But the difference is, there are tens of millions of people who will not have access to family planning services during those 4 months. We are talking about modern contraceptives, as well as condoms that protect against AIDS. This vote is about whether we should withhold family planning services to couples who desperately want to limit the size of their families or space the births of their children so their children survive past infancy.

We are not talking about money in a wealthy country like the United

States. We are talking about money in the poorest of poor countries. We are talking about money so people might be able to space their children so they do not see, what so many of these countries do, children that die in the first year. In fact, a number of these countries do not even list a birth until the child is several months old, or even years old, because of the high number of infant deaths.

There is no more effective, practical way to reduce the number of abortions than family planning. I could cite many examples. Here is one. Before 1990, a Russian woman averaged at least three abortions in her lifetime. From 1990 to 1994, with support from USAID, contraceptive use in Russia grew from 19 to about 24 percent. Just that 5-percent increase in the use of contraceptives resulted in a decrease in the number of abortions during that period by 800,000 abortions.

I would ask, how many of those who opposed that family planning money back during those years because somehow it might be used for abortion, how many of them are willing to stand up and say, "Because we spent it, we stopped 800,000 abortions in one country alone"? That should be the beginning and the end of this debate. If you are against abortion—and a number of Senators on this floor have voted for family planning money because, and primarily because, they are opposed to abortion, because they know this provides alternatives to abortion, just as we proved it did in Russia—just that 6 percent increase in contraceptive use cut the number of abortions by 800,000.

I ask unanimous consent a letter from Senator Mark Hatfield to Representative CHRIS SMITH be printed in the RECORD at end of my remarks.

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

(See exhibit 1.)

Mr. LEAHY. I mention this because Senator Hatfield was ardently, consistently pro-life for all his years here in the Senate. But I also know he is equally passionate about his support for family planning. He fully understood that when you limit access to family planning, the result is more abortions.

The other side will argue that since a tiny fraction of these funds may go to private organizations that provide abortions in countries like the United States where abortion is legal, the resolution should be defeated. There is no logic in that. What if the tables were turned and I argued that no family planning organization should receive U.S. Government funds unless they do use their own funds for abortion? There would be a big outcry, "It's big Government. How dare you tell these private groups what to do with their money?" That is not a road we want to go down. AID requires every dime to be kept in a separate account. We know how every dime of our money is spent. There has never been any evidence that any of these funds have been used for abortion. If there were, you can be sure we would have heard about it.

So let us start spending the money that we appropriated 5 months ago so it can do some good. The longer we wait, the more we add to the costs of administering the program, the more damage we cause to the health of women and children, the more unwanted pregnancies and abortions will result. It is that simple.

I would also say, this has become more of a political argument than an argument based on reality. I do not hear any of the advocates of this position, of withholding this money, stand up and say, "Let's not send any of our foreign aid to any country that may use some of their money, their money in that country, to pay for abortions." I challenge those who oppose this resolution, if you want to prove that you are really sincere, if you want to prove you are not doing this because of some other agenda, then pass a law that says that no money, none of our foreign aid money, can go to any country that uses any of its money for abortion. That make no more sense than voting against this resolution.

Mr. President, I retain the remainder of my time.

EXHIBIT 1

U.S. SENATE,
Washington, DC, September 24, 1996.

Hon. CHRISTOPHER H. SMITH,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHRIS: I have reviewed the materials you recently sent to my office in response to my request that you provide proof that U.S. funds are being spent on abortion through AID's voluntary international family planning program. Unfortunately, I do not see anything in these materials to back up your assertion.

AID has a rigorous process to make sure that the current prohibition on the use of U.S. funds is adhered to and that no U.S. funds are spent on abortion services. First, all agreements into which AID enters (grants, contracts, and cooperative agreements) include a legally binding and enforcement clause prohibiting the contractee from using the funds for abortion services. Second, AID staff monitor all agreements as they are implemented in the field to ensure that the agreements terms are being met. And finally, all grants with non-governmental organizations require a "Circular A-133 Audit" every one to two years. This audit looks not only at the financial aspects of the agreement, but reviews compliance with all terms of the agreement including the prohibition on the use of U.S. funds. The audit is done by an outside Big 8 accounting firm, not AID. According to AID, compliance with the funding prohibition has not been a problem.

In the meantime, Chris, you are contributing to an increase of abortions worldwide because of the funding restrictions on which you insisted in last year's funding bill. It is a proven fact that when contraceptive services are not available to women throughout the world, abortion rates increase. We have seen it in the former Soviet Union where women had no access to family planning and relied on abortion as their primary birth control method. Some women had between eight and twelve abortions during their lifetimes. This is unacceptable to me as someone who is strongly opposed to abortion.

It is my hope that we can work together to resolve this issue before AID's international family planning program is destroyed.

Kind regards.

Sincerely,

MARK O. HATFIELD,
U.S. Senator.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 44 minutes and 24 seconds.

Mr. MCCONNELL. Mr. President, I yield 15 minutes to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. I thank the Senator from Kentucky for yielding.

Mr. President, I rise today in total support of sound policies which advance and uphold the sanctity of life and family, but in opposition to House Resolution 36. The issue, I believe, in fact, is not one of family planning but is, in fact, one of funding for abortion, organizations which promote and provide for abortions and lobby to change pro-life laws in countries where our foreign aid money goes.

First and foremost, allow me to recognize the importance of the two votes that took place in the House of Representatives on February 13. The Clinton resolution, which we will be voting on tomorrow—which unwisely, I believe, fails to include a ban on American taxpayer funding of organizations which provide and promote abortion—was successful by a vote of 220 to 209. But there was a second vote that occurred that day. The second vote, on H.R. 581, legislation of Congressman CHRIS SMITH, of New Jersey, reinstituting the successful Mexico City policy and requiring foreign nongovernmental organizations receiving U.S. funds to agree not to violate the laws, or lobby to change the laws, of other countries with respect to abortion, or to perform abortions in those countries except in cases of rape, incest, or where the mother's life is in danger, that resolution by Congressman SMITH was passed by an even larger majority of 231 to 194. So I remind Senators that the Smith pro-life resolution passed by a far greater margin than did the Clinton resolution.

This vote certainly illustrates the simple fact that one can be for family planning programs while standing for life.

As the Members of this body might recall, I am the only legislator in Congress to have served in the Arkansas

House of Representatives when President Clinton was Governor of Arkansas.

In October 1990, in response to written questions submitted by the Associated Press, the President, then Governor of Arkansas, said:

Under the present Arkansas law, abortion is illegal when the unborn child can live outside its mother's womb, I support that . . . I have supported restrictions on public funding and a parental notification requirement for minors.

I believe the President was absolutely correct when he took that position about funding for abortion, and that is the issue before us today. Despite President Clinton's repeated sentiments in wanting to lower the number of abortions performed, his actions, since he took office 4 years ago, has spoken louder than his words.

In fact, President Clinton has actively fought to lift any and all restrictions on taxpayer-funded abortions, not with congressional approval but by the broad use of the Executive order. Besides refusing to reinstate the Mexico City policy, which had been working very successfully for a decade before he repealed it, he has also attempted to delete the ban on taxpayer funding of abortions and the ban on the use of funds to counsel persons on the practice of abortion. Similarly, his annual budgets have also proposed striking this pro-life language from the foreign operations appropriations bill.

We all know that congressional appropriations for U.S. population assistance have been delayed by the debate over the issue of U.S. funding for abortion and coercive birth control measures practiced by foreign countries.

Mr. President, at the second annual U.N. International Conference on Population in Mexico City in 1984, the Reagan administration announced that it would discontinue U.S. population aid to those nongovernmental organizations that were directly involved in voluntary abortion activities.

The Mexico City policy went a step beyond previous legislation that had been passed in the 1970's that specifically banned direct funding of abortions and involuntary sterilizations. The Mexico City policy banned funding to nongovernmental organizations that were indirectly involved in abortion-related activities.

Furthermore, the Reagan administration established a requirement that the U.N. Family Planning Agency provide "concrete assurances that it is not engaged in, or does not provide funding for abortion or coercive family planning assistance programs."

Mr. President, I ask unanimous consent that the original Mexico City policy be printed in the RECORD.

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

POLICY STATEMENT: INTERNATIONAL CONFERENCE ON POPULATION

INTRODUCTION

For many years, the United States has supported, and helped to finance, programs of family planning, particularly in developing countries. This Administration has continued that support but has placed it within a policy context different from that of the past. It is sufficiently evident that the current exponential growth in global population cannot continue indefinitely. There is no question of the ultimate need to achieve a condition of population equilibrium. The differences that do exist concern the choice of strategies and methods for the achievement of that goal. The experience of the last two decades not only makes possible but requires a sharper focus for our population policy. It requires a more refined approach to problems which appear today in quite a different light than they did twenty years ago.

First and most important, population growth is, of itself, a neutral phenomenon. It is not necessarily good or ill. It becomes an asset or a problem only in conjunction with other factors, such as economic policy, social constraints, need for manpower, and so forth. The relationship between population growth and economic development is not necessarily a negative one. More people do not necessarily mean less growth. Indeed, in the economic history of many nations, population growth has been an essential element in economic progress.

Before the advent of governmental population programs, several factors had combined to create an unprecedented surge in population over most of the world. Although population levels in many industrialized nations had reached or were approaching equilibrium in the period before the Second World War, the baby boom that followed in its wake resulted in a dramatic, but temporary, population "tilt" toward youth. The disproportionate number of infants, children, teenagers, and eventually young adults did strain the social infrastructure of schools, health facilities, law enforcement and so forth. However, it also helped sustain strong economic growth, despite occasionally counterproductive government policies.

Among the developing nations, a coincidental population increase was caused by entirely different factors. A tremendous expansion of health services—from simple inoculations to sophisticated surgery—saved millions of lives every year. Emergency relief, facilitated by modern transport, helped millions to survive flood, famine, and drought. The sharing of technology, the teaching of agriculture and engineering, and improvements in educational standards generally, all helped to reduce mortality rates, especially infant mortality, and to lengthen life spans.

This demonstrated not poor planning or bad policy but human progress in a new era of international assistance, technological advance, and human compassion. The population boom was a challenge; it need not have been a crisis. Seen in its broader context, it required a measured, modulated response. It provoked an overreaction by some, largely because it coincided with two negative factors which, together, hindered families and nations in adapting to their changing circumstances.

The first of these factors was governmental control of economies, a development which effectively constrained economic growth. The post-war experience consistently demonstrated that, as economic decision-making was concentrated in the hands of planners and public officials, the ability of average men and women to work towards a better future was impaired, and sometimes crippled. In many cases, agriculture was devastated by government price fixing that wiped out rewards for labor. Job creation in infant industries was hampered by confiscatory taxes. Personal industry and thrift were penalized, while dependence upon the state was encouraged. Political considerations made it difficult for an economy to adjust to changes in supply and demand or to disruptions in world trade and finance. Under such circumstances, population growth changed from an asset in the development of economic potential to a peril.

One of the consequences of this "economic statism" was that it disrupted the natural mechanism for slowing population growth in problem areas. The world's more affluent nations have reached a population equilibrium without compulsion and, in most cases, even before it was government policy to achieve it. The controlling factor in these cases has been the adjustment, by individual families, of reproductive behavior to economic opportunity and aspiration. Historically, as opportunities and the standard of living rise, the birth rate falls. In many countries, economic freedom has led to economically rational behavior.

That pattern might be well under way in many nations where population growth is today a problem, if counterproductive government policies had not disrupted economic incentives, rewards, and advancement. In this regard, localized crises of population growth are, in part, evidence of too much government control and planning, rather than too little.

The second factor that turned the population boom into a crisis was confined to the western world. It was an outbreak of an anti-intellectualism, which attacked science, technology, and the very concept of material progress. Joined to a commendable and long overdue concern for the environment, it was more a reflection of anxiety about unsettled times and an uncertain future. In its disregard of human experience and scientific sophistication, it was not unlike other waves of cultural anxiety that have swept through western civilization during times of social stress and scientific exploration.

The combination of these two factors—counterproductive economic policies in poor and struggling nations, and a pessimism among the more advanced—led to a demographic overreaction in the 1960's and 1970's. Scientific forecasts were required to compete with unsound, extremist scenarios, and too many governments pursued population control measures without sound economic policies that create the rise in living standards historically associated with decline in fertility rates. This approach has not worked, primarily because it has focused on a symptom and neglected the underlying ailments. For the last three years, this Administration has sought to reverse that approach. We recognize that in, some cases, immediate population pressures may require short-term efforts to ameliorate them. But population control programs alone cannot substitute for the economic reforms that put a society on the road toward growth and, as an after-effect, toward slower population increases as well.

Nor can population control substitute for the rapid and responsible development of natural resources. In commenting on the Global 2000 report, this Administration in 1981 disagreed with its call "for more government supervision and control," stating that:

"Historically, that has tended to restrict the availability of resources and to hamper the development of technology, rather than to assist it. Recognizing the seriousness of environmental and economic problems, and their relationship to social and political pressures, especially in the developing nations, the Administration places a priority upon technologically advance and economic expansion, which hold out the hope of prosperity and stability of a rapidly changing world. That hope can be realized, of course, only to the extent that government's response to problems, whether economic or ecological, respects and enhances individual freedom, which makes true progress possible and worthwhile."

Those principles underlie this country's approach to the International Conference on Population to be held in Mexico City in August.

POLICY OBJECTIVES

The world's rapid population growth is a recent phenomenon. Only several decades ago, the population of developing countries was relatively stable, the result of a balance between high fertility and high mortality. There are now 4.5 billion people in the world, and six billion are projected by the year 2000. Such rapid growth places tremendous pressures on governments without concomitant economic growth.

The International Conference on Population offers the U.S. an opportunity to strengthen the international consensus on the interrelationships between economic development and population which has emerged since the last such conference in Bucharest in 1974. Our primary objective will be to encourage developing countries to adopt sound economic policies and, where appropriate, population policies consistent with respect for human dignity and family values. As President Reagan stated, in his message to the Mexico City Conference:

"We believe population programs can and must be truly voluntary, cognizant of the rights and responsibilities of individuals and families, and respectful of religious and cultural values. When they are, such programs can make an important contribution to economic and social development, to the health of mothers and children, and to the stability of the family and of society."

U.S. support for family planning programs is based on respect for human life, enhancement of human dignity, and strengthening of the family. Attempts to use abortion, involuntary sterilization, or other coercive measures in family planning must be shunned, whether exercised against families within a society or against nations within the family of man. The United Nations Declaration of the Rights of the Child (1959) calls for legal protection for children before birth as well as after birth. In keeping with this obligation, the United States does not consider abortion an acceptable element of family planning programs and will no longer contribute to those of which it is a part. Accordingly, when dealing with nations which support abortion with funds not provided by the United States Government, the United States will contribute to such nations through segregated accounts which cannot be used for abortion. Moreover, the United States will no longer contribute to separate non-governmental organizations which perform or actively promote abortion as a method of family planning in other nations. With regard to the United Nations Fund for Population Activities (UNFPA), the U.S. will insist that no part of its contribution be used for abortion. The U.S. will also call for concrete assurances that the UNFPA is not engaged in, or does not provide funding for, abortion or coercive family planning programs; if such assurances are not forthcoming, the U.S. will redirect the amount of its contribution to other, non-UNFPA family planning programs.

In addition, when efforts to lower population growth are deemed advisable, U.S. policy considers it imperative that such efforts respect the religious beliefs and culture of each society, and the right of couples to determine the size of their own families. Accordingly, the U.S. will not provide family planning funds to any nation which engages in forcible coercion to achieve population growth objectives.

U.S. Government authorities will immediately begin negotiations to implement the above policies with the appropriate governments and organizations.

It is time to put additional emphasis upon those root problems which frequently exacerbate population pressures, but which have too often been given scant attention. By focusing upon real remedies for underdeveloped economies, the International Conference on Population can reduce demographic issues to their proper place. It is an important place, but not the controlling one. It requires our continuing attention within the broader context of economic growth and of the economic freedom that is its prerequisite.

POPULATION, DEVELOPMENT, AND ECONOMIC POLICIES

Conservative projections indicate that, in the sixty years from 1950 to 2010, many Third World countries will experience four, five or even sixfold increases in the size of their populations. Even under the assumption of gradual declines in birth rates, the unusually high proportion of youth in the Third World means that the annual population growth in many of these countries will continue to increase for the next several decades.

Sound economic policies and a market economy are of fundamental importance to the process of economic development. Rising standards of living contributed in a major way to the demographic transition from high to low rates of population growth which occurred in the U.S. and other industrialized countries over the last century.

The current situation of many developing countries, however, differs in certain ways from conditions in 19th century Europe and the U.S. The rates and dimensions of population growth are much higher now, the pressures on land, water, and resources are greater, the safety-valve of migration is more restricted, and, perhaps most important, time is not on their side because of the momentum of demographic change.

Rapid population growth compounds already serious problems faced by both public and private sectors in accommodating changing social and economic demands. It diverts resources from needed investment, and increases the costs and difficulties of economic development. Slowing population growth is not a panacea for the problems of social and economic development. It is not offered as a substitute for sound and comprehensive development policies. Without other development efforts and sound economic policies which encourage a vital private sector, it cannot solve problems of hunger, unemployment, crowding or social disorder.

Population assistance is an ingredient of a comprehensive program that focuses on the root causes of development failures. The U.S. program as a whole, including population assistance, lays the basis for well grounded, step-by-step initiatives to improve the well-being of people in developing countries and to make their own efforts, particularly through expanded private sector initiatives, a key building block of development programs.

Fortunately, a broad international consensus has emerged since the 1974 Bucharest World Population Conference that economic development and population policies are mutually reinforcing.

By helping developing countries slow their population growth through support for effective voluntary family planning programs, in conjunction with sound economic policies, U.S. population assistance contributes to stronger saving and investment rates, speeds the development of effective markets and related employment opportunities, reduces the potential resource requirements of programs to improve the health and education of the people, and hastens the achievement of each country's graduation from the need for external assistance.

The United States will continue its long-standing commitment to development assistance, of which population programs are a part. We recognize the importance of providing our assistance within the cultural, economic and political context of the countries we are assisting, and in keeping with our own values.

HEALTH AND HUMANITARIAN CONCERNS

Perhaps the most poignant consequence of rapid population growth is its effect on the health of mothers and children. Especially in poor countries, the health and nutrition status of women and children is linked to family size. Maternal and infant mortality rises with the number of births and with births too closely spaced. In countries as different as Turkey, Peru, and Nepal, a child born less than two years after its sibling is twice as likely to die before it reaches the age of five, than if there were an interval of at least four years between the births. Complications of pregnancy are more frequent among women who are very young or near the end of their reproductive years. In societies with widespread malnutrition and inadequate health conditions, these problems are reinforced; numerous and closely spaced births lead to even greater malnutrition of mothers and infants.

It is an unfortunate reality that in many countries, abortion is used as a means of terminating unwanted pregnancies. This is unnecessary and repugnant; voluntary family assistance programs can provide a humane alternative to abortion for couples who wish to regulate the size of their family, and evidence from some developing countries indicates a decline in abortion as such services become available.

The basic objective of all U.S. assistance, including population programs, is the betterment of the human condition—improving the quality of life of mothers and children, of families, and of communities for generations to come. For we recognize that people are the ultimate resource—but this means happy and healthy children, growing up with education, finding productive work as young adults, and able to develop their full mental and physical potential.

U.S. aid is designed to promote economic progress in developing countries through encouraging sound economic policies and freeing of individual initiative. Thus, the U.S. supports a broad range of activities in various sectors, including agriculture, private enterprise, science and technology, health, population, and education. Population assistance amounts to about ten percent of total development assistance.

TECHNOLOGY AS A KEY TO DEVELOPMENT

The transfer, adaptation, and improvement of modern know-how is central to U.S. development assistance. People with greater know-how are people better able to improve their lives. Population assistance ensures that a wide range of modern demographic technology is made available to developing countries and that technological improvements critical for successful development receive support.

The efficient collection, processing, and analysis of data derived from census, survey, and vital statistics programs contributes to better planning in both the public and private sectors.

THE U.S. AT MEXICO CITY

In conjunction with the above statements of policy, the following principles should be drawn upon to guide the U.S. delegation at the International Conference on Population:

No. 1. Respect for human life is basic, and any attempt to use abortion, involuntary sterilization, or other coercive measures in family planning must be rejected.

No. 2. Population policies and programs should be fully integrated into, and reinforce, appropriate, market-oriented development policies; their objective should be clearly seen as an improvement in the human condition, and not merely an exercise in limiting births.

No. 3. Access to family education and services needs to be broadened, especially in the context of maternal/child health programs, in order to enable couples to exercise responsible parenthood. Consistent with values and customs, the U.S. favors offering couples a variety of medically approved methods.

No. 4. Though population factors merit serious consideration in development strategy, they are not a substitute for sound economic policies which liberate individual initiative through the market mechanism.

No. 5. There should be higher international priority for biomedical research into safer and better methods of fertility regulation, especially natural family planning, and for operations research into more effective service delivery and program management.

No. 6. Issues of migration should be handled in ways consistent with both human rights and national sovereignty.

No. 7. The U.S., in cooperation with other concerned countries, should resist intrusion of polemical or non-germane issues into Conference deliberations.

Mr. HUTCHINSON. Mr. President, 2 days after his 1993 swearing-in ceremony, President Clinton submitted an Executive order repealing the Mexico City policy. This repeal now allows American taxpayer funds to be given to the United Nations planning agency in support of coercive abortions and involuntary sterilization, commonly practiced in places like China, a position which is completely contrary to the desires of the American people.

I sincerely consider these practices of involuntary sterilization and coercive abortion to be well outside the boundaries of what can be legitimately called family planning.

Most organizations agreed to the terms of the Mexico City policy, even giving up their pro-abortion activities in some cases, in order to receive U.S. funds. It did not decrease by even 1 penny the amount of funding for international population control assistance programs. Rather, it ensured that family planning dollars were sent to organizations which neither promoted nor performed abortion as a method of family planning.

Furthermore, since 1973, when Congress passed the Helms amendment to the Foreign Assistance Act, Federal law has prohibited direct payment of most abortion procedures with U.S. foreign aid funds. The Helms language was also included in the annual foreign operations appropriations bill last year.

For most of the years it has been in effect, the Helms amendment has not been challenged either in the Foreign Assistance Act or in the foreign operations appropriations bill. However, since President Clinton has been in office, he has continually sought to repeal the Helms amendment ban on foreign abortion funding, thereby subverting the will of the vast majority of Americans.

The American people overwhelmingly oppose the use of taxpayer funds to perform or promote abortion. And at one time, I might add, so did President Clinton. On September 26, 1986, then Governor Clinton wrote the following letter to the Arkansas Right to Life:

I am opposed to abortion and to Government funding of abortions. We should not spend State funds on abortions because so many people believe abortion is wrong.

And the logic of the President, then Governor Clinton, was exactly right. I ask unanimous consent that the letter to the Arkansas Right to Life dated September 26, 1986 be printed in the RECORD.

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

ARKANSAS RIGHT TO LIFE,
OFFICE OF THE GOVERNOR,
Little Rock, AR, September 26, 1986.

Earlene Windsor,
Arkansas Right to Life,
Little Rock, AR.

DEAR MRS. WINDSOR: Thank you for giving me the opportunity to respond to the Arkansas Right to Life Questionnaire. However, most of the questions address federal issues outside the authority of a governor or the state.

Because many of the questions do concern the issue of abortion, I would like for your members to be informed of my position on the state's responsibility in that area. I am opposed to abortion and to government funding of abortions. We should not spend state funds on abortions because so many people believe abortion is wrong. I do support the concept of the proposed Arkansas Constitutional Amendment 65 and agree with its stated purpose. As I have said, I am concerned that some questions about the amendment's impact appear to remain unanswered.

Again, thank you for allowing me to share my position on this important issue.

Sincerely,

BILL CLINTON.

Mr. HUTCHINSON. Mr. President, because of the concerns of the Clinton administration's population assistance policy, this Congress added language that requires any amount that the United Nations population fund spends on family planning programs in China be deducted from its total United States appropriation.

Communist China has one of the worst human rights records in the world, promoting forced abortions and sterilizations to limit births. It is a country which has little regard for human life and, in particular, the lives of little baby girls. Press reports are filled with accounts of beautiful female children who are abandoned by their families because under China's one-child-per-family rule, male children are considered more desirable. This policy is and should be offensive to all civilized people.

If the administration's resolution is passed by the Senate tomorrow, the American taxpayer will become an unwilling participant in China's outrageous practices because some of the $25 million designated for United Nations population fund will go to China.

Without the Mexico City policy, the United States will be giving money to such countries and organizations which blatantly promote and support pro-abortion policies and procedures. This should be unacceptable to all of us.

While I believe the United States can provide meaningful assistance to countries attempting to control their population growth, I adamantly oppose American taxpayer funding for abortion both home and abroad.

While I will continue to support continued U.S. population assistance programs, I also believe that the United States should encourage the development of market economies which improve the standard of living for growing populations.

This resolution came about because of the Clinton administration's refusal to accept pro-life language preventing AID grantees from using foreign aid dollars to promote abortion.

Mr. President, please remember at the end of the last Congress, White House negotiator and former Chief of Staff, Leon Panetta, adamantly rejected a proposal which would have allowed AID to spend as much as $713 million for international family planning by the end of the fiscal year. This takes into account $303 million carried over from fiscal year 1996.

The proposal provided $385 million for population control programs, in addition to $25 million for the U.N. Family Planning Agency. If an organization did not agree to the terms of the Mexico City policy, it would only receive up to 50 percent of the population funds it received in fiscal year 1995. All the fiscal year 1997 funds would be available in fiscal year 1997.

The administration rejected this proposal because of the nominal pro-life conditions on the fiscal year 1997 funds. Even without the other evidence of the

Clinton administration's abortion activities, this stand by the administration is a clear admission that family planning funds are used to establish, sustain, and build up abortion providers and pro-abortion lobbying in developing countries, and the ability of AID grantees to perform and promote abortion in developing countries is the real priority of the administration.

It is obvious that this battle will be renewed each year on the foreign operations appropriations bill until the pro-life position prevails, as it has ultimately prevailed on the Hyde amendment, the ban on Federal employees health benefits coverage of abortions, the prohibition on abortions in military hospitals, and all other pro-life amendments which became law over the President's opposition.

I cannot stand here today and believe the Clinton administration's claim that it wants to reduce the number of abortions when United States dollars are given to organizations which actually perform abortions and which lobby to legalize abortions in countries like Latin America, Africa, and other regions of the world which recognize the humanity and the value of the lives of unborn children.

The Clinton administration continues to emphasize that no U.S. funding goes directly to abortion practices. However U.S. funding is allocated to organizations like International Planned Parenthood Federation, which receives $70 million from the United States. The IPPF makes no secret of their pro-abortion commitment, which is apparent in their "Vision 2000 Strategic Plan."

With millions of U.S. dollars each year providing funding for the IPPF's lobbying campaigns, overhead, and utilities, how can we then say that American taxpayer dollars are not being used to fund abortions? I believe they certainly obviously are.

Mr. President, we must end this practice of the IPPF and similar groups exploiting the hard-earned dollars of every taxpaying citizen across this great Nation.

The will of the American people is being subverted by this policy. Americans do not want Federal tax dollars being used for abortions. This applies to our foreign aid policies as well as our domestic agenda.

Mr. President, I will leave you today with a quote from Mother Teresa of Calcutta. Mother Teresa made this comment on February 3, 1994, at the National Prayer Breakfast. Many of us were in attendance that day. I was there and so was the President. I believe that this statement speaks volumes. She said:

> But I feel that the greatest destroyer of peace today is abortion, because it is a war against the child, a direct killing of the innocent child.

The issues in this debate are not just family planning, whether millions of pro-life American taxpayers will be required to help foot the bill for a practice they find morally reprehensible; but also ceding control of taxpayer dollars to foreign governments over which we have no control. I believe that is unacceptable. I think it is wrong to ask pro-life American taxpayers to foot the bill for that which they find morally offensive and morally wrong. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the distinguished Senator from Wisconsin is on the floor. How much time does he wish?

Mr. FEINGOLD. Eight minutes.

Mr. LEAHY. I yield 8 minutes to the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President.

I rise today in support of House Joint Res. 36 to uphold a Presidential finding regarding the provision of international family planning assistance.

I thank the senior Senator from Vermont for his leadership on this issue.

Let me just briefly clarify a point with regard to the remarks of the junior Senator from Arkansas, who indicated his belief that this resolution would impact the UNFPA program. My understanding is that the resolution is not related to that program at all, that the resolution in question today has to do with USAID funds. If there is any error in that regard, I would be happy to be corrected, but my understanding is that what we are dealing with here is USAID money. So the arguments concerning funding for UNFPA do not relate to the topic we are discussing today.

Mr. President, by voting to uphold this resolution, the Senate will express agreement with the President that further delays in the disbursement of funds in the population account will cause undue hardship for the organizations that carry out U.S. international population programs. In fact, President Clinton has said that "a delay will cause serious, irreversible and unavoidable harm" to these programs.

U.S. assistance to voluntary family planning supports a broad array of products and services for maternal and child health—including family planning education, clinical services, and birth control. These programs have proved enormously effective—not only in improving the health of hundreds of thousands of women and children, but also in reducing the pressures that rapid population growth places on food and water, on housing and education, and on forests and trees in developing countries.

Perhaps most importantly, studies indicate that international family planning programs can have a tremendous impact on limiting the number of unintended pregnancies throughout the world, which—ultimately—greatly decreases the perceived need or demand for abortions.

Now let me reiterate this point, because it is extremely important. This vote actually will have the effect of limiting the number of abortions conducted worldwide.

This vote also is a referendum on how the Senate views family planning. Does the Senate support the provision of family planning services to women and men in the developing world, or does it not?

I know that several Senators will speak today about the awful consequences that will result if we fail to uphold the Presidential certification. Each one of us will highlight some area of the world, or the provision of some service, that will suffer from a further delay in the disbursement of these funds.

As the ranking Democrat on the Africa Subcommittee, I would like to focus on Africa, where the United States international family planning program has made a tremendous impact.

In fiscal year 1996, United States population assistance funds were distributed in 21 countries in sub-Saharan Africa, with a combined population of 426 million people. These countries are overwhelmingly poor, yet have among the highest fertility rates in the world.

The United States population assistance program is one of the most important things that the United States Agency for International Development does in Africa.

As elsewhere, USAID supports a comprehensive program of voluntary family planning and closely related health efforts in several sub-Saharan African countries. It has trained hundreds of nurses and midwives in Uganda. In Mozambique, a country whose entire infrastructure was destroyed by 17 years of civil war, USAID helps deliver family planning and maternal-child health services in four provinces with a combined population of more than 6 million people. And it contributes to the distribution of modern contraceptive products in Zimbabwe, where 42 percent of women are now demanding such products.

Now what will happen if the resolution that we will vote on tomorrow fails?

First, many of the nongovernmental organizations that currently administer these programs will be forced to close key activities. To give a compelling example, CARE, an NGO that has 50 years of experience helping poor families, already is considering shutting down its family planning program in Uganda because of the funding restrictions imposed by the United States Congress. After investing some $2 million of USAID funds in this program over 4 years, CARE has trained

more than 1,000 community-based health workers, launched family planning services in 71 clinics, and increased the percentage of couples using contraception in the program target area from 1 percent to 10 percent.

If this resolution fails tomorrow, CARE's network of trained volunteers will no longer be able to serve their communities to educate women and men about family planning and other health care.

Second, even those programs that do not close their doors will be negatively affected if we delay our support. The distribution of key family planning and health products will be seriously disrupted.

In Lusaka, the capital of Zambia and a city with one of the highest rates of HIV infection, condom distribution would have to be reduced significantly, greatly increasing the chances of a rapid spread of the HIV virus.

In Kenya, USAID-funded programs that have spent years teaching women about health and family planning, and have helped create a demand for contraceptive services, may no longer be able to offer birth control pills or other products to the men and women who now depend on them.

A third consequence of a negative vote tomorrow is that information campaigns on family planning and maternal and child health will also be cut back dramatically. These campaigns have been successful at reaching millions of couples worldwide, helping to educate them about birth spacing, natural family planning and other family planning methods.

Finally, as one Member of the Senate who is careful about how and where we spend U.S. taxpayer money, I am concerned that a negative vote today will waste thousands—if not millions—of dollars in unnecessary administrative costs that will be incurred if the disbursement of funds for the international family planning program is delayed any further.

AVSC International, the second largest-funded agency that works in partnership with USAID on international family planning, estimates that because of previous congressional restrictions and metering, it already has spent $2 million in staff time and associated administrative costs in order to manage the impact of delayed funding. What this means, according to an AVSC report, is that "for every dollar intended to provide access to these services last year, a smaller quantity of services was actually provided."

I find this type of expense, which wastes valuable taxpayer dollars, absolutely unconscionable.

If the Senate fails to uphold the Presidential finding, more and more organizations will be faced with similar, equally ridiculous costs.

In other words, Mr. President, a further delay in the disbursement of these funds would be inefficient.

It would be disruptive.

And it would be costly.

Opponents of House Joint Resolution 36 will have you believe that U.S. tax dollars are used to pay for abortion, even though they are well aware that such a practice has been illegal for more than two decades.

Mr. President, this vote, as we always have to point out on this issue but it bears constant repetition, this vote is not about abortion. It is about whether the United States will continue to support efforts to educate both men and women about modern methods of birth control, about the importance for health and financial well-being of spacing one's children, and about obtaining adequate pre- and post-natal care.

Mr. President, it frankly boggles the mind that these logical, commonsense activities, which promote sensible family planning in order to prevent or delay pregnancies until they are wanted, can be thought of as promoting abortion. These funds help prevent pregnancies, not end them. Without these funds, abortion rates will undoubtedly increase.

This vote is about helping empower individuals to make the most basic and personal decisions a person can make. It is about helping empower individuals to make choices about how many children to bring into this world and when to have them. It is about helping empower individuals to safely prevent pregnancy, and when they choose to give birth, to deliver and care for their children to maximize health. This is an issue of fundamental freedom. Our support of these programs represents a longstanding commitment from which our Nation, founded on the principles of liberty and democracy, must not back away.

Mr. President, I urge all of my colleagues who care about women and their children, who care about health and the eradication of disease, who care about access to food and water, who care about the environment and the effect of global warming, who care about Africa or Latin America or Asia, who care about responsible spending, or who care about preventing the demand for abortion, I urge all of my colleagues to uphold the Presidential determination and to vote in favor of this resolution.

Mr. President, I thank not only the Senator from Vermont but my colleagues who gave me the courtesy of letting me speak at this point. I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. We are going to go from side to side, Mr. President.

Mr. LEAHY. If you would like.

Mr. McCONNELL. Mr. President, we have sort of an informal agreement here to rotate sides. Senator HELMS is here and would like to speak on my side of this issue. I would like to yield him 8 minutes.

Mr. HELMS. That will be fine, or less.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair and I thank the distinguished managers of the bill.

Mr. President, I am grateful to the distinguished Senator from Arkansas Mr. [HUTCHINSON], for offering S. 337, which is the bill to restrict U.S. assistance to foreign organizations that perform or actively promote abortion. I am an original cosponsor of that bill. I believe it is safe to assume it will receive careful consideration in the Foreign Relations Committee.

Mr. President, if S. 337 were law, Congress would not be tied in the existing knot regarding international population control funding that now exists.

With regard to the pending business, I was astonished to learn that there were 21 mentions of the so-called Helms amendment during the February 13 House debate on House Joint Resolution 36. The references to the Helms amendment were prompted by the purpose of my resolution, which prohibits using foreign aid funds for performing abortions as a method of family planning.

Mr. President, I ask unanimous consent the text of section 104(f) of the Foreign Assistance Act, known as the Helms amendment, be printed in the RECORD.

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

SEC. 104—FOREIGN ASSISTANCE ACT OF 1961 (P.L. 87–195)

(f) PROHIBITION ON USE OF FUNDS FOR ABORTIONS AND INVOLUNTARY STERILIZATIONS.—(1) None of the funds made available to carry out this part may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

Mr. HELMS. Mr. President, since the Helms amendment, so-called, is referenced in the administration's talking points, it may be that Senators will be referring to it from time to time in this debate, and therefore I feel obliged as the author of the Foreign Assistance Act to offer a few comments about what section 104(f) does and what it does not do.

The Helms amendment has been permanent law since 1973, the year after I came to the Senate. It is a narrow restriction on how funds provided by the American taxpayers can be used. It is not a restriction on the actions of private groups—for example, International Planned Parenthood Federation—that receive funding provided by the taxpayers of this country.

A group may use Federal funds for administrative expenses, distributions

of condoms, or to pay for, if you can believe it, family planning radio soap operas and gender analysis tool kits, whatever they are. Simultaneously, funds available to these same groups from other sources can and often do pay for abortion or pro-abortion lobbying efforts. It goes without saying when the U.S. Government pays for administrative and other expenses of these groups, funds from other sources are freed up for activities that otherwise would be a violation of U.S. law.

Which is precisely why the Reagan administration came up with the Mexico City policy—so that funds provided by the American taxpayers would not be misused to underwrite, directly or indirectly, the pro-abortion dogma of the International Planned Parenthood Federation and other similar pro-abortion foreign organizations. President Clinton, who agrees with the pro-abortion doctrine, reversed President Reagan's Mexico City policy and other pro-life protections on the second day that Mr. Clinton was in office back in 1993.

So the administration has, therefore, once again masterfully obfuscated the real issue, which is, does the 105th Congress today agree with underwriting, directly or indirectly, organizations that make a callous business out of performing abortions and browbeating those poor Third World governments into reviewing and reversing their long-held beliefs and pro-life laws.

I cannot condone what these organizations set out to do and I refuse to be a part of a scheme leading to the deliberate destruction of the lives of the most innocent and most helpless human beings imaginable, and those are unborn babies.

I will vote against the pending resolution, because, as my father so often told me many years ago, he said "Son, you become a part of what you condone," and I cannot condone this.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. KYL). Who yields time?

Mr. LEAHY. Mr. President, I know the distinguished senior Senator from Maine wishes to speak, and I yield to her such time as she may require.

Ms. SNOWE. Mr. President, and Members of the Senate, I rise in strong support of this resolution to expedite the release of already appropriated funds for international family planning. This resolution essentially reaffirms the President's certification that the delaying of these funds which were appropriated last year will cause serious and irreparable harm to family planning programs around the world.

The life and health of women and children should transcend politics and party lines. The United States has traditionally been a leader in family planning assistance around the world for more than 30 years. It has enjoyed strong bipartisan support for such leadership. It has had unrivaled influence worldwide in setting standards for these programs.

These family planning assistance programs fund voluntary family planning services, contraceptive research, maternal health programs and child health programs. An estimated 50 million families in over 60 developing countries, with a combined population of 2.7 billion people across the world, use family planning as a direct result of U.S. population assistance programs.

There is no question that our support and our assistance over the last 30 years in developing countries has been enormously successful. The average family size in countries that receive our assistance has decreased from six children to three children. The Agency for International Development has increased the use of contraceptives in developing countries from 10 percent of married couples in the 1970's to 50 to 60 percent today.

Yet, there is still a great need for additional family planning assistance. In developing countries, maternal mortality is the single leading killer of women in their reproductive years, with 600,000 women dying annually from pregnancy-related complications. Family planning could reduce the deaths by one-fifth. It is estimated one out of five infant deaths could be averted if all children were spaced at an interval of at least 2 years.

Unfortunately, the passage of the omnibus appropriations bill last year came at a heavy price for U.S. family planning assistance programs. As we all know, fiscal year 1997 funds cannot be spent until July 1, and at only 70 percent of the 1995 level, and on a monthly basis of 8 percent over the next 12½ months.

As a result, family planning assistance by our Government will be reduced from $547 million in 1995 to only $385 million during 1997. This translates into a 30 to 35 percent cut of $162 million. If we delay the funding for these programs until July 1, we are talking about delay in funding of another $123 million.

We agreed to these cuts and restrictions only because we wanted to avoid a Government shutdown given that there was a difference between the House and the Senate on this issue. The Senate rightfully took the position that we should fund these programs without the Mexico City language. But in order to protect these programs, we inserted language requiring a vote on the President's certification that is before us today.

I can assure Members that the failure to release these funds now will have a devastating impact on women, children, and families all over the globe, and particularly in developing countries. Countless programs have already been suspended or halted, as mentioned by the Senator from Wisconsin, and if the funds are released in July rather than now, dozens of programs may be forced to permanently close their doors, including programs in Peru, Bolivia, Mexico, the Philippines, and elsewhere. These programs are critical in preventing unplanned pregnancies, reducing infant mortality, reducing rates of HIV infection, and promoting maternal and child health.

So there is no question, as the President has indicated, there will be irreparable harm to these programs. More than that, the Alan Guttmacher Institute and other research institutions predict as a result of just the funding cuts alone, not even the delay in funding, but just in the funding cuts alone, 7 million couples in developing countries who would have used modern contraceptives will be left without access to family planning. Four million more women will experience unintended pregnancies.

Now, according to the World Health Organization, 40 percent of unintended pregnancies result in abortions. So we can expect 1.6 million more abortions and countless miscarriages; 1.9 million more unplanned births, often to families, as we know, living in terrible poverty conditions and who cannot afford another child; 8,000 more women dying in pregnancy and childbirth, and 134,000 infant deaths. These figures relate to the funding cuts alone. They do not even take into account the effect of the metering out, on a monthly basis for 12½ months, of this funding, or, most importantly, the significant delay in funding.

Make no mistake about it, a vote against this resolution is a vote for more abortions, more women dying, more children dying. That is what I think is inconceivable in this debate—that those individuals who are against abortion are also against family planning. That is the bottom line in this debate. I have been debating this issue since 1985. Time and time again there hasn't been one single shred of evidence to suggest that U.S. population assistance funding is going for abortions or abortion-related activities in other countries.

Senator LEAHY was absolutely correct when he discussed the implications of the fungibility argument if applied to our assistance to foreign governments. We give assistance to foreign governments who allow abortions in their countries, according to their laws. We don't impose the requirement that if they use their money for abortion-related activities, we will not provide them foreign assistance. But this is a standard we are using for private organizations who have been instrumental in reducing the incidence of abortion worldwide. That should be of interest to all of us, given the enormous implications of population growth in the future.

So I suggest that some are trying to bury their heads in the sand, taking an

ostrich-like approach to this entire issue, to suggest that somehow if we don't provide family planning assistance, we will have fewer abortions in the world. The statistics do not bear that out.

I hope that the Senate will overwhelmingly support this resolution, because I think that there is no question that it is in America's interest and it is in the world's interest. The United States has traditionally taken a leadership role for more than 30 years on international family planning. In fact, the first Presidential message was issued by a Republican President, President Nixon, back in 1969, saying that population growth was a world problem. America has always shown an inclination for humanitarianism through population assistance funding. We should be predisposed to doing the same thing in this body here today. To do less will impose serious hardship on women and children in developing countries. We know the strain it is going to impose. We know there will be millions fewer couples who have access to family planning assistance because we are undercutting our support. If we undercut our support, I can assure you that other countries will follow suit and it will affect an already fragile international family planning system program worldwide.

When you think about the future, we should be concerned because it will provide an enormous strain on economic and social stability all around the world. In the next decade, the number of women of reproductive age will increase from 185 million to 900 million women. That is 10 times the size of Mexico. So I know there will be grave consequences of this incremental decrease in U.S. support for international family planning year after year. How can we incrementally undercut our family planning assistance to those organizations who have been the most effective, the most instrumental in preventing unplanned pregnancies and improving maternal and child health?

I can assure you of one other point: Not one dime has been spent—and it bears repeating here today, and let there be no misunderstanding—there has not been one U.S. dollar that supports abortion or abortion-related activities in other countries. We have had that prohibition in law since 1973. The fact of the matter is, those funds are maintained separately, and there is monitoring and independent reviews on an annual basis. That is why I believe that former Senator Mark Hatfield, who was a pro-life Senator for many years in the U.S. Senate, wrote a letter to a colleague in the House of Representatives, saying that there is no evidence to suggest that our funding has ever gone for abortion or abortion-related activities in other countries through our family planning assistance programs. In fact, he goes on to say that we are contributing to the increase in abortions worldwide by our failure to provide this assistance.

So I hope, Mr. President, for these and many other reasons I have highlighted, that my colleagues will support this resolution. It is in our interest and in the world's interest. As the Senate votes tomorrow on this resolution, I hope that these facts will not be forgotten.

I yield the floor.

Mr. LEAHY. Mr. President, I want to commend the senior Senator from Maine for her statement. It demonstrates, as we have said before, that this is not a partisan issue. This is an issue of good sense. Whether people believe that abortion should be legal or whether people believe there should not be abortion, it makes no difference. We should be trying to join together in this to avoid all abortion. If you have family planning, that, to me, is a far greater alternative than using abortion as family planning.

As we also showed in this, in Russia, where just increasing our foreign aid over a relatively short period of time and increasing the availability of contraceptives by about 5 percent, that cut out 800,000 abortions. I mean, the fact of the matter is, if we hold the money back for family planning, abortions go up. If we release the money for family planning, abortions go down. Holding back the money, just because it may make some feel like they are being a purist on the abortion issue, flies in the face of reality. It is rhetoric over reality. The reality is, spend money for family planning and you reduce abortions.

I see the distinguished senior Senator from Massachusetts. I yield to him.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I know there are others who want to speak on the resolution. But at the outset of this discussion, I want to pay tribute to Senator LEAHY and Senator SNOWE for their bipartisan leadership on this issue. I think that working together bodes well not only for this issue but for other matters that will come before the Senate. I congratulate them for their leadership on this important resolution, which affects millions of families around the world—people whose names we will never know, as they will not know ours. Nonetheless, with the release of these resources, which we expect as a result of this vote, lives will be enhanced.

I just want to again underline what Senator LEAHY and Senator SNOWE mentioned about what this bill is and is not. This is not legislation to promote abortion. They have laid out very clearly that this is about providing resources that will be used to support family planning and avoid unwanted pregnancies and subsequent abortions. That case has been made by Senator LEAHY, Senator SNOWE, and our former colleague Senator Mark Hatfield, who is a strong opponent of abortion. Senator Hatfield rejected the argument that family planning is a back-door means of supporting abortion services. He reviewed the alleged evidence that family planning funds were being used to provide abortions and, in a letter to Representative CHRIS SMITH, said, "I do not see anything in these materials to back up your assertion that U.S. funds are being spent on abortion."

This is not only the understanding of those of us here today but also the clear understanding of the President. I think those that support this action have been justified in challenging those that are opposed to it to produce information or evidence to the contrary.

As President Clinton has said very clearly, "The United States provides family planning support where it is wanted and needed. We are prohibited from law from ever funding abortion—and we abide faithfully by that law. Indeed, the work we have funded in developing countries has been supportive of families, helping them to flourish."

One of the extraordinary examples of this work is the lifesaving efforts of CARE. In many different parts of the world I have had the opportunity to see the extraordinary work of many nongovernmental organizations, and I have enormous respect for the dedication of the men and women who are so selfless in volunteering for these organizations.

All we have to do is read the newspapers of the past weeks and months to recognize the enormous threat to their lives. Red Cross and other NGO workers in Chechnya, Uganda, Rwanda, and other parts of the world have actually lost their lives because of their work.

CARE, long respected for its efforts to meet the basic health needs of poor families around the world, has used U.S. funds to enhance the lives of large numbers of women and children.

In Uganda, over the last 4 years, CARE has trained over 1,000 community-based health workers, launched family planning services in 71 clinics, and increased the number of couples using contraception from 1 percent to 10 percent. But, that project in Uganda—as well as projects in Bangladesh, Niger, and Togo—will be shut down if these United States funds are not forthcoming.

That is the story all across the Third World. Without U.S. aid, millions of people would not have access to gynecological examinations, postnatal care, and family planning services. The funds appropriated by Congress decrease the instances of female genital mutilation and prevent the spread of sexually transmitted diseases, such as HIV and AIDS.

So, for all of these reasons, Mr. President, this is an extremely important vote. It is really about children, and it

is about struggling families in foreign and distant parts of the world that are trying to take care of their families and ensure a future with a greater sense of hope and health. It is really about life—not about other factors. That is the underlying purpose of this bill. That is what the record has demonstrated.

That is why I think this vote is so important, and why I commend the Senator from Vermont and the Senator from Maine for their leadership.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. The distinguished Senator from Vermont is on the floor. How much time does he need?

I yield 3 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that William Jackson of my staff be granted privilege of the floor for the duration of the consideration of the joint resolution.

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

Mr. JEFFORDS. Mr. President, I rise today in support of House Joint Resolution 36, which would approve the President's finding that the congressionally imposed delay in disbursement of international population funding is having a negative impact on the effectiveness of our population planning programs overseas.

I have been a strong supporter of international family planning assistance and see this measure now before us as an important test of our Government's commitment to these important, lifesaving programs.

Claims that this resolution somehow promotes abortion are completely unfounded. This resolution is about the health of women and children in the desperately poor corners of the world, and, if anything, it is about preventing abortion.

At issue here is whether to begin releasing funds March 1, or delay the disbursement for another 4 months, until July 1. The 1997 fiscal year began October 1, but under the terms of the fiscal year 1997 Omnibus Appropriations Act, funding for this particular program was delayed for 9 months. Regardless of the outcome of this vote, a total of $385 million will be spent on bilateral family planning programs. In other words, we are not debating if these funds will be spent, but when they will begin to be released—July 1 or March 1.

I would like to point out that an additional 4-month delay in funding would result in an actual reduction of $123 million in funds available for programming during fiscal year 1997. The President's finding states that at least 17 bilateral and worldwide programs will have urgent funding needs in the March–June period which cannot be met by remaining fiscal year 1996 funds. If fiscal year 1997 funds are withheld until July 1, these programs would need to suspend, defer, or terminate family planning services and other critical supporting activities.

The continued disruption and possible termination of family planning services would have a devastating impact on the health of women, children, and their families in many parts of the world. Medical research shows that women who are able to space their children in at least 2-year intervals have children that are less likely to die at a very early age. Children born less than 2 years apart are more likely to have a low birth weight, making them more vulnerable to disease and illness. Moreover, births too close together affect older children in the family as well. Infection, malnutrition, and dehydration result from premature discontinuation of breast-feeding. The inadequate nutrition, sanitation, and crowded living conditions often found in poor countries, increase the likelihood that already vulnerable children will succumb to illness. For the health of their families, women in these circumstances turn to family planning services, when they can get them.

UNICEF estimates that each year 600,000 women die of pregnancy-related causes, and 75,000 of these deaths are the result of self-induced, unsafe abortion. UNICEF also estimates that these women leave behind at least 1 million motherless children. In short, to continue to obstruct and delay family planning assistance is to contribute to the deaths of women and young children. Why would we delay the release of funds until July 1 when we could prevent more needless, tragic deaths by releasing funds March 1?

Mr. President, no Senator in this body wants to promote policies that increase the incidence of abortion overseas. But by continuing to delay funding to clinics in the poorest countries in the world, that's exactly what we are doing—shutting off women from the only possibility they have of obtaining family planning services and contraception and forcing them to consider abortion as a last, desperate option.

Very simply, to vote against this resolution is to vote against the health of women and children, and to force more women to have abortions. I do not believe this is the true intention of the Senate and I urge my colleagues to support this measure.

Mrs. BOXER. Mr. President, I rise in support of House Joint Resolution 36.

This is a vote solely to determine whether funds already appropriated for fiscal year 1997 will be released 5 months late or 9 months late.

Currently at least one woman dies every minute from causes related to pregnancy and childbirth. In developing countries, maternal mortality is the leading cause of death for women in reproductive age. The World Bank estimates a 20-percent reduction in maternal death would result from improved access to family planning.

In parts of sub-Saharan Africa, there are more than 1,500 maternal deaths for every 100,000 live births; in the United States, this ratio is 12 deaths per 100,000 live births. By being able to plan their pregnancies, mothers are able to ensure they bear their children at their healthiest times and that pregnancies do not occur too close together. This reduces the risks to the lives of both the mother and her children.

Babies born less than 2 years after their next oldest sibling are twice as likely to die in the first year as those born after an interval of at least 2 years. Analysis of data from 25 developing countries shows that, on average, infant mortality would be reduced by one-quarter if all births were spaced at least 2 years apart.

Family planning education also helps prevent the spread of sexually transmitted diseases, including AIDS.

At least 76,000 women die every year from the consequences of unsafe abortions. Thousands more suffer serious complications that can result in chronic pain and infertility. A U.S. study found that for every $1 increase in public funds for family planning, there is a decrease of 1 abortion per 1,000 women.

According to the Rockefeller Foundation, in just 1 year, cuts and severe restrictions of Federal funding for family planning programs will result in an additional 4 million unplanned pregnancies and 1.6 million of those will end in abortion; 8,000 of those women will die in pregnancy and childbirth. These are conservative estimates.

Pathfinder International is one organization whose 30-year partnership with USAID has delivered high-quality family planning, reproductive health services, and information to some of the poorest countries in the world. The delays in Federal funding have jeopardized a significant portion of Pathfinder's programs.

One woman who has benefited from Pathfinder's programs is a 27-year-old Bangladeshi woman named Ferdousi Begum. She was married when she was 14 years old. Ferdousi and her husband, Mahmud, are poor and their lives are hard. Mahmud works 12 to 14 hours a day and Ferdousi works as a part-time domestic in addition to tending the home and being a mother. But they are happy—family planning has given them hope for a better future.

Ferdousi and Mahmud received counseling to postpone having children until she was 18 and her body was more developed. After having two daughters spaced several years apart, they decided not to have any more children.

Mahmud speaks proudly of his daughters. He speaks of having dreams of his

older daughter, Salma, becoming a doctor after winning a prize in a science competition.

However, after years of using family planning in order to provide a better life for her family, Ferdousi is at risk of becoming pregnant again. Without the necessary funding, many local affiliates are unable to restock their contraceptive supplies. An additional 4 month delay will have severe repercussions on Ferdousi, her family, and millions of other families like theirs in Bangladesh and around the world.

In 1960 in Chile, less than 3 percent of married women were practicing family planning and the abortion rate was 77 abortions per 1,000 married women of reproductive age. By 1990, use of family planning had increased to 56 percent of married women, and the abortion rate had dropped to 45 per 1,000.

Data from Bogota, Columbia showed a one-third increase in contraceptive use between 1976 and 1986, accompanied by a 45-percent decrease in the abortion rate during the same period.

In Mexico City use of contraception increased by about 24 percent between 1987 and 1992, while the abortion rate fell 39 percent.

In Almaty, Kazakstan, the United States population program has provided funding to train doctors and nurses and to increase contraceptive supplies for 28 clinics. Between 1993 and 1994, the number of people provided contraceptives by the clinics increased by 59 percent, while the number of abortions fell by 41 percent.

In Russia, contraceptive use has increased from 19 percent to 24 after an affiliate of the International Planned Parenthood Federation opened in 1991. During that period, the abortion rate dropped from 109 per 1,000 in 1990 to 76 in 1994. The total number of abortions fell from 3.6 million in 1990 to 2.8 million in 1994. For years, the average Russian woman had 7 to 8 abortions.

In Hungary, a dramatic drop in abortion rates from a peak of 80 per 1,000 women in the late 1960's to just over 30 per 1,000 women in 1986 is due in part to an increase in contraceptive use.

The numbers are incredible, but what is truly important and who we can't forget are the women and their families represented in these numbers.

One such woman is 30-year-old Maria Elena Absalon Ramirez in Mexico. Her husband earns just $80 per month to support Maria and their 4 children. They cannot afford contraceptives and rely on USAID. These are Maria's words: "What I fear most is becoming pregnant again. One more child would completely change our life; it would be our ruin."

Mr. President, I urge my colleagues to support the resolution and release the international family planning funds.

Mr. LEAHY. Mr. President, I yield to the distinguished Senator from Oregon such time as he may desire.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH. Thank you, Mr. President. I would also like to thank Senator LEAHY.

Mr. President, I rise today to speak on an issue that is both very controversial and personal; therefore, I do not have a prepared speech, but wish to speak from the heart.

Much has been said here today about Senator Mark Hatfield's leadership on the issue of international family planning. In fact, I occupy the seat that Mark Hatfield sat in for more than 30 years. Like Mark Hatfield, I am pro-life. As a State Senator, I advanced pro-life legislation in the Oregon State senate, and have never been afraid to stand up for the principles of the sanctity of life.

As a candidate in two races for the U.S. Senate in one calendar year, no other issue was brought up more frequently than the issue of abortion. As I have stated throughout my career as a legislator, I intend to continue my support of pro-life issues and to work constructively with Members on both sides of the aisle on legislation to reduce the incidence of abortion on a national and international level.

For these reasons, I rise today to encourage my colleagues to join in my support of Senate Joint Resolution 14. While the debate on this resolution has centered on the issues relating to abortion, the underlying question is whether the $385 million that has already been appropriated for international family planning will be released on March 1, 1997 or whether it will be released on July 1, 1997. Regardless of the outcome of this vote, the money will be released.

According to research conducted by the Guttmacher Institute, the World Health Organization, and other independent researchers, the release of these funds on March 1, 1997, will significantly reduce the incidence of abortion in developing countries that receive assistance through USAID. Therefore, as a pro-life Member of this body, I encourage my colleagues to vote yea.

I understand and share the concerns of those who have suggested that this money is being spent for abortion services. This concerns me greatly, particularly as the law of the United States prohibits the use of Federal funds for abortion services. To address these concerns, I reviewed the USAID audits and am assured that this funding is in fact being used for family planning services, not abortion. For this reason, I also encourage a yea vote.

In addition to sharing my support for this resolution, I would also like to take a moment to express my frustration on this issue. While I certainly respect those who may not support my pro-life position, I am so often disappointed that there is little effort to educate about the options to abortion and ways to make abortion less frequent. The focus is often on the legal and the safe but never the rare. Similar frustration stems from those who advocate for life. It is unfortunate that the effort to advocate and encourage family planning does not equal the effort to discourage abortion. Today, we have the opportunity to address this inequity and to encourage and protect family planning both nationally and internationally. This is a vote to support life, and tomorrow I will vote as my predecessor Mark Hatfield, in favor of this resolution.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

For the benefit of the bill managers, the time of the distinguished Senator from Vermont remaining is 14 minutes and the time of the Senator from Kentucky is about 35 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. NICKLES. Mr. President, when the House of Representatives passed the resolution, House Joint Resolution 36, which allowed for the releasing of funds, $30 million per month for 4 months, 4 months earlier than under current law—after they passed that resolution they also passed another resolution. It is called the Smith-Oberstar-Hyde Resolution, H.R. 581. H.R. 581 actually releases more money for international family planning, but it does have restrictions to make sure that none of that money would be used for abortion purposes.

Since the House has already passed H.R. 581 and these are related issues, I would like now, at this point, to ask unanimous consent that the Senate vote on final passage on H.R. 581 at a time not later than Friday of this week.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, reserving the right to object, and I tell the distinguished majority whip that I will object and explain why, I understand that there are people who wish to be consulted, I believe on both sides of the aisle, on this. Therefore, I do object and suggest perhaps we could run a hotline on both sides. We may be able to work out a time agreement.

The PRESIDING OFFICER. Objection is heard.

Mr. NICKLES. Mr. President, I thank my colleague from Vermont. I ask his assistance. Hopefully we can get to a vote in the Senate on this other resolution. It is a different idea. Let me just compare the two so all our colleagues can see exactly what we are talking about.

This is the current law. It says, basically, we are going to spend $420 million on international family planning funds. Under the administration's resolution, that will increase by $120 million. For 4 months there will be $30 million more per month.

This is a convoluted way to do this. I was not involved in coming up with the consent agreement that arranged this. My sympathies go to my colleague from Vermont and the Senator from Kentucky, because they wrestled with this for a long time. I know Mr. Panetta was involved in this. We had a real impasse.

Maybe I will give a little background in between, so our colleagues might remember, but there is a difference in philosophy on what we should do with international family planning money. The House felt very strongly we should continue the Mexico City restrictions, the Mexico City restrictions being restrictions that these moneys could not be used by an organization, international family planning organization, if they had involvement with abortion. Not only could they not use the U.S. taxpayer funds, but they could not use their own funds for abortion services, and they also could not promote changes in a country's laws dealing with abortions. Those are the two main restrictions known as the Mexico City policy, which was the policy in the United States from 1984 through, I believe, 1993. It was changed by the Clinton administration. So, it was the law of the land for 10 years.

I might mention also that, under that policy, a significant number of organizations followed that policy. From 1984 to 1993 we had 350 foreign organizations that complied with the Mexico City policy. In other words, they accepted the money. They said the money will be used for family planning but not for abortions. They would not use our money, U.S. taxpayers' money, they would not use their own money, and they also would not advocate changing laws in other countries.

Unfortunately, this was repealed by the Clinton administration shortly after he took office. The House of Representatives felt strongly it should be reinstated. After the House had a change of leadership in 1994, they reinstated the Mexico City policy. The Senate did not go along. So we had, if I remember, 10, 11, maybe even 12 votes in the last Congress over this issue, the Senate basically saying we want to reinstate our position of no prohibition on how the international family planning organizations use their money. If they want to use their money for abortion, they can use it for abortion. If they want to use their own money to advocate changing laws in other countries dealing with abortion—because a lot of countries have laws restricting abortions that this administration does not agree with and, frankly, the International Planned Parenthood Federation does not agree with, and they want to change it. So the Senate was concurring with the administration and the International Planned Parenthood Federation. The House was saying no, we should stay with the Mexico City policy.

So we had a dozen votes, both sides insisting on maintaining their own positions. The net result was we came up with this terrible arrangement which basically said we will continue this policy at 35-percent less money—which, incidentally, I might mention we had a 35-percent reduction overall in the bill. Mr. Panetta said, let's have it the same way, and then we will dole the money out on a monthly basis and then we will have a vote in the next Congress over when that money will be released. That is what we are going to be voting on tomorrow.

So, if we maintain current law, the amount of money will be $420 million. If we adopt the administration's resolution, it will be $543 million. Under these provisions there is no restriction on abortion in this and no restriction on organizations' lobbying capability. The House passed H.R. 531, the Smith-Oberstar-Hyde resolution that had a couple of million dollars more, about $170 million more. But the money had restrictions. The money has those restrictions that were, in effect, the law of the land from 1984 to 1993, that said these groups cannot use the money for abortion, they could not use the money for lobbying other governments to change their policies.

I happen to think the Mexico City policy was right. If we are going to be giving money to international family planning organizations, it should be for family planning. It should not be for abortions.

Somebody said, "You are not using U.S. taxpayer dollars for abortions. They are using their own money." Some of these groups, like the London-based International Planned Parenthood Federation, are advocates of abortion. If we give them so much money, U.S. money, they can say, we do not use a dime of that for abortion. Sure, we will use some of our other money for abortion. And sure we will use some of our other money to advocate changes in other countries' laws that we don't agree with. So, really, you have U.S. taxpayer dollars subsidizing international organizations that are, in effect, lobbying other countries to change their laws because they deem them too restrictive on abortion.

That is kind of offensive. It is not just these international groups that are doing it; it is the administration as well. I will just make a couple of comments.

Donald Warwick of the Harvard Institute of International Development has written that the International Planned Parenthood Federation "has in word and deed been one of the foremost lobbyists for abortion in developing countries." They are promoting abortion in developing countries, even to the extent of changing their laws.

The International Planned Parenthood Federation has made it clear that legalizing abortion and expansion of abortion networks is one of its primary goals. Their 1992 mission statement Strategic Plan—Vision 2000 repeatedly and unambiguously instructs its 140 national affiliate organizations to work to legalize abortion as part of a mandate to "advocate for changes in restrictive national laws, policies, practices and traditions."

So, we are supporting and giving money to the International Planned Parenthood Federation so they can use that money, or other money, to lobby, to tell some countries that happen to have pro-life laws that they have to change their law. That bothers me. What makes us so self-righteous that we know that other countries should be changing their laws dealing with abortion? How can we be so self-righteous?

Then we find out it is not only some International Planned Parenthood organization, but we see it from our own State Department. On March 16, 1994, through Secretary of State Warren Christopher in a classified action cable to all overseas diplomatic posts, the State Department announced, "The United States believes access to safe, legal and voluntary abortion is a fundamental right of all women," and called for "senior level diplomatic intervention" to garner support for the U.S. position at the September U.N. conference on population in Cairo.

On May 12, 1993, Under Secretary of State Tim Wirth expounded the policy in a detailed speech at the United Nations, stating, "A government which is violating basic human rights should not hide behind the defense of sovereignty * * * Our position is to support reproductive choice, including access to safe abortion."

Why in the world would we have the Under Secretary of State make a speech to the United Nations telling other countries we think we know better, you should change your laws. We think you should have pro-choice laws in countries such as El Salvador or other countries that have maybe a predominantly Catholic population and have pro-life laws or laws restricting abortions? Why in the world would we be so self-righteous or sanctimonious that we should be telling those countries, We know best. Change your laws. We think you should have legal abortion. Maybe we think you should subsidize it.

That, to me, is offensive, to think that the Secretary of State or Under Secretary of State would have that position.

April 1, 1993, White House Deputy Press Secretary Dee Dee Myers noted the administration regards abortion as "part of the overall approach to population control."

And if we don't enact H.R. 581, the Smith-Oberstar-Hyde language, then what we are doing is giving this administration a blank check to give money to international organizations that have no restrictions whatsoever on how they use their money on abortion or changing laws in other countries. I think that is wrong.

So for my colleagues, just to summarize, we have a couple of options. We can accelerate the money with no restrictions whatsoever or, if you happen to be in favor of more family planning money, if you want more family planning money to go out internationally and you think that might reduce the incidents of abortion, you can do that, you can support the Smith-Oberstar-Hyde language.

We are going to try to get a vote on it. The House already passed it. Tomorrow it will be pending at the Senate desk. We hope to get a time agreement. I understand some people say, "We want to filibuster that." Why? What is the matter with having a vote? Let's find out where the votes are.

There is more money. This has $713 million for family planning. House Joint Resolution 36, which will be voted on tomorrow, has $543 million. There is $170 million more money for international family planning, but it has restrictions. You will not be able to use that money or your money for abortion. So, if you want less abortions, you should support the Smith-Oberstar-Hyde language, and if you think it is wrong for our country to be advocating that other countries change their laws dealing with abortions, then you need to support that resolution as well.

So I urge my colleagues to vote no on the resolution we will have pending tomorrow, House Joint Resolution 36. Vote "no" on that and then vote in favor of H.R. 581, the Smith-Oberstar-Hyde language, which will have more money for international family planning and no money for abortion and no money for advocating changes in other countries' abortion laws.

I yield the floor, and I thank my colleague from Vermont.

Mr. LEAHY. How much time is remaining to the Senator from Vermont?

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Vermont has 14 minutes.

Mr. LEAHY. Madam President, I will take one moment for myself and then yield to the Senator from California.

I will note for my colleagues that we are here because of an agreement entered into in good faith by Republicans and Democrats, by those who supported the money for family planning and those who opposed it last year. Unfortunately, like in the House, we have a request for another vote because some of the people who made that agreement last year do not now want to live up to it.

I have spent 22 years in the Senate. If I give my word on something, if I make an agreement on something, I carry it out. I am surprised that there have been some in the other body, and elsewhere, who are not willing to honor the spirit of an agreement made.

I mention this only because there are aspects to this agreement that I was not happy with, and there are other votes I would have liked to have had. But the agreement was that both sides would have this vote and that would be it.

When I came here 22 years ago, the distinguished majority leader, Senator Mansfield, and the distinguished Republican leader, Senator Scott, said the same thing to every Member of the Senate: "Whatever you do here, keep your word."

Senators I have dealt with on this issue have. I am concerned some in the other body have not, and it is unfortunate.

I note that contrary to what some on the other side have said this afternoon, this vote is not about the early release of family planning funds. If we approve this resolution, it still means the funds are going to be 5 months late.

It has been said that this vote will provide $123 million more to organizations that fund abortions. That is totally false. This vote will not increase or decrease the amount we appropriated last year at all.

It is said this vote will increase from $356 million to $385 million the funds for family planning. Yes, but that is a $130 million cut from 2 years ago.

We also agreed what this vote would be about, and what it would not be about.

And we heard that this is about funding abortion. Of course not. If anything, the facts show that where we have given money to provide family planning, the number of abortions have gone down, not up, and gone down very substantially, and when we withheld the money for family planning, abortions have gone up.

I yield to the Senator from California 8 minutes.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you, Madam President, and I thank the distinguished Senator from Vermont.

I rise to support his arguments, to indicate my support for House Joint Resolution 36. Madam President, I recently returned from a few days in Nepal. If you go to Nepal, you will see that about 35 percent of the children die before the age of 5, and they die before the age of 5 because they are impoverished. They don't have enough food, and they die. This is true in many areas, particularly undeveloped countries, all around the world.

I think that one of the most important and effective components of U.S. foreign assistance has been our family planning programs. I believe these programs reduce poverty, I believe they improve health, I believe they raise living standards around the world, and they enhance, certainly, the ability of couples and individuals to determine the number and spacing of their children.

I think many of us in this country take that opportunity for granted. Most of us have had the freedom to make choices about how we live our lives by planning the size of our families. But in poorer countries where contraceptive options are not available, women have much higher birth rates, and the more children they have, the higher the poverty rates. Children are malnourished, many get sick, many die.

UNICEF estimates that 34,000 children under the age of 5 die every day—every day—in developing countries. And it is not just children. UNICEF further estimates that 600,000 women die of pregnancy-related causes each year and that unsafe abortions are responsible for 75,000 of these deaths. By giving women the opportunity to plan their pregnancies, lives are saved—the lives of women and their children.

So the need for these family planning programs could hardly be clearer. Unfortunately, because of this dispute between the House and the Senate last year, the compromise the Senator from Vermont referred to was reached, but that delayed the release of family planning funds until July 1, or March 1, if the President found the delay was harming these programs and Congress agreed.

The President has made the finding, arguing, I think, persuasively that the delay thus far has forced many programs to suspend or defer their operations and that further delay, until July, could cause them to shut down.

Already, programs serving over 700,000 people annually in Bolivia, the Philippines, Ecuador, and elsewhere, have been suspended.

Two weeks ago, the House voted 220 to 209 to agree with the President's finding. So the vote in the Senate is crucial.

If we concur with the President and the House, we can release these lifesaving funds only 5 months late instead of 9 months late. The difference is critical.

Some have tried to draw a connection between our family planning programs and abortion. But no connection exists. Since 1973, U.S. law has prohibited any USAID funds from being used

to pay for abortions as a method of family planning or to coerce any person to have an abortion. All our programs are voluntary and they involve contraception, not abortion. Programs are rigorously monitored to ensure strict compliance.

So the argument that these programs cause an increase in abortion is simply a red herring. It is actually worse than a red herring in a sense because it is patently and demonstrably false. In fact, it stands the truth on its head. It is the delay in our family planning programs that is actually causing an increase in abortions.

The evidence is clear. When family planning options are available, fewer unintended pregnancies occur, and abortions decline.

In Russia where the average Russian woman used to have a stunning seven or eight abortions in her lifetime, family planning has made a huge difference. With United States assistance, organizations like the Russian Family Planning Association have raised the rate of contraceptive use from 19 percent to 24 percent from 1990 to 1994. Even that modest increase produced results. In the same period, the Russian Department of Health reported that the total number of abortions performed dropped from 3.6 million to 2.8 million. That is 800,000 fewer abortions. This is specific, irrefutable, documented, statistical proof that family planning moneys drop and lower the rate of abortion.

The story repeats itself over and over. In Mexico, in Colombia, wherever USAID has funded family planning, this is the case.

So facts are facts. And the link is clear. As our esteemed former colleague, Mark Hatfield, who was and is a proudly pro-life Senator, reminded us each time we voted on this issue, family planning assistance prevents abortion.

So this vote is about one thing and one thing only—it is about giving women in the developing world a chance to make their lives and the lives of their children better, safer, healthier, and more fulfilling.

I believe we have every reason and every interest to give them that chance. I hope every Member of this body does as well. So I urge my colleagues to support this resolution. I thank the Chair. I thank the Senator from Vermont.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. How much time is remaining for the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has 3 minutes, 34 seconds remaining.

Mr. LEAHY. Madam President, with the exception of a few self-appointed experts who have apparently never been to Beijing, Mexico City or Calcutta, it is widely understood that stabilizing the Earth's population is the foremost challenge of our time.

This vote is as important as any vote we are going to cast this year. But I do not think we should confuse with something it is not. There are other votes for or against abortion, but as the distinguished Senator from California has said, that is not what this vote is. There seems to be no end to the number of times we will fight the fight on abortion. But that is not what this vote is about, despite what some would try to suggest.

This vote is about a program that is absolutely crucial if we are going to stabilize the Earth's population in the 21st century. The number of people born in the next decade are going to decide that question.

A quarter of the Earth's people live in poverty. They have no jobs. They have nothing resembling adequate shelter and medical care. They drink from the streams they and their animals bathe in. They live from hand to mouth in filth and in despair. We can do something to help.

Our family planning program gives those people a chance to get out from under the crushing weight of more and more hungry mouths to feed. Some argue that by giving them that chance, we impose our values on them. The people who make that argument should ask those people, as I have. They should ask them if they feel we are imposing our values on them. What they will hear, as I have, is that there are hundreds of millions of couples who want access to family planning and cannot get it or cannot afford it. They desperately want to be able to decide when to have children and how many to have. They do not see that as us imposing our will on them, but giving them the chance to make their own decisions. Then they will decide.

The only question is whether they will decide with family planning, or with abortion or by having more children who die in infancy of hunger and disease. If we ask those people if they want to have the technology, and the knowledge, so they can make the choice of when to have children and how many to have, or if they would rather rely on abortion or have more children who will die of disease or hunger, the answer is very simple. They want control over their own lives. And by passing this resolution, as the House did 2 weeks ago, we give those people safe alternatives to abortion now, not 4 months from now when for many of them it will already be too late.

Madam President, it is the height of arrogance for us to stand on this floor and say, because of a few single-issue groups in the United States, we will not give families in other countries the chance to make the decisions that any one of us could do in our own family or in our children's families because we live in a nation where family planning is readily available and all of us make the kind of income where it is not a problem for us.

But we stand here and say, so somebody can put a notch on the wall, that they voted politically correctly for which single-issue group or some fundraising letter has gone out, and we turn our backs on millions of people who want our help.

Again, I would remind my colleagues of the facts in the record here. In 4 years time in Russia, where we made available family planning services, where we increased just one simple thing, the use of contraceptives by just 4 or 5 percent, the number of abortions went down by 800,000.

But some of the same people stand on the floor of the Senate today and the floor of the House, and say that they are against providing these services because somehow they are following a right-to-life or antiabortion agenda, and they voted against the money that was used in Russia. And that same money helped reduce the number of abortions by 800,000.

We have Members in this body and the other body who say they have to be so dependent on single-issue groups that they cannot vote for this money. They cannot vote for this money because somebody somewhere in that country, some private organization, might use money of their own, not ours, for abortion, so we should not give them any money for family planning. Fortunately, a majority of the House was wise enough to stand up to the single-issue groups, and vote for this resolution.

Let us stop the hypocrisy and stop the pandering to single-issue groups. I do not care whether they are to the right or to the left. Let us do what is right. How can we stand here and say, "Oh, we can do this because we're rich and we know better, but, boy, we're going to show you. We can't help you because somewhere somebody will send out newsletters to somebody will say they didn't stick to the agenda that our group asked them to do." Let us stop the hypocrisy and do what is right; and let's vote for this resolution.

I ask unanimous consent a letter by the distinguished Secretary of State Madeleine Albright be printed in the RECORD.

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

THE SECRETARY OF STATE,
Washington, February 21, 1997.

Hon. THOMAS A. DASCHLE,
Minority Leader,
U.S. Senate.

DEAR SENATOR DASCHLE: I am writing to urge your support on the upcoming vote to release already-delayed international family planning funds in March instead of July of this year. Given the negative consequences

to women and men in developing countries, as well as the administrative costs associated with further constraints on these funds, I am confident that you will agree that a March release date is justified and that no identifiable purpose is served by further delay.

In his January 31 report to the Congress, the President made it unmistakably clear that "a delay will cause serious, irreversible and avoidable harm." At least 17 separate programs, administered by the U.S. Agency for International Development and amounting to at least $35 million, would be seriously impacted by the funding delay. As a result, unintended pregnancies will rise, maternal and infant deaths will be more numerous, and abortions will increase. Clearly, family planning saves lives, enhances the health and well-being of women and their children, and prevents the tragic recourse to abortion.

International family planning also serves important U.S. foreign policy interests; elevating the status of women, and reducing the flow of refugees, protecting the global environment, and promoting sustainable development which leads to greater economic growth and trade opportunities for our businesses. Efforts to slow population growth, reduce poverty, promote economic progress, and empower women are mutually reinforcing. The proof is not found in arcane studies, but in vigorous economic development in countries like South Korea and Thailand.

The President and I are committed to building bipartisan support for a foreign policy that will serve our national interests into the 21st century. International family planning programs have a successful track record and have garnered bipartisan support for the past 30 years; we must rebuild this support for the next 30 and beyond. Unhappily, international family planning programs have often been misunderstood, creating unnecessary rancor. Let me be clear—the United States does not, has not, and will not promote or provide abortion services as a method of family planing in developing countries. These programs are carefully executed and monitored to ensure that U.S. funds are not used for illegal purposes. The upcoming vote is not about abortion. It is, in fact, just the opposite: the release of family planning funds now will reduce the incidence of unintended pregnancy and abortion.

On the other hand, it is an indisputable fact that family planning does reduce abortion, as best evidenced by significant declines in abortion as family planning services are becoming available in Russia and Central and Eastern Europe. The argument is also made that by providing support for family planning services, the United States may unwittingly enable organizations to use some of their private funds to provide legal abortion services. Carried to its logical conclusion, of course, the United States would not provide support for child survival or any other health programs in countries where legal abortion services are supported by national health systems.

The Congress has a real opportunity to correct a problem with funding set in place last fall. In so doing, you can help advance our interest in improving the status of women, protecting the environment, and encouraging robust economic progress around the world. This progress will make the difference for hundreds of thousands of citizens abroad. Most important, voluntary international family planning programs are in the interest of our own citizens. I urge your support for S.J. Res. 14.

Sincerely,

MADELEINE K. ALBRIGHT.

Mr. LEAHY. Madam President, the distinguished Senator from Kentucky and I discussed earlier. I ask unanimous consent, understanding, of course, that I will yield immediately to the Senator from Kentucky if he or his representative comes to the floor, that I be allowed to continue without the time going beyond the time we would begin the Byrd amendment at 3:30.

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

Mr. LEAHY. Madam President, it is so frustrating. Every year we have this debate, time after time. We have written into our law that not one cent of our money for family planning can be used for abortion, and none of it has been. Yet we hear the argument, "But we can't send money to some private groups because they may use some of their money for abortion." We do not hear anybody stand on the floor and say we cannot send foreign aid to this or that government because they may use some of their money for abortion. That is never done, nor will it ever be done, nor should it be done. But it points out the illogic of their argument.

This has become a litmus test vote for some pressure groups in this country. The same pressure groups are wise enough to not to advocate withholding foreign aid from governments that allow legal abortion or that uses their funds for abortion. I am not suggesting that nor have I heard anybody suggest that. However, the hypocrisy is obvious.

Let us not legislate for single-issue groups, on the right or the left, Democrat or Republican, Conservative or Liberal. Let us instead legislate what is in the best interests of the country. Now, maybe we will offend the right one day and the next day the left, maybe we will offend this single-issue group one day and that single-issue group the next day, maybe we will upset somebody's special-interest newsletter this day and somebody else's the next day. But do you know what, Madam President? In the long run the American people will be far more respectful of the U.S. Senate if we do that.

On this issue it is very simple. We have already appropriated the money. What we are doing now is withholding the money so that it cannot be spent. As long as it is not spent, instead of people having access to family planning, instead of people being able to make the decision themselves of how many children they will have and when, the number of abortions will start going up again. As we have shown over and over again, when family planning is available, the number of abortions go down, and when family planning withheld, the number of abortions go up. It was that way long before any one of us served in this body. It will be that way long after we leave.

So we should stop the rhetoric for the fundraising letters, but instead do what is right. We want to help countries determine what they may or may not do on the question of overpopulation, on the use of their own resources, being given not the tools of abortion but the tools of family planning, and tell the special interest groups that say no, that maybe they have gone a bit too far.

I have nothing but respect for my colleagues who are opposed to abortion. I wish there would never be another abortion in this world. But I am also a realist enough to know that simply withholding family planning money or passing laws does not stop abortion. Giving people alternatives to abortions, modern contraceptives, that does cut down on abortions.

As I say, I have nothing but the greatest respect for those who have moral opposition to abortion. But we should be realistic. It is like the old days when we passed laws against abortion and the back-room abortionists thrived, as they did in my State. When abortion was legal, people made the choice.

This is not necessarily directly on point in this debate, but I remember and I remind people who think simply passing a law determines what is a very difficult question for any woman to ask, what happened in my State in days when I was a young prosecutor. I got a call at 3 o'clock one morning to go to our medical center where a young woman lay nearly dying, hemorrhaging from an illegal abortion. As part of the investigation I instituted that 3 a.m. in the morning, we found out that a number of women, some college students, had gone to one person in our community to seek abortions. He would arrange illegal abortions for them. Abortions were performed by a man who had learned how to perform abortions while working for the SS at Auschwitz. The women would be sent to Canada, the abortions would be performed. They were basically the darning needle type of abortion, and subsequently he would blackmail these women for money or sex. They had no other place to go. This is where they went. This one young woman nearly died, did not die but ended up sterile as a result. If she had not nearly died, I never would have found out about it. This man would never have been prosecuted. I prosecuted him. As a result of that, we ended up with another case, which I was very proud of, called Leahy versus Beecham, a predecessor to Roe versus Wade, which made clear that abortions within a medical context would be legal. Then the difficult question that any woman would have to make would be her decision, whatever consequences would be hers, not the manipulations of a back-room abortionist.

In a way, we do almost the same thing here. We say we will withhold

safe and legal alternatives to abortion, family planning, because we are against abortion. The abortions will go up. Abortions will go up and people will die. Instead, we should give families, from the largess of the United States, money to plan their families.

Madam President, I yield back all time on both sides.

The PRESIDING OFFICER. All time is yielded back.

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

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

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the hour of 3:30 p.m. having arrived, the Senate will now resume consideration of Senate Joint Resolution 1, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States to require a balanced budget.

The Senate resumed consideration of the joint resolution.

Pending:

Byrd amendment No. 6, to strike the reliance on estimates and receipts.

The PRESIDING OFFICER. The pending question is amendment No. 6, offered by the Senator from West Virginia [Mr. BYRD].

The debate on the amendment is limited to 2 hours, equally divided and controlled in the usual form.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia [Mr. BYRD] is recognized.

AMENDMENT NO. 6, AS MODIFIED

Mr. BYRD. Madam President, I ask unanimous consent to modify my amendment and send the modification to the desk.

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

The amendment is so modified.

The amendment (No. 6), as modified, is as follows:

On page 3, strike lines 12 through 14 and insert the following:

"SECTION 6. The Congress shall implement this article by law.

Mr. BYRD. I thank the Chair and I thank the manager of the resolution, Mr. HATCH, and I thank all Senators.

Madam President, the proponents of the proposed constitutional amendment now before the Senate would have the American people believe that if their proposal is adopted by Congress and ratified by three-fourths of the States, the Federal budget will then be constitutionally required to be balanced every year, unless supermajorities of both Houses pass waivers. But let us all remember that "the devil himself can quote Scriptures for his purpose." My purpose here is to strip away the hype and the rhetoric and examine the manner in which this constitutional amendment will actually work.

Section 1 of the article states, "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *." That is pretty plain. That seems quite straightforward and very clear. There appears to be no room for any misplay or misunderstanding. The entire Federal budget must be balanced each and every year, right down to the bottom dollar. Unlike State and local governments or businesses, where borrowing is frequently used for the purchase of capital investments—or, in the case of family budgets, where debt is incurred for the purchase of homes and automobiles and to pay for college tuition costs—the Federal unified budget will not be allowed to incur debt for any reason under this amendment. Instead, the Federal Government's investments in military weaponry, highways, bridges, waterways, and all other capital items will have to be paid for, in full—cash on the barrel head—as they are purchased. Total spending for any year for any purpose will have to be no greater than the income to the Treasury for that same year if this amendment is adopted.

But, the question arises, just how are we mere mortals to ensure that total outlays do not indeed exceed receipts, and how will that constitutional requirement be enforced?

How, indeed, given that the Federal budget deficit, its total receipts and its total outlays, unlike the family budget, is based entirely on estimates? Granted, these estimates of total outlays and total receipts are prepared by some of the finest statistical wizards in this country—the men and women who work for the nonpartisan Congressional Budget Office.

Once the amount of the deficit is set in the annual Congressional Budget Resolution, then the Congressional Budget Office, CBO, monitors the performance of the economy throughout the year and keeps Congress informed as to whether the outlay estimate and the revenue estimate and the deficit estimate are going to be correct. But remember, these are all estimates—educated guesses, if you will. I can produce one. You can produce one. It is an educated guess. But we live up to the educated guesses, or at least we are guided by the educated guesses of the Congressional Budget Office. These are estimates of many factors in the public and private sectors which are totally outside of the control of any mortal human—totally outside the control of any human being.

We are told, just don't worry about that section 1. Don't lose any sleep over that section. The authors of the amendment have solved the problem. We need only to look at section 6 of their proposal to find the answer to the dilemma of how to ensure that the budget is balanced in every fiscal year, despite our having to rely on nothing more than estimates. Well, I want Senators, and I want the American people who are watching what is being said and what is being done here, to understand what they would be buying into here. What are you getting here now? Is it just what you see? Is that what you get? We all need to thoroughly understand that crucially important section—section 6—of the resolution.

Section 6 of the resolution reads as follows:

The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

" * * * which may rely on estimates of outlays and receipts."

So there you have it.

Congress may enforce balanced budgets by relying on "estimates of outlays and receipts." We don't need to really balance the budget. We don't need to comply with section 1, which requires the balancing of the outlays, or the spending with the receipts, or the income right down to the bottom dollar, as I said earlier. We don't need to do that. All we have to do is balance the estimates.

So the American people need to understand this. They are being told that if this constitutional amendment to balance the budget is adopted by the Congress and ratified by the States, that the budget will be balanced. That is what article I says, no if's, and's, and but's about it.

The American people need to understand this. Unlike their family budget, which is relatively stable as far as income and expenses are concerned—most families know how much income they will have with which to purchase their needs from month to month and from week to week as those individuals who receive salaries know from week to week and month to month how much those salaries will amount to. So they know how much income they can count upon. But the Federal budget is far from being that stable. The Federal budget is based on myriad estimates that are compiled in advance of each fiscal year by the CBO, the Congressional Budget Office. These estimates have to include such factors as corporate profits and how much revenues the Treasury will receive from corporate and individual income taxes; what the unemployment rate will be; what the rate of inflation will be; what interest rates will be 6 months from

now or 9 months from now; and a whole host of other factors which we do not have to consider as we attempt to keep our own family finances in order.

The fact is that when it comes to the Federal budget, we never know whether the budget for any fiscal year is balanced until well after that fiscal year is over—the clock has run its course and the calendar has been exhausted—and the Treasury Department has had time to finalize its tally of receipts and expenditures. And this usually occurs 3 or 4 weeks after the end of the fiscal year. So we really do not know whether or not the budget is in balance; and if not, how high the deficit is. We really don't know what the final figures are until 3 or 4 weeks after the end of the fiscal year. So, in truth, therein lies the Achilles' heel of this amendment: In no year can we know for sure that the budget is balanced until sometime after that year is over.

The proponents point to section 6 and say we can balance the budget by relying on estimates of outlays and receipts. Madam President, it is disingenuous at best, and, at worst, it is a deliberate hornswoggle to lead the American people to believe that we can even come close to balancing the actual budget by relying on estimates.

In fact, as I will now demonstrate in a series of charts, these estimates vary by billions of dollars—that is billions, not millions, "b," not "m," billions, not millions—from the actual results in nearly every year.

Before turning to the specifics of these charts, let me emphasize that the data presented in them come from the independent, nonpartisan CBO, the Congressional Budget Office. It is independent. It is neither Democrat nor Republican. It is nonpartisan. These data are hot off the presses of the Congressional Budget Office and are taken from CBO's most recent publication, entitled "The Economic and Budget Outlook: Fiscal Years 1998–2007."

And here it is. This is the document that I am talking about.

I highly recommend that Senators, our colleagues here, read this publication. I highly recommend the publication to the American public. It contains an entire chapter, namely chapter 3, which explains the uncertainties in budget projections and how these uncertainties in the economy and in technical factors can greatly affect deficit projections.

In that chapter, when referring to its latest deficit estimates, the Congressional Budget Office makes these statements, and I quote:

> . . . considerable uncertainty surrounds those estimates because the U.S. economy and the Federal budget are highly complex and are affected by many factors, none of which can be projected with full confidence.

That is the Congressional Budget Office talking, the nonpartisan Congressional Budget Office.

Another quotation from that book:

> Growth in potential gross domestic product (GDP) that was half a percentage point higher or lower would decrease or raise the deficit by $50 billion in fiscal year 2002.

Continuing to quote from that document:

> Similarly, a fairly typical swing in the business cycle would increase or decrease the deficit by more than $100 billion in a given year.

Madam President, those are just two examples of changes in economic factors which the Congressional Budget Office says could cause huge changes in deficits for any fiscal year.

The Congressional Budget Office also says, and I quote:

> An increase of 2 percentage points in the annual rate of growth of Medicare and Medicaid alone could boost spending for those two programs by about $50 billion in fiscal year 2002. If such technical errors (those not attributed to the performance of the economy or legislation) pushed the deficit in the same direction as economic errors in a particular fiscal year, the deficit could swing by very large amounts.

That is the Congressional Budget Office talking. There you have it, Madam President. The very office which has the responsibility for providing Congress with these annual deficit estimates tells us that their own calculations can be off by very large amounts.

In fact, as this chart shows, the difference between revenues, as estimated in the congressional budget resolution for each of fiscal years 1980 through 1996, versus what revenues actually turned out to be for each of those years, varied greatly.

Let me first point out that the green horizontal line on the chart represents a zero difference between estimated and actual revenues—no difference whatsoever. That is what the green line is for any particular year. There is no bar above or below the green line. That means that the Congressional Budget Office hit it right on the head. The green line means that the CBO got it right on the nose. The black numbers above the green line depict years in which actual revenues exceeded the estimates—that occurred in six of these 17 years: 1980, 1987, 1989, 1994, 1995, and 1996—when revenues were $36 billion greater than CBO estimated they would be.

For 11 of those 17 years, actual revenues were less than CBO estimated they would be, and in a number of those years the revenue shortfalls were large. In 1983, for example, the shortfall was $65 billion; and for 1992, Federal revenues were actually $78 billion less than they were estimated to be by the Congressional Budget Office for that year.

In all, over these 17 years, revenues never matched the estimate for any year—not one. On average, actual revenues collected by the Federal Treasury were off, in one direction or the other, by $29 billion. That is a pretty big disparity.

The next chart shows for the same 17 year period, 1980 through 1996, the differences between the estimated outlays and what actual outlays turned out to be. For those in our viewing audience, the term "outlays" is a very fancy word for spending. Total outlays means total spending by the Federal Government for a given year.

Starting again on the left of the chart, the green horizontal line represents a bull's-eye for the CBO. They hit it right in the eye. But you notice there is always a variation from the green line.

That green line represents a zero difference between CBO's estimates of what outlays were expected to be and what actual outlays turned out to be for each year. Again, as was the case with revenues, in no year—not one—did actual Federal outlays, or spending, exactly equal the estimate. For 11 of the 17 years, actual spending was greater than the CBO estimate. In 1990, for example, outlays actually exceeded CBO's estimate by $85 billion. They were off $85 billion. Outlays, in 1993, were $92 billion less than they were estimated to be.

So the point I am making is that the estimates are always wrong—always.

On average, over this 17-year period, CBO missed hitting the bull's-eye by $36 billion per year—per year. A pretty big "goof," by most folks' standards, I would say.

These first two charts have shown that at no time—no time—over the last 17 years have either revenues, or income, or outlays, or spending, equaled the estimate for any year. About the only thing that we can ever be sure of when we talk about these estimates is that they will always—always—be wrong. In fact, the whole point of these charts is to graphically demonstrate that these best guesses by the best experts are consistently, always wrong. And yet, despite knowing that the estimates we must work with have always been wrong and will inevitably continue to be wrong, they are exactly what this section, section 6 of this resolution says Congress may rely on.

It is ludicrous to think that just because we adopt this constitutional amendment—hear me out there—ludicrous to think that just because we adopt this constitutional amendment to balance the budget, somehow we will magically have accurate estimates every year in the future. It just will not happen, unless, of course, someone comes up with a crystal ball that can accurately tell us at the beginning now, at the beginning—that is what it says. That is what the amendment says, at the beginning—at the beginning of each fiscal year what the gross domestic product will be for that year, or what the unemployment rate will be for that year, or what the inflation rate will be for that year, or what interest rates will be for that year, or

any of a number of other economic and technical factors. It just cannot be done.

In fact, during the debate on Senate Joint Resolution 1 on Wednesday, February 12, the distinguished manager of the measure, Senator HATCH, and I debated this problem of the inaccuracy of estimates at some length and during our debate the able manager made the following statement. We took it down, and I quote:

> Let us be honest. There is no way anybody can absolutely, accurately tell what the outlays and receipts are going to be in advance.

There it is, statement by the manager.

> When we say "total outlays of any fiscal year shall not exceed," it has to be written that way because that is the force that says, Congress, your estimates better be good, a lot better than these statutory estimates we have had in the past, because then we will be under a constraint to balance the budget, or vote by a supermajority vote not to balance it. That is the difference.

That is the end of my quotation of my esteemed colleague, Mr. HATCH.

The point is there is no difference. There is nothing in the pending measure that will make these estimates any more accurate in the future than they are right now. I have already laid in the RECORD the statements by CBO that their estimates of deficits can be off by tens of billions of dollars for reasons totally beyond any human being's control. We will not do any better because we cannot do any better. The only "difference," if we put this hoptoad into the Constitution, will be that we are out of sync with the Constitution of the United States if the real budget does not balance at the end of the year.

What are we in Congress to do then? How do we address an unbalanced Federal budget that we are unaware of until the very last minute, or 2 or 3 or 4 weeks after the very last minute? The very last minute the old fiscal year has come and gone, and then 3 weeks later we find out, or possibly even 4, from the Treasury Department what the actual figures were, how much the estimates were off, how much the deficits are. So how do we address an unbalanced Federal budget at that point? How do we square ourselves with the new constitutional dictate for balance?

What happens when it becomes known that, in fact, there has been a deficit for a year that has ended, even though Congress did not vote to waive the balanced budget requirement of section 1? Will the President decide that he is obligated to impound sufficient funds to make up the difference, make up the deficit? Or failing any action by the President, will the courts step in to ensure compliance with the Constitution, albeit after the year in question has ended? Pretty farfetched. But the President's impoundment of funds, that is not so farfetched. It seems possible that one or both of these actions could occur. Remember, the President and the courts will have their own responsibilities to ensure that the constitutional requirements for a balanced budget are met. We are not going to be tinkering around with a simple statute, you know. This is not just a simple statute that can be repealed the next day or the next month or the next year. We will be in violation of the basic, fundamental, organic law of this great Nation.

One thing is certain. Under this resolution, even if deficits are unintended, if they are allowed to stand, they will cause an increase in debt and therefore will ultimately force a vote under section 2 to increase the debt limit. And what does section 2 say? That section requires a supermajority vote of three-fifths of the whole number of each House of Congress and the President's signature in order to increase the limit on U.S. debt held by the public.

What happens if this three-fifths vote cannot be achieved? A financial crisis could be upon us because, at the point when the debt limit is reached and not raised, no more bills can be paid until that debt limit is raised. Virtually all Federal payments would be subject to being withheld—I am not saying they would all be withheld, but they would all be subject to being withheld—Social Security checks, veterans' pensions, payments on Medicare and Medicaid, payments to contractors.

Pretty dire stuff to comprehend, may I say to my colleagues. But, lo and behold—lo and behold—ah, now we have it, section 6. There it is. Section 6 provides an escape hatch. It is not going to be so hard to do after all. Section 6 provides a way out. Whoopee. I am thankful for the proponents having foreseen that we would need a way out of this dilemma so that we won't be caught hoisted by our own petard.

It is almost as if someone who had something to do with writing this amendment realized that we could never actually balance the real budget in the real world, so they dreamed up the Houdini section. This is the Houdini section, section 6. Take a good look at it. The Houdini section. Take a good look. The Houdini section lets us go ahead and use estimates, even though they are invariably going to be inaccurate; therefore, it should be obvious to everyone that the Congress will not be chained, bound or gagged by this constitutional amendment. We will just bring back some of our old friends like Rosy, Rosy Scenario, or resort to some of our well-known magic tricks with smoke and mirrors and, lo and behold, just like Houdini, escape—gone. How sweet it is.

I am perplexed as to how section 6 is intended to work. Will someone help me here? The distinguished manager is on the floor; perhaps he will help me. I ask the manager of the pending resolution how and when do you intend to put section 6 into effect? Let us see what it says. Section 6, "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts." Will we have to carry out this section 6 annually? Will we have a kind of floating definition of what the deficit will be every year? Or will we just declare that a discrepancy of, say, 1.4 percent of GDP is "negligible" for one year, and 1.5 percent is "negligible" for the next year?

Also, sections 1, 2, 4 and 5 use the terms—this is an interesting observation. I hope the audience and especially my colleagues will pay close attention. Sections 1, 2, 4 and 5 use the terms "provided by law," "provided by law," "shall become law," "which becomes law." Yet, section 6 uses a different term. It says, "by appropriate legislation." Why the difference? Section 1, which requires the budget to be balanced, which says, "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year. . ." it goes on to say, ". . . unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote." So, there is the ironclad language referring to law in section 1, in section 2, in section 4 and section 5, but lo and behold, the Houdini section, section 6, does not say anything about law. So what does it mean by the term "appropriate legislation?" Does this mean that we in Congress can "enforce and implement" the article in each year's budget resolution? If so, would it not be possible for Congress to simply estimate that the budget will be in balance, in the budget resolution each year, or, to describe a deficit as "negligible" in the budget resolution and then pretend that we have met the balanced budget requirement of section 1? What would stop the President from stepping in and finishing the job in years where Congress allowed "negligible" deficits? The President of the United States may not want to go along with satisfying the requirements of this amendment by calling a particular amount of deficit a negligible amount.

I think it is obvious that section 6 shows this amendment to be unworkable. It is contradictory to the absolute requirement in section 1 that the budget be balanced each year unless waived, and it invites continued deficits, which, if allowed, will likely create an automatic crisis by forcing supermajority votes to raise the debt in order to pay for those continuing deficits.

My amendment to section 6 is quite simple. It would modify section 6 to read: "The Congress shall implement this article by law." Not by "appropriate legislation" but "by law."

This language will disallow the use of estimates, which I have shown are always inaccurate. It will require Congress simply to comply with section 1. It will eliminate all the gimmicks that section 6 currently allows. My amendment is to keep them honest. My amendment is the "keep us honest" amendment. Keep us honest. It requires "truth in budget balancing." Do it by law.

Without my amendment, the American people can expect to see all of the budgeting tricks that are presently allowed by this committee report to be, by implication—not literally, but by implication—inserted into the Constitution. Rather than rely on my own imagination, Mr. President, let me read to you a few ideas for ingenious obfuscation which come from the Judiciary Committee's own report that accompanies this resolution.

What does section 6 mean? On page 23 of that report, Senate Report 105–3, it is stated that "This provision," meaning section 6, "gives Congress an appropriate degree of flexibility * * * ." That is what the committee report says, "flexibility." Right there it is. There is the word—"flexibility."

It gives Congress—

I am quoting from the report—

It gives Congress an appropriate degree of flexibility in fashioning necessary implementing legislation.

What is meant by "flexibility"? Does anybody still use a dictionary around here? The Random House Dictionary defines flexibility as "capable of being bent," like a flexible piece of rubber hose. I think that is probably a pretty accurate definition when it comes to this amendment. It is going to be flexible, capable of being bent.

The report of the committee continues:

For example, Congress could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable and made in good faith.

Who is to be the judge? Does this mean that if we pass a budget that is balanced only on paper we need not worry, if the budget becomes unbalanced during the course of the year, as long as we were reasonable and exercised good faith? Who knows whether we are acting in good faith? We could say so. In arriving at the estimates, does that make anything we pass hunky-dory? Is that the ideal we are supposed to include in our implementing legislation? If that is what the sponsors of this amendment have in mind, I suspect that it is very different from what the American people are expecting from a constitutional amendment to balance the budget.

The next sentence states:

In addition, Congress could decide that a deficit caused by a temporary, self-correcting drop in receipts or increase in outlays during the fiscal year would not violate the article.

Now, will someone explain to me how one can know in advance that a deficit will be self-correcting? And what about the word "temporary"? Well, there is a word one could really get his teeth into.

Mr. President, what that sentence says to me is that at the same time the proponents of the amendment are telling the American people that a constitutional amendment will bring about balanced budgets, they are telling the Congress we don't have to practice what we preach.

Reading again from the report, the next sentence states:

Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1.

Here we have the suggestion that the Congress could just stand up and declare that certain amounts of deficit, as long as we determined it will be "negligible," were not in violation of the amendment. We are told, for example, that the deficit for 1996 of $107 billion equaled only 1.4 percent of the Nation's $7.5 trillion gross domestic product. Could we declare that future deficits of not to exceed 1.4 percent of the GDP would be "negligible"? Just $107 billion, that's not much, just 1.4 percent. I suppose that is the kind of thing the proponents of this resolution have in mind. But if we were to constitutionalize the mandate in section 1, that outlays shall not exceed receipts, any congressional attempt to deviate from that requirement would bring the moral authority of the entire Constitution into question. If we could violate this amendment with impunity, then what other amendments of the Constitution could be put at risk?

And finally, the last sentence in this paragraph of the committee report states:

If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

Now, that is a loophole that, if adopted by the Congress as part of its implementing legislation, would be big enough for Hannibal to take his 46,000 men and his 37 elephants, with which he crossed the Rhone River in 218 B.C., through. Of course, he had 80 elephants at the Battle of Zama in the year 202 B.C. But you could just take all those elephants, all 80 of them, through the loopholes created by those words.

What the sponsors of the amendment are telling us is that if we cannot figure out what to do, if we run into options too difficult to swallow, we can just require that the shortfall be made up the next year, just roll it over, just put it off until next year. The American people, are they listening to what the committee report is telling us about this constitutional amendment and how the strictures may be avoided? They are right there in the print of the committee report. What kind of fiscal shenanigan is this? Just put it off till next year?

The American people think that budget is going to be balanced every year, but that is not what the committee report says. That is not what section 6, the Houdini section of the constitutional amendment, will allow. It won't be balanced, need not be balanced. So much for holding our feet to the fire. One can tell from these clever little suggestions in the committee report that Congress has no intention of having its feet held to the fire and getting burned by this amendment.

Let me emphasize again, these little gems about how to deal with the deficit under a balanced budget amendment come from the committee's report on Senate Joint Resolution 1. As such, they would not become part of the underlying resolution if it were to pass. They would not have the force of law in any respect, but, nevertheless, they ought to give the American people some idea of the kinds of gimmicks and evasions that the American people can expect to see if this amendment is passed by the Congress of the United States and ratified by the States.

The American people are being sold a bag of tricks. They are not being told about the realities of actually balancing the Federal budget each and every year. As I listen to those who speak in favor of a balanced budget amendment, I do not hear them telling the people that to comply with this mandate, we really intend just to roll the deficit for a given year over into the following year. Won't that just compound the problem the next year? We will end up with "rolling deficits," another term. I do not hear the proponents of this amendment telling the public that the Congress could just state, "Oh, well, the deficit is negligible and so nothing will need to be done this year about it." I do not hear the proponents telling the public that if this constitutional amendment is passed and ratified, the implementing legislation will only require that the budget be balanced on paper at the beginning of the year. That is not what the American people are being told.

Mr. President, how much confidence have even the authors of this amendment, if, as is evident right in the committee report, they have already started figuring out ways to weasel around, slip around, get around the amendment? No, Mr. President, this proposal is not worthy of being enshrined in the Constitution of the United States. It is little more than political pandering thrown up to screen the real difficulty of getting to budget balance each and every year. And I do not think that we should perpetrate this charade upon the American people. If it were simply a joke, which it is, if it were simply a

political dodge, which it is, it would be regrettable and unwise to adopt. But it is much, much worse than those things.

This proposal is potentially dangerous. Within its murky appeal and unsound formula for budget balance lie the seeds for the further, rampant diminishment of the trust of the American people in their Government and in their rulers whom they elect. The legislative branch can ill-afford any more cynicism and loss of trust. And I worry as much about the trust deficit as I do about the fiscal deficit. The American people do not trust their politicians now.

Often Members believe that doing what seems to be the safe, popular thing will prove also to be the right thing. Political correctness is the supposed order of the day for many people. Not for me. I believe that endorsing this balanced budget amendment has taken on the aura of a politically sacred act. It has become a litmus test of sorts—the right choice to make the political meter register 100 percent in one's favor.

But whether or not we amend the Constitution in this damaging way—and I am not against amending the Constitution per se, because the Constitution itself provides for its own amendment—but I am unalterably opposed to amending the Constitution in this way. The American people must be made to understand that once one takes a closer look at this idea it is far from what it seems. I hope that each Senator will carefully study this amendment before voting on it. Of course, most of them have already made up their minds. Many are committed and probably feel that they cannot break out of the chains of their commitments. I believe that close and open minded scrutiny of this proposal shreds it, reveals its many shortcomings and unmasks its benign countenance to reveal the sinister seeds of a constitutional crisis in the making or a Constitution in the ruining.

Mr. President, we are told in the Bible that Ezekiel felt the hand of the Lord upon him and he was carried down into the midst of a valley which was full of dry bones. He was told by the Lord to prophesy upon the bones and to say that the Lord God would cause breath to enter into the bones and they would be covered with sinews and flesh and skin and that they would be filled with breath and that the bones would come together, bone to bone, and that they would live and stand upon their feet and become an exceeding great army.

Do not believe, however, that flesh will grow upon the dry bones of this constitutional amendment. The breath of life cannot be breathed into that carcass. It will never stand upon its feet. It is but dry bones and it will remain in the valley of dry bones.

Anyone who believes that this constitutional amendment will work is really living in a fool's paradise—a state of illusive bliss, suspended in a limbo of hypocrisy, double-speak, double-shuffle, vanity, and nonsense. Surely we will not travel this road if we are fully aware of where it may lead. In the days ahead, let us be very sure of just what it is we propose to do to our country and to our Constitution before we act. Mr. President, I reserve the balance of my time.

Mr. HATCH addressed the Chair.

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

Mr. HATCH. Mr. President, as always, I enjoyed the distinguished senior Senator from West Virginia. He is always colorful. He always uses a great number of metaphors that are very interesting. He is intelligent. He is competent. And he is formidable, one of the most formidable Senators in history. So it is very difficult for the Senator from Utah to be as formidable. But I can say this. If we are going to talk about Ezekiel and bones, dry bones, here is 28 years of it, 28 years of dry bones lying over everywhere with no sinews and no possibility of any sinews, in other words, resurrection, unless we do something to countermand this philosophy of taxing and spending the American people blind.

My friend talks about Hannibal crossing the Alps. If my historical background is correct, the discussion of Hannibal in the Alps was by Livy, who wrote the "History of Rome". I think it was a little unfair to bring in 37 elephants. Actually, as I recall the estimate was at least 100 donkeys who, if Hannibal was alive today, would probably, as the good Democrat that he was, be trampling all over the balanced budget amendment with all of those donkeys—not elephants. I think the elephants would be nudging him forward to try to do what is right.

What the distinguished Senator from West Virginia seems to be saying to me, and to the world at large, in his comments here today is that the estimates that we use in the budget system today are faulty. They have never been right. He does not take into account the fact that Congress has continually changed the rules in the bills and the spending practices throughout each year. And that is one of the reasons why the estimates have not been even close to being right in most cases.

Therefore, he seems to be making this syllogism. We use faulty estimates now. It appears to him that we will not be able to prevent the use of faulty estimates if the balanced budget amendment is passed. Therefore, rather than do something that might put some discipline into the budgetary process, let us retain the current faulty system.

His amendment does not address the problem he is raising. So the distinguished Senator seems to be arguing for the current unsatisfactory system, no change whatsoever. I have to add, these unbalanced budgets are higher than I am, I guess, or pretty close to it. The Senator argues for no change of the continuation of unbalanced budget after unbalanced budget, because there will not be any incentives to get the estimates right, will not be any incentives to stop Congress from continuing to spend and raise new spending programs every year that we are in this budget process. The balanced budget amendment would give us incentives to get things right.

If there is a charade, if there is a joke, if there is a dodge, it is during each of these 28 years. I have been here 21 of them, and I am ashamed to say that every one of my 21 years in the Senate, we have had an unbalanced budget. The reason is because we do not have a good system, we do not have a constitutional mandate to force us to do what is right. That is what this amendment will do.

Now, my friend says Americans do not trust their politicians. I think that is right. I think his points are well taken. The fact of the matter is, the reason they do not trust us is because they have seen 28 straight years of this, and for 58 of the last 66 years, we have had these kinds of unbalanced budgets.

Now, is that a good argument for keeping the status quo, for continuing what we are doing and mortgaging the future of our children? I do not think so. I do not know anybody who looks at it carefully who would think so.

There are hoptoads all over the current system, whatever a hoptoad is, but they are all over the current system. The system is not working. The reason it is not working is because there is no incentive to make it work other than to tax and to spend more. You get more credit for spending around here than you do for standing up and saying, "Hey, where will the money come from?" Some of my colleagues of the more liberal persuasion have been here longer than I have, and I have yet to hear some of them say, "Where do we get the money for that program?" No, they go ahead and spend away our children's future, spend away our grandchildren's future. Do not worry, have a good time now and let them pay for it.

We have reached a point where every living man, woman, and child in this country owes about $20,000 as their share of the national debt right now, as we stand here. Yet, some are arguing for the status quo, a system that is not working, a system that will go on as a broken system, a system where there is no discipline. We have tried five different statutory plans since 1978 and none of them have worked.

Now, I have to say if it was up to my friend from West Virginia and myself, I think we could get together.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. On your time, I am happy to yield to the Senator, and if you need extra time, I am happy to yield.

Mr. BYRD. I thank the Senator.

The Senator continues to refer to the present system; he says that the Senator from West Virginia apparently prefers the present system.

Mr. HATCH. Did I say that? I am implying that.

Mr. BYRD. You did not say that exactly.

Mr. HATCH. I am strongly suspicious that the Senate may prevail over the balanced budget amendment.

Mr. BYRD. Tell me, Mr. President, may I ask the Senator, and I am one who believes we ought to do what we can to balance the budget——

Mr. HATCH. I acknowledge that.

Mr. BYRD. And to reduce the deficits, but I do not think we ought to go about it by way of a constitutional amendment. But the Senator from Utah continues to talk about the present system, the weaknesses of the present system.

Section 6 is in the constitutional amendment. That is the present system. That continues the present system of working with estimates of outlays and receipts.

So there is nothing different, except the Constitution of the United States will be trivialized. There will be nothing different in what we are talking about balancing the budget for real after the Constitution has been amended than from what the situation at present is.

Reading section 6:

The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

Now, I have been talking all afternoon, or for almost 1 hour, about estimates of outlays and receipts and the fact that they are never, never accurate.

I hope the Senator from Utah, when he refers to the present system, he scores, he excoriates, and I do not blame him for that, the "present system"—the "present system." He wants to get away from the present system. Well, he is not doing it in section 6, because under section 6 we are told, this is the Houdini section, the section that tells Congress it can do it, it can balance the budget, it can carry out the mandate under the constitutional amendment by relying on estimates of outlays and receipts. So the Senator from Utah is not getting away from the present system when he falls back on section 6.

May I ask the Senator this question: What is meant in this section 6 by "appropriate legislation"? What does that mean?

Mr. HATCH. The same thing that is meant in every constitutional amendment since the Civil War.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. Let me answer the question.

In addition, and I will take back my time, in addition to the fact that we have no strong incentives under the current system to stay within either the estimates or the budget that is under the current system, Congress often compounds the problems inherent in using estimates by making changes in policy that the estimates did not foresee. There is no disincentive under the current system for doing this without great concern about the effect on compliance with the budget plan.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. If I could finish. I want to answer your question, and it will take me a second because it is an interesting question, and then I will be happy to yield.

Under Senate Joint Resolution 1, Congress will, by necessity, need to be more careful about its decisions through the year in order to comply with the constitutional directive of the other sections. For instance, section 6 simply recognizes that to be reasonable and workable, we will need to rely on estimates throughout the fiscal year in complying with the balanced budget amendment rule.

Mr. BYRD. That is the present system.

Mr. HATCH. Let me finish. If there is a minor or negligible drop below balance at the end of the year, and we find out that has occurred after the fiscal year has ended, we can avoid constitutional problems for minor deviations. However, we still have an incentive to get the budget back in line because section 2's debt ceiling provision does not rely on estimates.

That is where the distinguished Senator is missing the point of this amendment. Section 2 does not rely on estimates. It requires that we not increase the debt without a three-fifths vote, and to avoid hitting the debt ceiling we have every incentive to stay at or above balance and to ensure that small deviations are actually made up.

All of this is substantially better than the current system, which is not working. The current system is where we make our estimates and then we immediately forget about them and pass whatever legislation we want to, and that is why they are always out of balance. It has given us 28 straight years of unbalanced budgets, and deficits for 58 of the last 66 years—enough to drive anybody who is fiscally responsible wild.

To argue that this current way of doing things is better than having fiscal discipline written into the Constitution, I think completely misses the point. Senate Joint Resolution 1 is a necessary step to give us the incentives to do something about this mess of unbalanced budgets that are going to continue unless we have something like this.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. I am happy to yield to the Senator.

Mr. BYRD. The Senator has not answered my question. What is meant by the words "appropriate legislation" in section 6? I want to point out the big hole that section 6 provides for the Congress, so that Congress can avoid section 1 of the amendment, which requires a dollar-for-dollar match between spending and income. What is meant by "appropriate legislation"?

May I say as a predicate to asking the question, as I pointed out earlier, in section 1 reference is made to the word "law." Section 1 is really a binding section if you just stood it out there alone: "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law."

Section 1 says Congress must "provide by law." Section 2 says: "The limit on the debt shall not be increased * * * unless three-fifths of the whole number of each House shall provide by law." Section 4 refers to increases in revenue which shall become law. Section 5 refers, and uses the words, "which becomes law."

Why is it, Mr. Manager of the bill, my dear colleague, Senator HATCH, why is it that section 6 uses the words "appropriate legislation"? It does not say that Congress shall enforce and implement this article by law, which may rely on estimates of outlays and receipts. It says by "appropriate legislation." What is meant? Does that mean a simple resolution? Does that mean a concurrent resolution? Does that mean a joint resolution? Does that mean a bill? What is meant by "appropriate legislation"? Why is the change made there? It is perfectly obvious that there must be some reason lurking behind this change in the word "law" in other areas of the constitutional amendment, but in section 6 it uses the words "appropriate legislation." "The Congress shall enforce and implement this article by appropriate legislation." What does that mean?

Mr. HATCH. I will answer the Senator. First, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Utah has 49 minutes. The Senator from West Virginia has 3½ minutes.

Mr. HATCH. All right. I thank the Chair. The term "by law," used in the Senate Joint Resolution 1, sections 1 and 2 is used there in order to make clear that Congress cannot imbalance the budget or raise the debt limit by an internal rule. Why? The President must sign a bill for it to become a "law." The President is not involved in the adoption of rules in the Senate or House.

The term "by appropriate legislation" is used in Senate Joint Resolution 1, section 6, because that is the standard term used in all other enforcement clauses in the Constitution since the Civil War. So we have followed that which has been used. And I

believe it will be interpreted similarly to the word "law." But be that as it may, it has not been a problem since the Civil War, and I don't believe it will be a problem now.

Specifically, "appropriate legislation" means that it satisfies article 1, passed by both Houses and is signed by the President. But the language actually mirrors all enforcement clauses in the Constitution since the Civil War. So I don't quite see the problem that the distinguished Senator from West Virginia does, and I don't think anybody else will.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. I will be happy to.

Mr. BYRD. There is a massive problem here. For some reason—and I think the distinguished manager has put his finger on it—the constitutional amendment refers to actions by the Congress that constitute laws—until we get down to section 6. Section 6 is an alternative to section 1. Section 1 is a rather binding section, which says, "Total outlays for any fiscal year shall not exceed total receipts * * *"—"shall" not, not "may" not, not "ought" not, but "shall" not exceed—"* * * for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law. * * *"

That is pretty binding. If that section stood by itself, it would be pretty hard to get around it. But, lo and behold, the authors of the amendment have come along with the Houdini section—section 6—which as much as says you don't have to do it by law, and you can do it by relying on estimates of outlays and receipts.

Now, if you had to do it by law, under section 7 of Article I of the Constitution, which is the presentment clause, whatever we do in section 6 would have to be presented to the President of the United States. He could veto it. But we have a way out here. Section 6 allows us, by "appropriate legislation," to avoid section 1. And appropriate legislation can be a concurrent resolution between the two Houses. It is kind of an agreement or an understanding, or a "shake hands" deal between the two Houses. It doesn't go to the President. It isn't presented to the President under section 7, the presentment clause. He has no voice in the matter—none. He can't veto. And so section 6 allows Congress, in the concurrent resolution on the budget, to put in whatever standards it wants. It can write into the resolution that so long as the deficits do not exceed, say, 1.5 percent of the gross—it used to be gross national product, but now it is gross domestic product—as long as it doesn't exceed 1.5 percent or 1.4 percent. To some, that would be considered negligible. But, as we have seen, with a $7.5 trillion GDP, 1.4 or 1.5 percent can amount to over $100 billion. But the President won't have any voice in that. It won't have to go across his desk. He can't veto this little Houdini section. What we do there is all that we will do, but we don't have to do——

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. HATCH. Does the Senator need more time?

Mr. BYRD. I will finish my sentence. I thank the Senator from Utah for his usual courtesy. We will not be bound by section 1. We can do it by way of section 6, which does not require a three-fifths vote for a waiver. And we will be complying with section 6 if we do it in a simple resolution, which is only an action by the Senate concerning the Senate, or on a concurrent resolution, which is an action between the Houses and which doesn't have to go to the President for signature.

I thank the distinguished Senator from Utah. It seems to me that the words in section 6 should give Senators pause. I am sure they would give the American people pause if they understood what Congress can do under that section.

Mr. HATCH. Mr. President, I don't want to spend a lot of time on this because I don't think that is a good point. Ever since the Civil War, the 13th, 14th, 15th, 19th, 24th, and 26th amendments have used the language "appropriate legislation," which, under the Chadha decision of the Supreme Court, is interpreted as a law as signed by the President. It has to be submitted to the President.

Mr. BYRD. Will the Senator yield briefly?

Mr. HATCH. Sure.

Mr. BYRD. Has Congress ever passed any civil rights statutes by concurrent resolution, or by a simple resolution?

Mr. HATCH. Not that I know of.

Mr. BYRD. No, indeed, but by a joint resolution or a bill, which have the force of law and go to the President for signature.

Mr. HATCH. Under the Supreme Court decision in Chadha, appropriate legislation has to go to the President and become a law. I think it is a moot point, to be honest with you. Frankly, we are using the language of the Constitution itself, and appropriately so, in my opinion.

I notice the distinguished Senator from Wyoming is here. He would like to speak for 8 minutes. I yield to him, and then I would like to have the time back so I can finish my statement. I want to respond to my dear colleague's thoughtful comments. They are intelligent comments, and I always enjoy listening to him as one of the true experts in this body. I mean every word I am saying, as well. I don't agree with him on much of what he is saying here today, but so what. The fact is, I respect him.

I yield 8 minutes to the Senator from Wyoming.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent that the new counsel on my committee staff, Brian Jones, be granted floor privileges for the remainder of the day on the balanced budget constitutional amendment.

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

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I thank the Senator from Utah for granting me this time.

Mr. President, I rise in opposition to the amendment that is sponsored by my distinguished colleague from West Virginia, Senator BYRD. The amendment would strike the language from section 6 of the balanced budget constitutional amendment that permits Congress to rely on budget estimates when drafting the implementing language pursuant to the ratification of the amendment.

As the only accountant in the U.S. Senate, I know that no budget can be predicted to the penny more than a year in advance. I would like to see that extended out to 2 years in advance. If we demand better estimates, we will get better estimates. If more is riding on the estimates, the estimates will be better. The estimators' performance and ours will be judged. The very heart of budgeting means making estimates before the money is spent. There is no way to do it after the money is spent. You have to do it in advance. Advance means estimates. Without the use of the estimates of future outlays and receipts, we will be unable to draft implementing legislation that keeps us within the boundaries of the balanced budget amendment.

As an accountant, I am fascinated with the budget discussion because we are talking about numbers. We are talking about balancing budgets. We are talking about formats that will provide us with the most information possible. And we are doing it in the context of a real budget, dealing with real people. We are doing it in the context of a history where we have only had one balanced budget in 40 years. We have not balanced the budget in 28 years.

Some very valid accounting concerns have been raised here in the debate by opponents of the balanced budget constitutional amendment. I have heard reference to the need for capital budgets. I have heard reference to a need for Social Security to be off budget. I have heard reference to the need to take care of accounting problems that happen during recessions. As an accountant, I applaud this insight into the need for new accounting methods. We need to have cash flow budgets so that as cash arrives the purchases can be made without extensive deficits. It is just good business. A balanced budget amendment will force us to have a better accounting system and to even have better estimates.

I have heard debate about the concern with the Judiciary Committee's definitions for estimates. The committee stated that estimates, for example, "means good faith, responsible and reasonable estimates made with an honest intent to implement section 1." I would add that generally accepted principles would also ask that they be conservative estimates. We all know that there is no way to be absolutely accurate about estimates. We have to do the best we can to estimate outlays and receipts and do it routinely at the same day each year.

If we really want to talk about problems with definitions, "off budget" is a fascinating accounting term. In fact, in my accounting references I couldn't even find that term. I have to say from listening to discussions that there doesn't seem to be a lot of consensus on what that really means.

It looks like we found another catchword that scares senior citizens and scares people and gives us a hook not to vote on this. As one who daily approaches being a senior I want to see us get that rhetoric out of that term. We give the impression that Social Security has enough money at the moment. We talk about the surpluses going into Social Security and being used in the budget. Without estimates of outlays and receipts, it would be impossible to gauge the problems that currently affect the very existence of the Social Security system.

Let's talk a little bit more about definitions. I think that accountants frown on the Federal term "surplus" revenue. Surplus implies more than what is needed. That is definitely not the case with Social Security. Social Security is a trust fund. But we give the impression that that money is being set aside in a special account for seniors so that when they retire there will be money to be drawn out in their name. That is not even close to what actually happens.

We don't have a crystal ball, only reasonable estimates from which to work. The President and Congress currently use estimates and budget planning. The Congressional Budget Office and the Office of Management and Budget already give budget estimates each year. It has been pointed out how accurate they are. One is more conservative than the other. They correct the estimate twice during the year to ensure their accuracy. Congress ultimately decides how to balance the difference between the estimates.

We need to have a system where we can see how far in debt we are. And we need to do that not just for Social Security but for every single trust fund that we have, and the budget. We either have to change the accounting system, account for funds honestly and show how much deficit there is, or rename them so that they are not called trust funds. Perhaps we should do both.

We are not snake oil salesmen here. Meeting the requirements of the balanced budget constitutional amendment will require Congress to go about their business with a great level of accountability. Spending and borrowing decisions must be deliberate because every decision will impact the requirement of this balanced budget constitutional amendment.

I think those people who are opposing the balanced budget constitutional amendment know in their hearts that this one will pass and will also have more swift ratification by the States than most of the other amendments to the Constitution.

Why will that happen? First, most of the States already have a balanced budget constitutional amendment. They work under them, and they know that they work. And, incidentally, those work with estimates. They know their limitation and the type of problems that develop from it. The States understand that problems are not a detriment to the United States having a balanced budget constitutional amendment.

The concern of the inaccuracy of the estimates is overblown. The data that are often used are generated months to over a year in advance to the end of the fiscal year. In fact, the Federal Reserve uses its own estimates to help set its own policy. It also makes mistakes. For example, in the July 1996 Humphrey-Hawkins banking deregulation hearing, Chairman Alan Greenspan predicted the GDP would grow at about 2.5 to 2.75 percent. Instead, it grew by about 3.4 percent. Quite a difference; billions in difference. Is that to say that the Fed should not use estimates because they do no more than identify the economic trends and provide decisionmakers with useful information? Yes, an estimate is an educated guess. Where else would we start? Where else would the Fed start in determining its policy?

I think that most people in this body realize that a constitutional amendment will pass and get ratified by the States. If we didn't believe that it would be ratified by the States, this would be a real easy debate. But we know that the people of the States want it and the States will respond. If just those States with one or more Senators opposing the balanced budget constitutional amendment did not ratify the constitutional amendment, it would never become a constitutional amendment. So if those Senators' States did not ratify it where one or more Senators were opposing it, we wouldn't have the constitutional amendment. If we did not have appropriate legislation, those people in those States would not have to raise the confusion that we are having raised right here today; that is, to get a hook so that they can explain a vote that is very difficult to explain back home.

The people understand from their own experience that you can't spend more than you take in. Almost every school kid above third grade is able to explain that to me—that, if you spend more money than you take in, you go broke. By third grade they have already had enough experience to realize this fact of life. It has been said that we can learn much from children. Children focus on problems in more simple terms. There is a difference between being simplistic and being simple.

If you went to your banker and said, "I want to borrow money to buy a house, and I don't want to have to pay anything but the interest for the rest of my life," do you think you would get that loan? No, you wouldn't. But that is what we are doing right now with the national debt. By not balancing the budget, the Federal Government has not been good about limiting or disciplining itself in any way.

How does this relate to the constitutional amendment? I am suggesting that, if we limit ourselves by a balanced budget constitutional amendment, we will concentrate more on what we really do well. We will have more people participating and less people expecting Government to do things for them, more caring concern for our elders, and more concentration on our children's and grandchildren's welfare, if we have a balanced budget amendment.

Thank you.

Mr. HATCH. Mr. President, I am going to try to reserve some time out of my time for the Senator from West Virginia to make closing remarks here today. If that is all right, I will reserve some time for the distinguished Senator from West Virginia to make closing remarks out of my time.

Mr. BYRD. Mr. President, the Senator is very kind and generous. It is most characteristic of him.

Mr. HATCH. How much time would the distinguished Senator like to have to close out at the end?

Mr. BYRD. Two or three minutes.

Mr. HATCH. Let me reserve 5 minutes for the distinguished Senator.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. HATCH. I thank my colleague. I have great respect for him, as I have said. I have been around here a long time, and I have seen Senators come and go. This Senator is one of the greatest of all time, and I have respect for him. I do not agree with him here today, but I do have respect for him. And I want his amendment to be given every consideration.

Mr. President, today we begin our third week of debate on the balanced budget amendment. Our national budget as of right now is going to $5.4 trillion. That is about $20,000 for every man, woman, and child in America.

Believe me, when we are talking about the debt we are placing on the

backs of our children and grandchildren, we are truly playing with fire, and we have been getting burned for 28 years, the 28 years represented by these unbalanced budgets—these stacks are obscene, and yet that is what we face ad infinitum if we do not have this balanced budget amendment. These stacks will reach all the way to the ceiling of this Chamber. And it is time to do something. We have been getting burned for 28 years now—actually, 58 of the last 66 years. That is what those two towers of debt mean. There is only one way to scale this tower of debt and only one way we will ever reach and remain at a balanced budget. There is only one cure that I can think of for this addiction that we have for debt. That is this balanced budget constitutional amendment.

Everybody knows it is a bipartisan amendment. Everybody knows it has been worked out with Democrats and Republicans. Everybody knows it is the only one that has a chance of passage. Everybody knows we have to keep amendments off or we lose Senators here or Senators there. Everybody knows it is the best possible language we can arrive at and still have it be bipartisan.

There are Senators over here who want to have a three-fifths vote to increase taxes. We cannot do that and have it bipartisan, even though the Senator from Utah may have some sympathy for that attitude. We have Senators on the other side who wish that we did not have a constitutional majority to raise taxes, and that certainly they would like us not to have a three-fifths majority to increase the debt. But in order to have a bipartisan amendment and satisfy people on this side of the aisle—and, by the way, people on the other side—we have come to this conclusion. So anybody who says that they have to have their one little amendment or they cannot vote for this, they are for balanced budgets and they are for a balanced budget amendment but they cannot vote for this, they may be sincere, but, in most cases, they are obfuscating. The fact is, they knew at the beginning of this debate if we cannot pass this amendment as it is, there will never be a balanced budget amendment and there will never be, at least I do not think there will ever be, a fiscal mechanism put into the Constitution that will require us to at least do what is right here.

This afternoon we are resuming the consideration of the Byrd amendment, which would remove the ability of the Congress to rely on estimates in implementing the balanced budget amendment.

Let me just say a few things about this proposal, keeping in mind I want to reserve some time for my colleague on the other side. If there are any Republicans who want to speak, I hope they will get over here soon, because I am going to reserve the last 5 minutes for my colleague from West Virginia.

Estimates are a necessary tool to be used by a more vigilant Federal Government living under current law or under the balanced budget amendment. The very first step in the perennial budgeting process is the presentation of the budget estimates of OMB and the CBO, the Office of Management and Budget and the Congressional Budget Office.

We have just seen this process in action this last month as the President proposed his budget and the Congressional Budget Office came out with its latest deficit predictions, predicting that even though the President is trying to balance the budget—of course, 75 percent of the cuts are in the last 2 years after he has left office—even at that, it is $49 billion in debt come the year 2002.

This process has not been the subject of intense scrutiny or recriminations. I do not understand why, if it is satisfactory now, some have argued it is insufficient under the balanced budget amendment.

Now, we all know that no budget can be predicted to the penny more than a year and a half in advance, particularly not the $1.6 or $1.7 trillion Federal budget. Even I am amazed at how high it is now. The bottom line is that we have no crystal ball, only reasonable estimates upon which to work. The President and the Congress use estimates now in budget planning. They are a necessary part of the process. They will continue whether this passes or not. But there will be some incentives to be more careful if the balanced budget amendment passes. The balanced budget amendment accepts the plain truth that the President and Congress use estimates in the budget process and that they are a necessary part of the process and that they will have to have continued use.

The difference is that the balanced budget amendment provides new incentives for Congress to be more vigilant in actually getting to balance or being more deliberate and accountable in our spending and borrowing decisions. In the past, estimates have been off target at least in part because there was no incentive to get them right in the first place and no real sanction for getting them wrong or failing to live within them. It is ultimately up to Congress to determine the estimates that we use, and, more importantly, it is up to Congress whether they will work to stay within Congress' projected budget or the estimates' projected budget.

Under current practice, once the Congress passes a budget resolution, it never looks back at these predictions with an eye to adjusting its behavior to accommodate new information. Whether the estimates were in fact right or wrong, high or low, Congress is never held accountable under the current system for the accuracy of its estimates or its failure to stay within the stated budget based on those estimates. Under the balanced budget amendment, we would have to be much more vigilant. If the estimates are incorrect, then we, the Congress, will have to set things right to get back on track. Failure to do so would force the Congress to muster a three-fifths vote to approve the deficit and announce to the American people that we have failed to do our job. That is what it will mean. In other words, Congress will be held accountable for its own predictions. This incentive can only help us make more realistic projections and to work to abide by our stated budget goals.

Further, we have only heard part of the story on the accuracy of estimates. The statistics most often cited to show that the CBO is frequently off target when trying to predict the budget are the earliest estimates that the CBO compiles, often a full 20 months before the end of the fiscal year they are predicting. But there are many other sources of updated information throughout the year. Both OMB, the President's Office of Management and Budget, and the CBO, the Congressional Budget Office, update their budget statistics for the current year and their estimates for the next year every February and every August. Further, the Treasury Department issues monthly statements showing detailed information on receipts, outlays, and borrowing. These multiple reports and any additional ones we might require under the balanced budget amendment give the Congress increasingly accurate information, providing the ability to anticipate a trend towards a deficit and to make appropriate adjustments to the budget.

Let us also recognize that the early estimates are often distorted by the subsequent volitional acts of the Government. Life under a balanced budget amendment can use estimates more effectively than they are now. The first thing the Congress and the President will do is pass a budget resolution laying out the general scenario for outlays and receipts in the fiscal year. This resolution will be based on estimates, as is now the case.

At this stage, the wisest policy is to shoot for a budget which is in surplus, which would be a very wonderful thing compared to what it has been over the last 66 years, shoot for a budget that is in surplus to provide a margin for error in case outlays are in fact greater or revenues less than expected during the year. That would become the norm rather than to not do anything, which is the norm today.

Over the course of the fiscal year, the Congress will need to monitor outlays and receipts. While it is not required that the budget remain in balance during every moment of the year, Congress must work to get its budget back

in balance by the end of the year unless it votes, by a three-fifths vote, to authorize a specific deficit. If a trend towards an unintended deficit is observed, Congress should adjust its budget in order to rectify the problem. Indeed, the reconciliation process was originally created for the purpose of adjusting outlays and receipts, if necessary, before the end of each fiscal year.

Should it be determined that circumstances are serious enough to warrant deficit spending, the Congress could approve an appropriate deficit and raise the debt ceiling, if necessary, as provided for in the balanced budget amendment.

As the fiscal year comes to a close, Congress will have a very good idea of whether the budget is likely to be out of balance or out of line. This is where Congress will be held accountable for the accuracy of the estimates it adopted earlier. Sloppy estimates will require more work to keep the budget in balance. Realizing this potential difficulty will keep Congress honest in its budget estimates.

If the budget is balanced or is in surplus, the country will have prospered from disciplined fiscal policy. On the other hand, if it appears that there may be an unintended deficit due to unexpected economic conditions or events, a deficit could be approved but it would take a three-fifths vote to do it. Even if the precise size of the deficit is unknown at the close of the fiscal year, budget forecasts will certainly provide a range in which the deficit will fall. In order to anticipate all contingencies, the Congress would simply approve a deficit at the high end of the projections. That way, the Government would continue proper operations even in the worst case scenario.

So you see, the Federal budget process can work smoothly and efficiently under the terms of the balanced budget amendment. Further, it will provide the strong incentives towards fiscal responsibility, reasonable budget forecasts, and, most important, a balanced budget. The reality is that under a balanced budget amendment, the Government will have increased accountability for its decisions and increased incentives to act responsibly throughout the year to get to a balanced budget at the end of the year. This is a real change from the system we now have that has given us an unbroken chain of unbalanced budgets for each of the past 28 years.

Each of the past 28 years—I don't care who you are, you have to be shocked by that. I am so afraid of knocking these over for fear I will crush somebody, but literally, these stacks really tell it all. There is just no real argument against this, other than the argument that you want to spend more, you want to tax more, and that old argument, let us just have the will to do what's right. Come on, give me a break. We haven't had the will for 28 years, we are not going to have it for 28 more if we don't put some fiscal discipline into the Constitution. It is about time to end this game and do what's right.

And, yes, I have to admit I am very loathe to amend the Constitution. It is, to me, an inspired document. Those Founding Fathers never thought for a minute, they never thought for a minute that we would have 28 straight unbalanced budgets and 58 out of 66 years of unbalanced budgets. They never thought that for one minute. They thought the only way you would ever have an unbalanced budget is during time of war or serious, real serious economic distress, and they could understand that. But you would immediately get in balance once the economy picked up or you got out of war. The Founding Fathers knew that, and nobody ever thought in their wildest imaginations that we would be brought to the pitiful, or should I say pitiable, position that we are in today.

Nonetheless, some proponents of the Byrd amendment contend that the reliance on estimates somehow turns the balanced budget amendment into a gimmick. That claim is simply untrue. And, to paraphrase the distinguished senior Senator from Maine, basically she said, "I'll tell you this, if a balanced budget amendment were a gimmick, Congress would have passed it long ago."

I think that says it all. "If the balanced budget were a gimmick, we would have passed it a long time ago," because we love gimmicks around here, the biggest of which, and the biggest hoax of which, is saying that you have to take the largest item in the Federal budget, Social Security, out of the purview of the balanced budget and then let it sit out there all naked so it can be attacked, manipulated, poked at, taken apart.

Mr. LEAHY. Mr. President, will the Senator yield for a question?

Mr. HATCH. I will be happy to.

Mr. LEAHY. Will the Senator acknowledge that the deficit has come down, now, 4 years in a row and the projected budget will for a 5 year?

Mr. HATCH. Of course I will. And I will also acknowledge it is still $107 billion in debt. If I can just finish, it is amazing to me—I give credit for that. We had what some think is the largest tax increase in history and the deficit has come down. But the fact of the matter is, only in Washington would people say that a $107 billion deficit is making real headway.

Mr. LEAHY. Mr. President, as I recall, the tax bill actually lowered taxes for the vast majority of Americans. I can understand some concern for some who may have had it higher, those who serve in this Chamber, because they are in the highest income bracket anyway. They may have felt their taxes go up slightly. But the vast majority of people we represent saw their taxes go down.

I raise this, however, the fact that without all the rhetoric that we have been hearing for years, rhetoric about balancing the budget at a time when the national debt was tripled in the two previous administrations, we have had a President who has brought down, with very tough votes and very tough action, brought the deficit down 4 years in a row. I would only suggest to my good friend and colleague from Utah, the President laid it out very well in the State of the Union message. He said all that's needed for a balanced budget: We vote it, he signs it.

The Republicans are in the majority in the Senate. The Republicans are in the majority in the House. All they have to do is bring up the various spending bills, entitlement bills or anything else. They should have the votes.

Mr. HATCH. Let me just respond. I guess I will do it again. I will stand behind these two stacks of unbalanced budgets for the last 28 years and I will just repeat what the Senator said, the distinguished Senator from Vermont. All you have to do is sign the bill and send it to the President, but we have not been able to do it for 28 years, or 58 out of the last 66. And, by the way, I will give the President credit for bringing down the deficit from around $170 billion to $107 billion, but in each of the next 4 years, according to his budget, the deficit goes up until we are almost back to where we were until you reach 2001 and 2002, after he leaves office, when 75 percent of the cuts are going to take place. And everybody knows that is impossible. I should also mention that there were a lot of factors that helped lower the deficit that had nothing to do with the President. So he deserves some credit, but certainly not all of it.

So, the same game is still going on, saying all you have to do is present the budget to him and he will sign it. If you believe that, you don't believe that these are real. Anybody who makes that argument just does not know what has gone on for 28 years and they just don't believe these books are real. I am telling you they are real. This is America, this is where we are going. We are in a fiscal deficit like you cannot believe and only in Washington, DC do people believe that a $107 billion deficit for a fiscal year is wonderful.

And, by the way, even the poor are paying more under the so-called tax cuts that the distinguished Senator is talking about. When you look at the Social Security tax they are paying, they pay more in Social Security taxes than they do income taxes; user fees, various user fees; they are paying more for pharmaceutical products because of user fees. I was not very happy with it

at the time. They are paying higher gas taxes, at least 4 cents or 5 cents a gallon more. That hits the poor harder than anything else. You can go right on down the line. There are an awful lot of extra taxes that people are paying that we hide around here every year because we don't have to be responsible under the current system.

We have shared responsibility for our debt. I am not just blaming colleagues on the other side. There are colleagues on our side—all of us are responsible for it. And we have shared responsibility for our recent gains because some of the cutbacks in programs and restraint of growth occurred from this side of the aisle.

The tax increase did occur from that side of the aisle. We did not support that.

I think we should stop the partisan bickering and do what we need to do. I think what we need to do is adopt Senate Joint Resolution 1, the balanced budget amendment, and if we do that, I really believe we will be able to make real headway in a joint effort and in a bipartisan way to solve the problems of this country, especially the fiscal problems.

As I have pointed out, common-sense reliance on estimates is the best way to apply the balanced budget rule. Further, the opponents' claim focuses only on the deficit vote in section 1 of the balanced budget amendment, but ignores the debt ceiling vote that is required in section 2.

Under the balanced budget amendment, if we want to raise the limit on the debt, we need a three-fifths vote of both Houses of Congress. The debt is not an estimate. It is the real, cold, hard fact. The bottom line is, regardless of what the estimates say, under the balanced budget amendment, our children cannot be saddled with more debt unless there is a vote under the appropriate provision, and, in this case, it is section 2.

There are no loopholes here. Reliance on estimates is both reasonable and sound. If we did not permit a reliance on estimates, someone on the other side would be arguing that the balanced budget amendment would be unworkable because it does not let us rely on estimates. You can just bank on it. Indeed, on the one hand, some opponents argue that the balanced budget amendment would be a straitjacket, while this proposal by my friend from West Virginia argues that it is not stringent enough. If this pending amendment of the distinguished Senator from West Virginia were adopted, this balanced budget amendment would be much harder to work with, and you could bet that we would hear from the critics then.

Mr. President, this balanced budget amendment that we are debating is the real thing, and that is why so much noise is being made about it. If it wasn't important, there would not be this colossal fight every time we bring it up. It would shake things up in Washington, and there are some who are afraid of that. Personally, I think this town could use a good shaking by its neck. I am not one of those who is afraid of what the balanced budget amendment would do. I am not willing to add many more books to this pile. Even if we pass the balanced budget amendment and it is ratified by 38 States, or three-quarters of the States, we will still have another 5 years leading up to a balanced budget, but at least we know the game is over; we will have to get there.

I am not willing to ruin this country's economy, and I am most certainly not willing to increase that $20,000 in debt that every man, woman, and child in America currently owes as their share of the national debt. I hope our colleagues will defeat the pending amendment and move on to passing Senate Joint Resolution 1, the balanced budget amendment.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Utah has about 6½ minutes.

Mr. HATCH. I yield 5 minutes to the distinguished Senator from West Virginia. I will reserve 1 minute.

Mr. BYRD. Mr. President, I thank my friend.

Mr. President, section 1 of the constitutional amendment to balance the budget lays it out in a very straightforward way. It says in plain English that outgo shall not exceed income. "Spending shall not exceed income in any fiscal year unless three-fifths of the whole number of each House of Congress shall provide by law for such an excess of outlays over income."

Now, that is a pretty tough section to comply with, and Congress, I think, would be in great difficulty if it sought to follow that mandate. But Congress, by this constitutional amendment, has provided a way around section 1, so that we really don't have to comply with section 1.

Section 6 says that "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts." So, Congress, as anyone will know, because it is plain as the nose on one's face, Congress is just going to forget section 1, that will be too hard to comply with. Congress will choose section 6 as a way out, because then it does not have to balance dollar for dollar, it does not have to have a three-fifths vote, as section 1 would require, for a specific excess of outlays over receipts. It can forget about that. No real balancing of the budget. No three-fifths vote. Just doing it by appropriate legislation, which could be a simple resolution or concurrent resolution. So this is the way out, this is the dishonest way out—section 6. That is the Houdini section.

What would I do? My amendment strikes the last words in section 6. My amendment says: "The Congress shall implement this article by law." Period. You can't get around that.

What does it mean when we say the Congress shall implement this article by law? It means that Congress will do by law what it says it will do in section 1; namely, it will have to balance the budget dollar for dollar, and the only way it can get out of doing that then will be to have the three-fifths vote to waive the requirement.

So in order to keep us honest, in order to keep the proponents honest, and I include myself—I am not a proponent—in order to keep all of us honest in Congress, we strike out this Houdini language, which allows Congress to weasel around and avoid the impact of the amendment, and we say "the Congress shall implement this article," which means section 1, balance the budget, and it has to do it by law.

So this is the "to keep them honest" amendment, Mr. President, and I hope Members of the Senate will support my amendment.

The American people have a pretty low estimate of politicians. They don't believe us. They don't believe that we mean what we say. They don't have much faith in Congress. It isn't just Congress, but we are talking about Congress now because Congress has to enforce this article. They don't have faith in Congress, and we are going to confirm their lack of faith in Congress by enacting this article in the Constitution and, more specifically, by including in it section 6, which provides the loopholes by which we can avoid the strictures and the commandment of the language of section 1. We are merely going to compound and add to and solidify and fortify the American people's low estimate of Congress and of politicians in general.

So that is why I am offering this amendment. Let's clean up section 6 to say, "No, no, we are not going to have this sleight of hand." Congress will enforce this article, and Congress will have to do it by law.

Unless we approve my amendment, this section 6 will allow Congress to avoid the three-fifths vote, which is required if outlays are going to exceed income in any fiscal year, and will allow Congress to use estimates, sleight-of-hand estimates, in order to fool the American people.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. BYRD. I thank the Chair, and I thank Senator HATCH.

Mr. HATCH. Mr. President, I say in relation to section 6, the term "appropriate legislation" has appeared in every enforcement clause that has been adopted since the Civil War. But in order for appropriate legislation to become a law, it must be passed by both

Houses of Congress, presented to the President, and signed by him into law. I do not think there is any question about it. I yield back the balance of my time. I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Byrd amendment No. 6, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah [Mr. BENNETT], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Oklahoma [Mr. INHOFE], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

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

The result was announced—yeas 61, nays 34, as follows:

[Rollcall Vote No. 12 Leg.]

YEAS—61

Abraham	Frist	Moseley-Braun
Allard	Gorton	Murkowski
Ashcroft	Graham	Nickles
Baucus	Gramm	Reid
Biden	Grams	Robb
Bond	Grassley	Roberts
Brownback	Gregg	Roth
Bryan	Hagel	Santorum
Burns	Harkin	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith (NH)
Coats	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Jeffords	Stevens
Coverdell	Kempthorne	Thomas
Craig	Kyl	Thompson
D'Amato	Lott	Thurmond
DeWine	Lugar	Warner
Domenici	Mack	Wyden
Enzi	McCain	
Feinstein	McConnell	

NAYS—34

Akaka	Feingold	Levin
Bingaman	Ford	Lieberman
Boxer	Glenn	Mikulski
Breaux	Hollings	Moynihan
Bumpers	Johnson	Murray
Byrd	Kennedy	Reed
Cleland	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	
Durbin	Leahy	

NOT VOTING—5

Bennett	Inhofe	Specter
Faircloth	Inouye	

The motion to lay on the table the amendment (No. 6), as modified, was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is recognized to offer an amendment.

Mr. REID. Will the Chair bring order to the Chamber, please.

The PRESIDING OFFICER. The Senate will be in order.

AMENDMENT NO. 8

(Purpose: To require that the outlay and receipt totals of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds not be included as a part of the budget totals)

Mr. REID. Mr. President, I send an amendment on behalf of myself and Senators DORGAN, DASCHLE, KENNEDY, FEINSTEIN, CONRAD, FORD, HOLLINGS, and WYDEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 8.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 3, line 19, after the period inset "The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds (as and if modified to preserve the solvency of the Funds) used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article.".

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that on Wednesday, February 26, immediately following the vote on Senator FEINSTEIN's amendment, Senator TORRICELLI be recognized to offer an amendment relating to capital budgeting. I further ask consent that there be 3 hours for debate, equally divided in the usual form, with no amendments in order to the amendment. I finally ask that following the expiration or yielding back of the time, the Senate proceed to a vote on or in relation to the Torricelli amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, in the early 1930's, this country faced what was called the Great Depression. That was a time that in the history books is even hard to understand. But banks had their doors locked and depositors could not get into the bank to get their money. Banks were formally closed and informally closed. Factories were either slowed down or stopped completely. Homes were foreclosed upon. Families moved in with each other. You had brothers living with brothers and everyone living with each other. It was such that books were written about what was taking place. It was the "Grapes of Wrath," as indicated in the book by John Steinbeck, where the State of California, to stop people from migrating to California, actually tried to close its borders, as people were fleeing from the economic hardship they found in the States east of California.

We were a rich nation. We are a rich nation. But the rich nation we knew had collapsed. Mines were closed. Farms became dust bowls. Trees were not cut in our forests. It was the stuff of which songs were written. The troubadour of the Depression, Woody Guthrie, wrote many songs dealing with the Depression—"Dust Bowl Blues," "End of the Line," "Hey, Buddy, Have You Got a Dime." These are a few of the songs Woody Guthrie wrote.

There was much written, Mr. President, that capitalism had failed, and maybe even democracy was failing. We had soup kitchens, bread lines, people scavenged the dumps to find the bare necessities of life. The rules and laws that said kids should go to school were not enforced. Some say that up to 25 percent of children were malnourished. We have terms that were originated during the Depression, such as "tramps," "bums," "hitchhikers," and "railriders." More than 30 percent of the people were out of jobs. Those with jobs, many times, wished they had no jobs because they worked endless hours, for almost no pay. Only about 15 percent of the people of that day had pensions. It was during this time of calamity, this time of depression, that people said we have to do something else.

Mr. President, one of the things that was done was, we adopted during the Great Depression in 1935 a program we call Social Security. It was a noble experiment. It has come to be the finest social program in the history of the world. What was said during that debate 60 years ago or more? Among other things, President Roosevelt said, on August 14, 1935, when he signed the bill:

Today, a hope of many years standing is, in large part, fulfilled. The civilization of the past 100 years, with its startling industrial changes, has tended more and more to make life insecure. Young people have come to wonder what would be their lot when they came to old age. The man with a job has wondered how long that job would last. The Social Security measure gives us at least some protection, and protection to as many as 30 million of our citizens who will reap direct benefits through unemployment compensation, old-age pension, and through increased services for the protection of children of the prevention of ill health.

We can never ensure 100 percent of the population 100 percent of the 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 poverty-ridden old age.

He went on to say:

If the Senate and the House of Representatives in this long, arduous session. . .

Remember, Mr. President, this was in the throes of the Great Depression.

If the Senate and House of Representatives in its long, arduous session have done nothing more than pass this bill, the session will be regarded as historic for all time.

Said President Franklin Roosevelt.

Mr. President, at that time we lived by the radio—not TV, but by radio. The

President gave a radio address where, among other things, he said, on August 15, on the fifth anniversary of Social Security:

Five years ago the term "Social Security" was new to American ears. Today it has significance for more than 40 million men and women workers whose application for old age insurance accounts have been received. This system is designed to ensure them an income for life after old age retires them from their jobs.

He went on to say in this same address to the American public:

The millions of today want and have a right to the same security their forefathers sought—the assurance that with the health and willingness to work they will find a place for themselves in the social and economic system for the time. Because it is becoming increasingly difficult for individuals to build their own security singlehanded, Government must now step in to help them lay the foundation stones. Just as Government in the past has helped lay the foundation of business and industry, we must face the fact that in this country we have a rich man's security and a poor man's security, and that the Government owes equal obligations to both. National security is not half and half. It is all or none. The Social Security Act offers to all our citizens a workable and working method of meeting urgent present needs and future needs. It utilizes the familiar machinery of a Federal-State government to promote the commonwealth and the economic stability of the Nation. The act does not offer anyone, either individual or collectively, an easy life, nor was it ever intended to do so. None of the sums of money paid out to the individual in assistance or insurance will spell anything approaching abundance, but they will furnish that minimum necessary to keep a foothold, and that is the kind of protection Americans want.

Mr. President, these were some statements made by Franklin Roosevelt. These statements that he made were visionary because we have established in this country a program that people depend on.

I received a letter in my office today from one Helen Collins who lives in Las Vegas. I wrote her a letter to talk about the balanced budget. She wanted to know about it. So I answered her request.

She wrote on the bottom of my letter a handwritten note dated February 18, 1997.

Dear Senator REID: Thank you for the update and for supporting a balanced budget amendment which expressly exempts the Social Security trust fund. I have been a widow since age 21. I never considered applying for any kind of welfare assistance. I worked, and raised and educated my son. He got a master's degree. Sad to say, at age 71, I am totally on my own on quite a limited budget. By being very careful, I get by. However, I do worry about getting more seriously ill and losing Social Security. For many of us, these are not the golden years. But I, for one, thank God that good people like you are helping us maintain our dignity and independence. Sincerely, Helen M. Collins.

Mr. President, this is what the President of the United States said more than 60 years ago. He said, "The act does not offer anyone"—not Helen Collins or anyone else—"either individually or collectively, an easy life, nor was it ever intended to do so * * * but they will furnish the minimum necessary to keep a foothold, and that is the kind of protection Americans want."

I repeat, the most successful social program in the history of the world is Social Security. This amendment is an effort to save Social Security.

I have listened to the arguments for the last several years about this balanced budget amendment and why it is important. I agree. But I agree, Mr. President, that the balanced budget amendment should pass only if it exempts Social Security.

I think we should have a balanced budget the hard way, the right way. Why should we use $80 billion this year, as an example, in surplus in Social Security to help disguise and offset the budget? We should not.

When I first started this matter a number of years ago—3 years ago, to be exact—I was a lone voice crying in the wilderness. That is not the way it is anymore. We have gained support. In the last year we gained support from people like courageous Republican Congressmen in the House of Representatives who have said they will support a balanced budget amendment, but they want the opportunity to exclude Social Security because they believe also that, if we are going to balance the budget, it should be done honestly. It should be done the hard way.

This Social Security Program that was set up 60-plus years ago was a fairly simple and principled experiment. They said what we will do is have the employer and the employee pay into a trust fund those moneys that will be saved so that people when they retire can have some money. Remember, Mr. President, we are talking about a Social Security trust fund.

Before coming to Congress, I was a practicing lawyer. I represented people who had problems and needed guidance. In some of the work that I did, I dealt with my clients' money. I established in my office trust accounts for my clients. And in this trust account, I would put my clients' money. If I took any part of that money, $10, $100, $1,000, $10,000, any portion of it for personal use, to buy my wife a coat, to make a car payment, to make a house payment, or to go to dinner, I would be subject to disbarment. They could take my license to practice law. Not only could they do that, but if the activities that I had committed were egregious enough, I could be prosecuted criminally. I do not see why the Social Security trust fund should be any different. What right do we have to pilfer those trust funds?

I have heard arguments made here on the floor of the Senate by people saying, "Well, that is what we have been doing in the past." Well, isn't that great? Does that mean we should place in the Constitution or enshrine in the Constitution of the United States the fact that we have been taking money wrongly in the past from Social Security? It is an easy way to balance the budget. It adds billions, coming to trillions of dollars by the year 2029 to balance that. It is an easy way to balance the budget. No wonder there is a rush to balance the budget when you are going to violate and take money out of the Social Security trust fund.

I have heard people say, "Well, there may be a little confusion here with Social Security. What we will do after we pass the constitutional amendment is we will then come back and pass a statute that says you can't use Social Security." That is really stretching, because we all know you can't pass a statute to override an expressed provision in the Constitution. A promise like that is really meaningless. Proponents know the calamity of passing it. I say if we want to pass a constitutional amendment to balance the budget, just exclude Social Security. This would pass with 85 votes in the Senate and probably at least 350 votes in the House. Social Security is not a giveaway. It is not an entitlement program. It is a program, though, that requires sacrifice by an employer and employee, and because of that I believe we should do everything within our power to make sure that Social Security remains strong for the foreseeable future.

There are some who say that if we have this amendment, then people can claim everything as Social Security. You can claim that building highways is Social Security. That is so fallacious and wrong. Social Security is enshrined in the law. We know what Social Security is. The underlying amendment diverts Social Security revenues for other uses. It could force future Social Security cuts to resolve frequent budget crunches, and I think more positively would force future Social Security cuts to resolve frequent budget crunches. It will force Social Security into an early funding crisis.

Also, this is a little off the point, but I have heard arguments today saying, well, States balance their budgets; why don't we? I have been a constitutional officeholder in the State of Nevada, served three legislative sessions. People go around saying Nevada has a balanced budget, just like most States. They do not have a balanced budget. What they do is put capital expenditures off budget. They bond for that. There is no balanced budget in the State of Nevada or most other States. But I am willing to go for a balanced budget. I am saying we will keep the capital expenditures off. All I want is to exclude Social Security. My amendment seeks a balanced budget that protects Social Security. It keeps Social

Security revenues in the trust fund. It protects Social Security from cuts. It preserves the 1983 long-term rescue of Social Security. It protects Social Security.

In 1983, Tip O'Neil, Ronald Reagan, Claude Pepper, and a number of others got together to determine what they could do to fund Social Security in the foreseeable future. Social Security was in a time of crisis. They got together in a bipartisan fashion and funded Social Security, they thought at the time, to go to the year 2060. We know now that fund will likely go to the year 2029 or thereabouts. But they did excellent work. In 1983, they reformed Social Security to preserve it for future generations. We can preserve it long after 2029 with some minor adjustments. I served as a member of the entitlement commission where we studied this and other issues for more than a year.

So to finance Social Security benefits, low- and middle-income wage earners now pay a heavier payroll tax than wealthier Americans. The largest single tax that people pay is Social Security. It would seem to me that it would be logical and fair to do what we can to secure those benefits.

The underlying amendment would abandon our commitment to future retirees. No funds could be reserved for future use. The constitutional amendment would supersede the statutory transfer of bonds into the Social Security trust fund. If we adopt the current underlying balanced budget amendment, we remove the obligation to eventually use the Social Security surpluses to pay benefits.

The underlying amendment would force Social Security cuts. It will force crisis. It will encourage deadlock.

In a letter to Tom DASCHLE from the President of the United States, January 20 of this year, the President said:

> In the event of an impasse in which the budget requirements can neither be waived nor met, disbursement of Social Security collections would cease or unelected judges could reduce benefits to comply with this constitutional mandate. No subsequent implementing legislation would protect Social Security with certainty because a constitutional amendment would override statutory law.

That is pretty specific. Would there be a crisis? Of course there would be a crisis. We would have three alternatives: have deep cuts in Social Security or deep cuts in other programs we have already cut to the bone. Alternatively, we could have massive tax increases. I think any one of those is not something I look forward to. I think we should pass my amendment and then pass a real constitutional amendment to balance the budget. The Democratic alternative, the one that I am offering, would allow the trust fund to spend surpluses, keeping Social Security viable for many years.

We have heard a lot in this past week about the need to protect Social Security. It is important to recognize in a little more detail the history of Social Security and appreciate why some of us are fighting so hard for this express exemption. I have said and I believe that Social Security is the most successful social program in the history of the world. It was enacted on August 14, 1935, at a time this country was in the throes of the greatest depression this country has ever felt and perhaps the greatest worldwide depression ever. It was enacted to provide for the general welfare by establishing a system of Federal old age benefits and by enabling the several States to make more adequate provision for its old.

The real significance of this act is that it was this country's first major Federal program to deal directly with the economic security of its citizens.

Before then, this matter was handled by States and private sources. In those days we had what were called poorhouses. Each county had a poorhouse where they woul put poor people They were not pleasant. Some were better than others. There were no standards. Whatever the counties could provide with State assistance is where people went.

Social Security took away county poorhouses. Federal action became necessary because neither the States nor private charities had the financial resources to cope with the growing need during the depression years. The balanced budget amendment now before this body radically alters in one fell swoop this program. It shifts the burden for ensuring the economic security of our Nation's senior citizens. It puts us on the course of turning this responsibility back to individual States and private charities, and it does so, in my opinion, in a very deceitful way.

Balancing the budget is very hard. It is made significantly easier by having these Social Security surpluses. If those surpluses were not available, we would really have to bite the bullet. We would have to make some significant changes, but we would at least have an honest balanced budget. This is not an honest balanced budget. And there is no wonder that the Helen Collinses of the world write and say, "We are afraid of our little security you are going to take away from us." They have reason to be afraid.

I have talked on this Senate floor a number of times about my grandmother. The first time I ever heard of Social Security was from my grandmother. I never knew my grandmother as a young woman. I knew my grandmother as short and somewhat heavy. She did not get around very well. She had eight children. She lived in a very rural part of Nevada, in a very depressed place, but my grandmother had dignity because she was able every month to get her old age pension check, and she was proud of that. It gave her dignity and independence from her eight children. She did not have to be a ward to her family, and she was one of the lucky ones because she had a family. Think of how much more insecure a person who had no family would feel.

So Social Security is an important program. People like Helen Collins should be worried, because if this amendment passes, Social Security as we know it is gone. It will be destroyed.

What is the recent history of Social Security? We have talked about it a little bit. We have talked about what happened in 1983 in this bipartisan commission. But we have also had a current commission. Included were former majority leader Dole and current Federal Reserve Chairman Greenspan, a notable opponent of the balanced budget amendment. But these people studied what should take place. The panel charted a course to long-term solvency. This contract that we have, the Social Security contract, is really a Contract With America, the first Contract With America, one that means something to people on the street. People on the street may not understand the importance to them individually of term limits, of line-item veto, of prayer in school. But they do understand the importance of getting a Social Security check. Separate and apart from the merits that I have just spoken of, Social Security is a Contract With America.

So, in short, we must protect what happened in 1935 and how it was again protected in 1983. The only way to do that is to pass this amendment.

In 1990, there was an amendment offered on this floor. It was an amendment offered by Senator HOLLINGS. It became known as the section 13301 amendment. The effect of this amendment was that it took Social Security off budget. It passed overwhelmingly out of committee. All but one person voted for it out of committee. All but two Senators voted for it in the Senate. It got 98 votes. The author of this amendment has spoken on this floor eloquently on a number of occasions. The junior Senator from South Carolina said he offered this amendment for the purpose of protecting the integrity of the trust funds of the Social Security system. The purpose of the Hollings amendment was to separate Social Security from the unified budget.

After we established the payroll tax we wanted to ensure the money was excluded from the unified budget. It passed by a vote of 98 to 2. It was a strong statement of congressional intent to protect Social Security.

The balanced budget amendment now before this body repeals something we passed 98 to 2. The plain language of S. J. Res. 1, the underlying amendment here, makes it clear that Social Security should be treated as part of the

unified budget and should be used to bring down the deficit. It is ironic that some would suggest that this should occur after we voted just a few years ago by a vote of 98 to 2 to pass the Hollings amendment. The real inconsistency is that voting in 1990 to remove Social Security from the budget and then voting in 1997 to again include it.

I do not think there are many people in this body who would say that the senior Senator from New Mexico does not understand budgetary matters. In fact, I think he has had a wide ranging experience, not only serving on the Budget Committee but serving on the Appropriations Committee, where I have had the pleasure of serving with him during my tenure in the Senate. The senior Senator from New Mexico, during the time that the debate took place on the Hollings amendment, said, among other things, "I voted for Senator HOLLINGS' proposal because I support"—this is a direct quote—"I support the concept of taking Social Security out of the budget deficit calculation. But I cast this vote with reservations."

Now, listen to his reservation:

> The best way to protect Social Security is to reduce the Federal budget deficit. We need to balance our non-Social Security budget so that the Social Security trust fund surpluses can be invested . . . instead of used to pay for other Federal operating costs. We could move toward this goal without changing the unified budget, a concept which has served us well for over 20 years now.

So what the chairman of the Budget Committee today said back in 1990 is that we have to support the Hollings amendment. And he voted for it. The only reason he did not like it is it was not strong enough.

Again:

> I voted for Senator Hollings' proposal [this is the senior Senator from New Mexico talking] because I support the concept of taking Social Security out of the budget deficit calculations. But I cast this vote with reservations.

And here I say, what are his reservations? It was that the provision, the Hollings amendment, was not strong enough. He wanted to build a firewall. He, Senator DOMENICI, went on to say:

> We need a firewall around those trust funds to make sure those reserves are there to pay benefits in the next century. Without a firewall or the discipline of budget constraints, the trust funds would be unprotected and could be spent on any number of costly programs.

Now, please, someone tell me how we can go forward now, 7 years later, after the chairman of the Budget Committee said this in 1990? I mean, is this misspeak?

Many of us spent a great deal of time reviewing the recent report by the Advisory Council on Social Security, and I mean within the past few months. This panel of experts was charged with providing recommendations to Congress on the long-term solvency of the trust funds. There were 13 members from all walks of life, chaired by a professor from a university in Michigan. They were not unanimous, but all 13 said that Social Security trust fund moneys should be invested in some fashion; part of them. Six felt one way, five another way, one another way, but they all felt these moneys should be partially invested in the private sector.

Now we are saying, if this amendment passes, that this 13-member commission, their work would go for naught, because you cannot invest moneys if there aren't any. And there would be no moneys if this amendment passed because the surpluses would be used to offset the deficit. So, should we now vote to utilize the trust funds for balancing the budget that will place at risk our ability to pursue these proposals suggested by the 13-member commission just a matter of few months ago? One proposal calls for investing a portion of the current trust fund in the equities market. You cannot invest in the equities market unless there is some money left over, so you could not do that.

We need to understand the importance of the mission of the advisory panel. We paid this group of experts to find solutions that will bring about long-term solvency of the funds. By including Social Security in a balanced budget amendment, we are, in fact, admitting that we care not about the long-term solvency of the trust fund. What we are really saying is that the short-term goal of balancing the budget is all that matters.

I am saying the American public wants us to stop playing games back here. If we are going to have a balanced budget amendment, let us do it the right way, let us do it the honest way: Exclude Social Security and not use those huge surpluses that will be going on for the next 30-plus years.

We are not simply negating their findings by passing this underlying amendment. In fact, we are negating the whole reason we organized this Commission in the first place. And we are negating the need for Social Security.

There are some people who do not want Social Security. I believe that there are people who would rather Social Security fail. I need look no further. I pull this out. I carry this with me all the time. This is a quote from the majority leader of the House of Representatives, House Majority Leader DICK ARMEY:

> Social Security is a rotten trick. I think we are going to have to bite the bullet on Social Security and phase it out over time.

Does that sound like somebody who wants to save Social Security? I think not.

Mr. President, there is a need for an express exemption of Social Security. It is Congress' obligation to ensure both parties perform their obligations under the terms of the contract we have with the people of America. This will not be possible if the underlying balanced budget amendment passes. It can only happen if we exempt Social Security.

Social Security is a program that is working. It is a Government program that works. The poverty rate for today's seniors is about 10 percent, the lowest in the history of this country. What was it prior to the adoption of Social Security? It is obvious that someone like Helen Collins would be in one of those poor houses. A widow since age 21, who struggled and worked to put her only child through college, now is pleading with us: "All I have is Social Security. I have never had to go to welfare. Social Security is not a welfare program. Can't you do something to make sure you protect Social Security?"

That is all we are asking. Adopt this amendment and then go ahead and pass a balanced budget amendment. But I say to my friends, please, don't pass the underlying amendment unless we exclude Social Security. The poverty rate today for seniors is 10.5 percent, the lowest in the history of this country. We don't need poorhouses anymore. We don't need people, like my friend who wrote me this handwritten note, in a poorhouse.

Why don't we have poorhouses? Why do we have a poverty rate of seniors at 10.5 percent? We have it because of one reason, and that is Social Security.

Are we concerned about the raiding of this surplus by those intent on enforcing the balanced budget amendment? Maybe so. This is not a Democrat or Republican issue, I hope. I hope my colleagues on the other side of the aisle would recognize that Social Security is a program that is important to both Democrats and Republicans. We need Republican support to adopt this amendment, and I plead with my friends, adopt this amendment. We have some courageous Members in the House of Representatives, sophomore Republican Members of the House, who are leading the fight over there to exclude Social Security from a balanced budget amendment. I think we should all be proud of them. We need some Republican Senators to join with them.

What we can't support is an attempt to use Social Security as a means of achieving this short-term goal. To do so would be a breach of our obligation under the terms of the Social Security contract with America that we have. In short, people pay into the Social Security trust fund through a lifetime of their employment in the labor force with the guarantee that they will get their money back upon retirement. It is a simple contract to understand. Today's workers support today's retirees, and tomorrow's workers support tomorrow's retirees. This simplicity belies the high regard and faith that the

American worker has for this guarantee.

So, at a time when so many are attacking this institution, questioning their faith in the system, it is imperative we provide Americans with the guarantee that while we all will sacrifice to balance the budget, we will all sacrifice equally, we won't do it on the back of Social Security, because to do so would just be another gimmick, another thing that was referred to as smoke and mirrors.

This amendment should receive the support of everybody supporting the balanced budget amendment. While some have given assurances Social Security will not be touched in the enforcement of a balanced budget amendment, this amendment will put teeth into that assurance. If people on the other side of the aisle say, "We agree with the Senator, we don't think Social Security should be touched either; in fact, we will pass a resolution, we will even tell you we will pass a statute after this becomes effective," well, it is wasteful, it will be meaningless. The only way that it will work is if it is included in this amendment. Let's exclude Social Security.

Our amendment gives all an opportunity to, in effect, step up to the proverbial plate and take a swing at what is the right thing to do, and that is to exlude Social Security so that it is protected. If they don't wish to protect Social Security, they should not support our amendment. Promises not to raid the Social Security system are insufficient and really unenforceable. We need a binding commitment, and this amendment will do just that.

Social Security affects all of us. There are proposals that include investing this money in the private market. This cannot be done unless we exempt the trust funds to ensure those funds are available for investment. By not exempting Social Security, we not only hurt today's senior citizens but are compromising the future of tomorrow's retirees as well. This is not an amendment that helps people with white hair only. This is an amendment that helps their children and their children's children.

As I indicated, Mr. President, when I started this 3 years ago, I had very little support and help. But the message is resonating to the American people. Within the past 10 days, there have been two comprehensive nationwide polls. Hart-Teeter—now, remember, these are Republican pollsters. They poll for Republicans running for office. They also do work in the markets. They did a poll for NBC, National Broadcasting Co., and the Wall Street Journal. Mr. President, 71 percent of the people polled said they will not support a balanced budget amendment unless Social Security is excluded. A similar poll was conducted a few days later by the New York Times. Like numbers. Almost 75 percent of the American people say, "Do not balance the budget if Social Security is included." They say, "Balance the budget, but exclude Social Security."

We have a number of think tanks that have taken a very close look at this. I served on the Entitlement Commission with the Director of the Center on Budget and Policy Priorities, Mr. Greenstein. The Center on Budget and Policy Priorities told us that by the year 2020, the second decade of the next century, Social Security reserves will be in the trillions of dollars.

They say:

> If Social Security surpluses were to be used in the next two decades to increase national saving rather than to offset the deficit and the rest of the budget, that will likely result in stronger economic growth.

So what the Center on Budget and Policy Priorities says is if you take these moneys to mask the deficit, it doesn't help. But if you take the Social Security reserves and make them truly reserves, it will result in greater savings and will cause more economic growth in our great country.

Here is what the Center on Budget and Policy Priorities says about the underlying amendment. Among other things, they say:

> Unfortunately, the balanced budget amendment—

The underlying amendment—

> would undercut the approach to bolstering Social Security. The implications of this requirement on Social Security are very significant. First, the budget would be considered balanced when the deficit outside Social Security exactly offset the surplus inside Social Security. But when that occurred, the objective of accumulating Social Security surplus, partly to build the Nation's capital stock and productive capacity so we can better afford to pay for the baby boomers' retirement, would be stymied. Second, the benefits of the baby boomers would likely have to be financed in full by the taxes of those working in the years the baby boomers retire.

Very simple. So everyone understands what the Center on Budget and Policy Priorities says, for example, if in the private sector you pay into a fund all your life so that when you reach age 65 you can retire, and you go to your employer and say, "Well, I'm 65. I want to draw my retirement," they say, "Fine. You can go ahead and draw your retirement, but every penny you draw out for retirement you have to put that much money in." And the person says, "Would you repeat that?" And so the boss would repeat it. The boss would say, "Sure. You paid money into the fund all of your lifetime while you worked here, but we've used the money for something else. So if you want to draw money out, you have to put it back in the second time." That is in effect what is—not in effect —that is literally what is happening in here.

> If the underlying balanced budget amendment passes, Social Security recipients will have to pay twice if they want their benefits. This version of the balanced budget amendment would thus undercut the central achievements of the 1980 Social Security reforms.

That is pretty direct. The Center on Budget and Policy Priorities further says:

> Under the amendment, reductions in Social Security could be used to help Congress and the President balance the budget if they are faced with a budget crunch. The balanced budget amendment is likely to lead to periodic midyear crisis when budgets, thought to be balanced at the start of a fiscal year, fall out of balance at the fiscal year, such as factors of slowing economic growth. When sizable deficits emerge with only part of the year remaining, they will often be very difficult to address.

Among other things, they can, under this amendment, raise the debt if they get a three-fifths vote; raise taxes, another supervote. In such circumstances, the Policy Priority Institute says:

> The President or the courts may feel compelled to act to uphold the constitutional requirements for a budget balance.

In documents circulated in November 1996, explaining how the amendment worked, the House coauthors of the amendment—listen to this—wrote:

> In such circumstances the President would be bound at the point at which the Government runs out of money to stop issuing checks. This would appear to include Social Security checks.

Mr. President, this is not something I made up. These are direct words from the sponsors of the amendment in the House of Representatives. They put in writing—I quote—

> . . . the President would be bound at the point at which the Government runs out of money to stop issuing checks.

So, ladies and gentlemen, the underlying amendment clearly will destroy Social Security.

The major difference between the two versions of the balanced budget amendment—mine and the underlying amendment—is that the version which excludes Social Security allows the Nation to draw on its Social Security savings during the period when the baby-boom generation is in its peak retirement years and requires the Nation to save more in advance to help cover the cost of the baby-boom generation. Pretty clear.

We have here a great institution, part of the Library of Congress, called the Congressional Research Service. When a Member of Congress has a question about an issue, you can call. You may want to know about how much lumber our forests are producing. You may want to know how many miles of roads there are in Nevada, Iowa, or Colorado. Any kind of information they can get information for us.

One of the things they were asked to comment on is, What about this underlying amendment? What about the amendment that is now before this

body? What will it do? They said, among other things:

The amendment would preclude, at a future time when Social Security outlays in a particular year begin to exceed Social Security receipts in that particular year, the use of the Social Security funds to pay out benefits.

So what they said is the same thing Greenstein said, that when you have surpluses built up they would go to offset the deficit. They go on to say:

Therefore, under the balanced budget amendment's language, there is mandated a balance in each year for the outlays that year and the receipts that year. Payments out of the balance of the Social Security trust funds would not be counted as Government receipts under the balanced budget amendment when in the year 2019, or whenever the time occurs, the receipts in those particular years and the Social Security trust funds are not adequate to cover the outlays in those years. That is, payments out of the trust fund surpluses could not be counted in the calculation of the balance between total Federal outlays and receipts. Because the balanced budget amendment requires that required balance be between outlays for that year and receipts for that year, the moneys that constitute the Social Security surpluses would not be available as a balance for the payment of benefits.

That again is very clear. It is again from another source saying that the underlying amendment will destroy Social Security.

Some people tried to get the Congressional Reference Service to change their mind, to write another report. And they wrote another report that said the same thing. Shorter, but says the same thing.

Thus, the pending balanced budget amendment requires outlays for any fiscal year not to exceed total receipts for that year.

What they are saying is you would not have to use Social Security surpluses. What you can do is borrow more money or cut more services or raise more taxes. Of course, remember, when you have surpluses running as high as they are, the one place you are going to go is where the surpluses are.

To support what CRS has said we again come back at a later time with the subsequent report by the Center on Budget and Policy Priorities where they say:

Under the balanced budget amendment, the Social Security surplus could not be tapped and interest earnings on the surplus could not be used unless it was offsetting surplus in the rest of the budget.

Again, it is very clear what CRS said, what the Center on Budget and Policy Priorities said.

Mr. President, there are numerous organizations that oppose the balanced budget amendment for various reasons. There are also organizations that do not support the passage of the balanced budget amendment because of what it does to Social Security.

One such organization is the esteemed National Committee to Preserve Social Security and Medicare with about 6 million members. Mr. President, they, just a few days ago, wrote a letter to me where they said, among other things:

Your amendment would preserve the integrity of the Social Security trust fund under a balanced budget constitutional amendment.

They did not equivocate. They did not say, "Offer this amendment at the right time." They say, the amendment that is now before this body will preserve the integrity of the Social Security trust fund under a balanced budget constitutional amendment. They go on to say:

The issue is clear-cut. As drafted, S.J. Res. 1 overturns the 1990 law taking Social Security off budget and allows Social Security to be raided to reduce the deficit. Statutory measures to protect Social Security from such a result are not adequate because of the supremacy of the Constitution and because future Congresses are free to change such statutory measures while the provision to place Social Security on budget will remain in the United States Constitution. Borrowing from the reserve to finance current consumption will place a heavy burden on future generations because the debt to the trust fund must be paid with interest.

Mr. President, there certainly has to be consideration given to what will happen if the underlying balanced budget amendment passes. It will not only throw the Social Security trust fund out of kilter, it will be a cheap and very deceitful way to attempt to balance the budget. As a result of that, we have a letter written January 28 from President Bill Clinton to Leader DASCHLE where he says in the paragraph in the middle of page 1:

I am very concerned that Senate Joint Resolution 1, the Constitutional amendment to balance the budget, could pose grave risks to the Social Security system. In the event of passage, in which the budget requirements can neither be waived nor met, disbursement of Social Security checks could cease or unelected judges could reduce benefits to comply with this constitutional mandate. No subsequent implementing legislation could protect Social Security with certainty because a constitutional amendment overrides statutory law.

Mr. President, we have offered this amendment. The Senator from Nevada has offered it, along with Senators DORGAN, DASCHLE, KENNEDY, FEINSTEIN, WYDEN, CONRAD, FORD and HOLLINGS.

Mr. President, I say stop and look at what is happening. If you take a look at what is the state of the economy today, last year was the 4th year in a row we had a declining deficit, the first time since before the Civil War we have had 4 years in a row with a declining deficit. Lowest unemployment, lowest inflation for 40 years, highest economic growth in 40 years, 300,000 fewer Federal employees today than 4 years ago, excluding the cuts in the military. Our Federal Government today is about the same size as when President Kennedy was President. Home building during the last 2 years, the largest number of homes built in any comparable 2-year period.

The economy is doing well. I do not think this underlying amendment which would throw Social Security in reverse will do anything to help the economy. In fact, it will hurt the economy and certainly hurt the Helen Collinses of the world, people who have their dignity as a result of the Social Security system.

Mr. President, I talked about why Social Security was passed. I talked about banks shutting their doors. I talked about factories slowing down and stopping. I talked about homes being foreclosed upon, farms being foreclosed upon, people being evacuated from their businesses because they did not pay their bills, families living together, "The Grapes of Wrath"—we do not need "The Grapes of Wrath" revisited. We are a rich nation. We have an obligation to provide for people in their senior years, especially when they provided for themselves, and that is all Social Security does. Social Security is not a gift. It is not welfare. It is a program, Mr. President, that gives people dignity like my grandmother and like Helen Collins.

We need to understand that this underlying amendment is not fair. If everyone acknowledges that they want to take care of Social Security and protect Social Security, then why not accept my amendment? I hope people of good will on both sides of the aisle will think about this amendment, will understand where we have come in the 3 years since I first offered it.

I was a lone voice crying in the wilderness 3 years ago. Now, Mr. President, we have support. The American public supports what we are attempting to do. They are supporting it because they know the importance of Social Security, and they know that if we do not expressly exclude Social Security from a balanced budget amendment, it will be destroyed. That is why I will only support a balanced budget amendment that expressly exempts Social Security.

Mr. HATCH. Mr. President, I am hoping we can conclude debate for this evening. I will say a few words and hope that our leadership will be ready to end the session for today. I give warning that I am prepared to close down the Senate if the Senate is prepared to be closed down.

Let me just say a few words about my friend's amendment. My friend, Senator REID, and others seek to remove Social Security from the protections of the balanced budget amendment. I look forward to a lengthy debate tomorrow on this subject and this issue. But while I respect these critics, and I certainly do, the truth of the matter is that the Reid amendment is merely a diversion from what should be the real focus of this debate: whether

the Constitution should be amended to require a balanced budget amendment except in exigent circumstances.

When I say that, I again look at these 28 years of unbalanced budgets. This is the real issue. Everybody knows that if the Reid amendment passes, this is going to only get worse. The fact of the matter is, if we are going to do anything about this, we have to pass the underlying balanced budget amendment without the Reid amendment on it. Exempting Social Security from the balanced budget amendment will create an overwhelming incentive to do just what these critics fear.

Let me point out this chart here. Social Security—don't leave it out. The budget is protected by the balanced budget amendment. If Social Security is left out, special interests will eat Social Security surpluses like cheese. There is no question about it. This exemption would focus budget pressures on the Social Security trust fund that could destroy the viability of the Social Security trust fund itself. It is a risky gimmick, and it has no real relationship to the goals sought.

Taking Social Security off budget will subject its funds to Washington's special interest scavengers. When you have rats in your home, you need to plug up all the holes. If you do not, they will find a way in. If we leave Social Security off budget, new and old special interest spending initiatives which cannot survive or make their way in under a balanced budget plan will smell out the scent of Social Security and simply devour, just like these rats that are devouring the Social Security cheese. You need to leave it in because the budget will be protected by the balanced budget amendment. Do not take it out.

Furthermore, exempting the trust funds is simply unjustified. There already exists an elaborate scheme of firewalls that protect the trust funds from Presidential and congressional tampering. Nothing in the balanced budget amendment is inconsistent with the statutory firewall scheme. The truth is that the passage of Senate Joint Resolution 1 is the best way to preserve Social Security benefits.

Mr. President, I must emphasize another reason why the Reid amendment is unnecessary. The proposal to remove Social Security from the protections of the balanced budget amendment does nothing to respond to the concern that Social Security benefits will be reduced. This is the language of the Reid amendment. Nothing in the exemption would protect Social Security recipients from either benefit cuts or tax increases. Just look at the message there. In fact, the Reid amendment could weaken the financial integrity of the Social Security System.

Under current projections, Social Security will have exhausted the trust funds and will be running deficits by the year 2029. Many of us believe they will run deficits before then. By 2070, as shown on the chart, Social Security will face a startling $7 trillion shortfall. Just look at these deficits—by 2070, a $7 trillion shortfall.

Excluding Social Security ignores this problem and places the whole system in dire jeopardy. Including Social Security in the budget calculation forces Congress to address the pending crisis in a responsible manner before it becomes too late. Why? Because exempting Social Security creates two budgets, one which must be balanced because receipts must equal outlays, and the other, a Social Security trust budget which will contain the current trust fund's surplus. This second budget presents the political branches of Government with a powerful incentive to redefine costly spending programs as Social Security and pay for them through what would become a giant loophole in any attempt to balance the budget.

There is no telling where these games might lead. Imagine the christening of the SS Social Security battleship, or the creation of the Social Security National Park, which will probably, of course, be located in Utah if this administration has anything to say about it. Thus, this loophole would make it easy to balance the budget on paper without changing anything except accounting methods. And, in perhaps the ultimate paradox, Congress could use the loophole to seem to eliminate the deficit without a single spending cut.

According to Wall Street analyst David Malpass, who recently testified before the Judiciary Committee, "Financial markets would react negatively to a budget concept that ignores Social Security." By passing a balanced budget that excludes Social Security, Congress would, according to him, and I think anybody else who looks at it objectively, "game" the system, saying, in effect, that it does not intend to balance the consolidated unitary Federal budget. For Malpass and other market analysts, "This would be a decidedly negative signal for financial markets leading to higher interest rates." That would hurt every citizen in this country, but most of all the poor.

Furthermore, Wall Street's support for the balanced budget amendment was made evident today in a full-page advertisement that Merrill Lynch placed in Roll Call. The ad was entitled "Why the Balanced Budget Amendment Makes Sense."

I ask unanimous consent that the article be printed in the RECORD at this point.

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

WHY THE BALANCED BUDGET AMENDMENT MAKES SENSE

During the next month, Congress will debate whether to add a balanced budget amendment to the Constitution.

Many arguments have been raised against a balanced budget amendment. Chief among them is that the amendment would aggravate an economic downturn by forcing budget cuts and tax increases.

This is a legitimate concern. There is widespread agreement that tax increases and spending cuts in times of economic contraction would only exacerbate a downturn.

But the balanced budget amendment would not put members of Congress in straitjackets. The language of the amendment clearly allows for flexibility on this score and it is certainly plausible that three-fifths of the House and Senate would waive the requirement during economic slowdowns.

Concern about the impact of a balanced budget amendment should be linked to where the economy is headed if fiscal policy remains on its present course.

Any budget agreement reached this year will strive to balance the budget by 2002. But this year's budget agreement will do little to address the long-term fiscal problems this country faces.

As the Congressional Budget Office has shown, our long-term fiscal outlook is unsustainable. According to CBO.

Entitlement and interest spending will skyrocket after 2010—from 12 percent of GDP today to between 22 percent and 30 percent by 2025.

The spending explosion will create enormous future deficits. By 2030, the deficit could range between 12 percent and 37 percent of GDP—compared to 1.4 percent in 1996.

In addition, economists project that current spending and tax policies will ultimately levy a crushing 84 percent lifetime net tax rate on future generations of Americans.

Clearly, measured in terms of deficits, debt levels, or future tax rates, our current fiscal path will soon become unaffordable. As a nation, we have made promises that we simply cannot keep without endangering our economic future and that of our children.

That's why we support a balanced budget amendment. The amendment itself will not reduce the deficit by a dime. But it could create a political climate that makes the hard choices we face a little easier and lend political support to the long-term pursuit of fiscal prudence.

Mr. HATCH. Mr. President, I believe that this gamesmanship is exactly what must be avoided. The way to avoid it is to reject such exemptions. The best way to protect retirees of future generations is to adopt a clean and strong balanced budget amendment, free of loopholes. Significantly, critics of Senate Joint Resolution 1, who wish to exempt Social Security, have not demonstrated in the least how they would balance the budget without including the present Social Security trust fund surpluses, which, as I stated, is only temporary. Presumably, without including the present surpluses in budget calculations, other programs would have to suffer greater cuts.

It is ironic that many of those who argue that a balanced budget constitutional amendment would cause cuts in social programs are themselves calling

for the exemption of Social Security, advocating draconian cuts in their most favorite programs. Let me give you an example. Between the years 2002 and 2007, without including the surplus, the deficit will appear to be $700 billion larger than it is. This means either a mammoth tax hike on all American families—almost $1,100 per year per household—or devastating cuts in important programs like Medicare, cancer, and other disease research, Head Start, and environmental cleanup. I might add that Treasury Secretary Rubin, at a January 17 balanced budget constitutional amendment hearing, testified that the trust fund surplus will be included in the Presidential budget, and that this view of budget policy reflects the view of the President and the Congress.

Indeed, President Clinton, in a recent press conference, while opposing the balanced budget constitutional amendment, admitted he could not balance the budget without counting the present Social Security surpluses. In the words of the President, "Neither the Republicans nor I could produce a balanced budget tomorrow that could pass if Social Security funds could not be counted." In fact, all the budgets the President has submitted to Congress have contained the Social Security surplus. Some would think it hypocritical to not argue that it should not be included. I would never go that far, but it is a game that is being played by the White House and, frankly, it is time for the games to end.

The President knows that not including the present day surpluses would require draconian cuts to other worthwhile Federal programs. By the way, contrary to what Senator REID has alleged, CRS did not—let me emphasize this—conclude in any of its memoranda that the balanced budget amendment requirement and the Social Security program would prohibit the use of surpluses or other receipts to finance benefits in succeeding years. In fact, today, the nonpartisan Concord Coalition—a nonpartisan group founded by a Democrat, Paul Tsongas, and a Republican, Warren Rudman—revealed a study that clearly demonstrates that the best way to protect Social Security is to adopt this clean, unamended balanced budget constitutional amendment.

I want to point out that the Concord Coalition has been cited by both sides as a responsible group trying to do the best to bring about good budgetary matters in this country. I also want to point out that these amendments that are attacking this balanced budget amendment would, for the first time, place a statutory reference in the Constitution. The constitutional effect of this is unclear and likely to engender much confusion that could be destructive in both balanced budgets and Social Security. In fact, former Assistant and Acting Attorney General Stuart Gerson, and attorney Alan Morrison, a liberal attorney, as witnesses for the majority and minority, respectively, in a recent hearing on Senate Joint Resolution 1, the balanced budget constitutional amendment, agreed that exempting Social Security from the balanced budget amendment is a bad, bad idea.

According to Alan Morrison, a litigator with the Public Citizen, who opposes the balanced budget amendment and who testified for the minority:

> Given the size of Social Security, to allow it to run at a deficit would undermine the whole concept of a balanced budget. Moreover, there is no definition of Social Security in the Constitution, and it would be extremely unwise and productive of litigation and political maneuvering to try to write one. If there is to be a balanced budget constitutional amendment, there should be no exceptions.

He is a liberal and is affiliated with the Ralph Nader group. But he is a competent constitutional expert. Normally, he is advocating the most liberal constitutional principles. But even he said there should be no exemptions like the Reid amendment to this balanced budget amendment.

Mr. President, I am eager for the debate tomorrow over the Social Security exemption. I am confident that when the dust settles, the Reid amendment will go down to defeat because it will be shown to be not only unnecessary, but also harmful to the very thing it sought to safeguard, Social Security.

I have stated that the debate on the Reid amendment is really a diversion from the real underlying issue—whether this Nation has the will to avert a common fiscal crisis. Mr. President, the absolute biggest threat to Social Security is our growing debt and concomitant interest payments. Debt-related inflation hits hard those on fixed incomes, and the Government's use of capital to fund debt slows productivity and income growth and siphons off needed money for worthwhile programs. The way to protect Social Security benefits is to pass Senate Joint Resolution 1. The proposal to exempt Social Security will not only destroy the balanced budget amendment, but, in all probability, will also cause the Social Security trust funds to run out of money sooner than they would have without an exemption, risking the viability of the Social Security program itself.

Finally, the Senator from Nevada has raised the specter that the balanced budget amendment may cause the Social Security trust funds to be "raided," because the amounts of the present day surplus will be included in budget calculations. This contention is erroneous for several reasons.

The argument to exempt Social Security surpluses disregards the fact that the United States has a unified budget, and not including the present trust fund surpluses will make the budget very difficult to balance and threatens the vitality of other Federal programs.

The Social Security trust funds are, in actuality, nothing more than an accounting device. Let's consider this chart on how the system works. Social Security tax receipts are not kept in some sort of isolated bank vault. Instead, Social Security taxes are deposited into accounts maintained by the Federal Government with various financial institutions. Social Security taxes, along with other deposited receipts, become part of the U.S. Treasury. FICA tax receipts go to the Social Security Administration, and they are passed on from there to the Treasury, where all FICA tax proceeds are commingled with the general funds. In return, the Treasury invests in Treasury bonds which will be redeemed later. These bonds are, incidentally, the most important and stable securities in the world.

All the Treasury moneys are indistinguishable from other deposited moneys. But the Social Security revenues are accounted for separately through the issuance of Federal securities to trust funds. The trust funds do not hold the moneys. They are simply bookkeeping accounts.

Thus, as part of unified budget, any surplus derived from the trust funds, much like other revenues, is used to finance the operations of the Federal Government. Like all of us, the Federal Government has one budget. Listing categories of spending in discrete bookkeeping entries does not reduce the size of what we owe or spend.

Moreover the surplus Social Security taxes being collected today will not cover the future cost of the system. Most of current Social Security taxes are currently used to cover benefit payments to present retirees.

Outlays will exceed receipts of the system, and the year that it is suspected to do that is the year 2019. The guarantee of future benefits, therefore, will depend on the Federal Government's future ability to levy taxes, the size and the amount of the benefits, and the overall health of the economy, not the balances or "surpluses" of the trust funds.

To characterize the use of the surplus as "raiding" the trust funds is, therefore, erroneous and absolutely wrong. Furthermore, the exclusion of the present-day surpluses in the budget will make it extraordinarily difficult to balance the budget by the year 2002, the date Senate Joint Resolution 1 mandates balancing the budget. Between now and the year 2002, the surplus is estimated to be over $500 billion in current dollars. Ten years from now, the year 2007, the value of trust fund surpluses is expected to be $1.067 trillion. This is an annual surplus average of approximately $100 billion.

According to current budgetary figures, $100 billion per year is more than our current annual expenditure on education, the environment, and transportation and infrastructure. Mr. President, $1.067 trillion is in fact more than our expenditure this year on Medicare, education, veterans' benefits, the environment, national defense, Social Security, transportation and infrastructure, and natural resources combined.

Where will we come up with the money to fund these programs if we exclude Social Security surpluses from the unified budget? Federal programs would have to be cut, or taxes raised by this amount to reach the balanced budget goal. Ironically, it appears that those who yell the loudest to exempt Social Security are the very same people who wish to increase the very social welfare programs that are being put at risk by this exemption. They are the ones that are really screaming about wanting to spend more on social programs, which will have to be cut if this amendment becomes law.

The real issue is where are we going to get the money to redeem the Federal securities that make up the Social Security trust funds?

Let's put that other chart up. Where will we come up with this $1.067 trillion shortfall if Social Security is exempted from the balanced budget amendment?

The trust funds are not being raided. We owe the money to the Social Security trust fund, and we will have to pay. But if Social Security is exempted from the balanced budget amendment it will be mortally wounded. Either other programs will be relabeled "Social Security" so that they take away from the luster of Social Security and the willingness of people to support it like it should be. Either programs will be relabeled "Social Security"—as we have done in the past—and the present surpluses will be spent, or the surplus will be used to pay down our national debt. And thereafter we will keep spending until we have reached the debt ceiling. Either way, the surplus will be used up.

Well, frankly, it is the Reid exemption and the Reid amendment that will ultimately destroy Social Security. The best way to face the coming problems with the Social Security System is through a unified budget. We all have to work together within constraints to redeem those securities, and not allow any other programs to be relabeled Social Security or affect the Social Security trust funds. But if we don't, if we take Social Security outside the unified budget, the rats will come and eat it away. Inside, Social Security competes better than any other issue for budgetary markets. So, it is penny-wise and pound-foolish to take it out and risk having to reduce all of these other good social welfare programs. Head Start, education, environment, highways and infrastructure—all of these programs that are so important would have to be cut to reach a balanced budget by the year 2002 if Social Security is exempted.

We show that by the year 2019—on this chart, the green part is the surpluses—surpluses drop, and huge deficits will be as high as $7 trillion a year by the year 2007. Without the balanced budget amendment, that is where we are headed.

We would not get this balanced budget if the Reid amendment happened to pass. And, if it did pass, it would put us at tremendous risk as we try to reach a balanced budget by the year 2002. We would have to cut almost every social program that we have more than we should. Naturally we are going to have to find restraint in growth, and we are going to have to find ways of cutting without cutting to the bone.

Taking Social Security out. I have to tell you, it will still be the same system. The only difference is we will still be investing in the bonds which I was showing—these Federal Government securities. The only difference is our colleagues who want to spend more will be spending those surpluses for more social welfare programs without reaching a balanced budget.

The fact is that this country will be doomed. We have to pass this amendment. Frankly, it is the only thing I know to stop the rats from raiding all of our budgetary assets. And this will start us on the the pathway of getting things in order.

Look. We know that we cannot keep up the same system. We cannot keep doing this. We just can't keep doing this. And the only chance to put an end to these types of unbalanced budgets year after year is to pass this balanced budget amendment, and to pass it intact without these amendments, as sincere as they may be.

Mr. President, I am prepared to move on this side of the Senate, if we can.

Mr. REID. Mr. President, I have just a few more comments which I would like to make in response to my friend, my western friend from the State of Utah, for whom I have the greatest respect. But I would say to him and those listening that we are all beginning to see where some of the special interest scavengers are and who the rats are that will be looking for the cheese. And I think if you look at the Wall Street Journal today you will look at a full-page ad. You would find that those are the people who are the rats and those are the people looking for cheese. The Helen Collins of the world who are trying to survive on Social Security can't run a full-page ad in the Wall Street Journal. The cheese is the surplus from Social Security. That is what the rats are eating. They have been doing it all along.

For my friend from Utah to say that President Clinton has said he has been using it in his calculations, that doesn't make it right. That is my whole point. Let's do it the right way. Why would we enshrine in the Constitution something we have been doing wrong for 15 years now? The surpluses of Social Security should not go toward balancing the budget. Everybody says it will be hard to do. You have that right. It will be hard to do. But when we do it it will be honest. It will be done the right way. When we say we have a balanced budget we will really have done it. We don't have one now.

My friend, prior to coming to this body, was a trial lawyer, and a good lawyer. I say to him and to anyone within the sound of my voice that you can't have Social Security. It is statutorily defined. You can't include a national park in that, and other programs. It is statutorily defined.

Now, people may say that you look in the Wall Street Journal; Merrill Lynch and others, which I have not seen—I am sure it is a full-page ad—they run this full-page ad. I repeat, the Helen Collinses of the world and almost 75 percent of the American public do not support a constitutional amendment to balance the budget unless Social Security is excluded. They cannot run a full-page ad in the Wall Street Journal. But those that are running full-page ads know where the cheese is, and the cheese is the surpluses for Social Security that they will use to balance the budget.

And people say, why? The same answer I guess is the answer that Willie Sutton gave when they asked him, after he was put in prison, "Willie, why did you rob all those banks?" He said, "That's where the money was." Well, the reason they are going after the Social Security surpluses is that is the only place we have surplus money now.

I repeat, why enshrine in the Constitution something that we have been doing that is wrong?

Now, my friend from Utah has said, well, the CRS really did not mean what they said, and if they said what they mean they really did not say it that way. I read from the Center on Budget Policy Priorities just a few paragraphs. In fact, I know the time is late. I will read one paragraph. They say there are three memos, two from CRS and one from them.

All three memos explain that under the Hatch and Schaefer-Stenholm versions—

This underlying amendment—

outlays in any year—including outlays for benefits paid from the Social Security trust fund—may not exceed receipts in that year. All three memos note that any funds drawn down from the accumulated Social Security surpluses to help pay for the Social Security benefits of retired baby boomers would not count as receipts in those years.

Very clear. That is what they have said.

Now, they have said there is no exception as to war. Of course, there is

exception in the Constitution as to war. So this amendment is not as pure as some would like us to believe.

I also say for emphasis that my friend said it would be difficult to balance the budget. Democrats and Republicans say it would be difficult to balance the budget unless you use Social Security trust fund moneys, but it is not a fair balance.

Mr. President, I will close tonight—I know everyone is anxious to go. We will take this debate up tomorrow. We have a series of speakers lined up, as does my friend from Utah.

Congressman DAVID MCINTOSH, a sophomore Republican Congressman from Indiana, says, and I quote:

Republicans cannot allow ourselves to be defined as cutting Social Security even as we move forward with the balanced budget amendment.

Now, this man, Mr. MCINTOSH, is no left-wing socialist. He is noted as being one of the most conservative Members in the entire House of Representatives. He was part of the Republican revolution, but he, sophomore Republican, has said, I want to be able to vote on the Reid amendment; I want to be able to vote to exclude Social Security. Why? Because it is the right thing to do. It is the honest way to balance the budget.

Mr. HATCH. Mr. President, I do not want to prolong the debate tonight, but I have to say no matter what you do, those funds are going to be invested in bonds, U.S. securities. That is what is statutorily required.

The fact is, if you set Social Security outside of the budget, if Social Security is defined by statute, it can be redefined by statute. So we have accounting surpluses in Social Security. I am just using bizarre examples, but what about Medicare? People around here are not willing to reform Medicare. They are not willing to pay the price to get it done. They just want to find some other revenue source to pay for it. It would be easy to shove it into Social Security and make the surplus pay for it rather than facing the music which the balanced budget amendment would make us do.

And it is not just that. It is all social spending they want to do. They will use that surplus for that rather than using it for what it needs to be used for, and that is to balance the budget. And the only way you are going to get the payment for that Social Security surplus in the future is if the United States can redeem its bonds. And the only way the United States can redeem its bonds in the year 2020 is if we do what is right today and we pass a balanced budget amendment.

That is the only way, because every dime of it, if there is a surplus up to the year 2020, every dime will be invested in Federal Government bonds, every dime, just like it is today.

The question is, will we be using those dollars, every dime in those dollars, to balance the budget or will it just be another big spending spree by those who want to spend us blind and who have done so for 28 straight years?

I do not mean to sound rabid about this, but this is important stuff. And when we start talking about putting Social Security outside the balanced budget amendment, we're really talking about milking that program to death. You cannot get away with it if it is all on budget. If it is a unified budget, you cannot get away with it. And these people say it is currently raided. Everyone knows that every single nickel of that money is going to go into Federal Government bonds. The question is whether that money is going to be used to reduce the deficit and get us to a balanced budget by the year 2002 or whether we are going to have people raiding it and using it to pay for other additional social spending programs because it is not subject to balanced budget requisites.

This is a pretty serious issue. I have here a wonderful article by Stephen Chapman in Sunday's Washington Times entitled "Balanced Budget Shell Game."

He says:

Opponents of a simple balanced budget amendment, which include President Clinton, say it would harm retirees by allowing Social Security surpluses to be used to offset deficits elsewhere in the budget.

North Dakota's Democratic Sen. Byron Dorgan says such a "misuse" would violate "a solemn promise:"

How is that, since all that money is going to be invested in Federal Government bonds? The question is, what is it going to be used for, once the Government gets the money? Is it going to be used to balance the budget or used for more spending, which is going to happen if the Reid amendment passes?

This tax taken from your paycheck goes into a trust fund to be used for only one purpose, and that is to fund the Social Security system. The critics say the amendment would encourage Congress to cut retirement benefits to pay for tax cuts and other programs at the expense of the elderly.

They propose an alternative version that excludes Social Security from deficit calculations. For many Members of Congress, this option has an extra attraction: It has no chance of enactment, since it would force Congress to come up with another $465 billion in spending cuts or tax increases between now and the year 2002. So there will be no need to make the unpleasant choices that our lawmakers have been dodging for an entire generation.

As they have passed these 28 unbalanced budgets and 58 of the last 66.

The opponents have found a clever way to gull voters into accepting a continued tide of red ink.

But the public shouldn't be fooled. The opponents are playing a shell game, hoping voters won't be able to detect their sleight of hand. The fears they have for Social Security are unfounded and their solution would protect only fiscal indiscipline.

Indiscipline, not discipline.

First of all, excluding Social Security would create a loophole big enough to drive a $300 billion deficit through. If Social Security is exempt from the balanced-budget requirement, everything will be Social Security. Any program with any remote benefit to the elderly can easily be renamed. "Housing, national health care, highways will be treated as Social Security," says Heritage Foundation budget expert Daniel Mitchell. We would end up with a "balanced" budget that drives us ever deeper into debt.

The exclusion is billed as a way to prevent looting of the trust fund, but its actual effect would be zero. Right now, the retirement fund is running a surplus every year. The surplus is "invested" in government bonds—in other words, it is lent to the Treasury, which uses the borrowed money to pay for other government programs. Once it is excluded from the budget, the surplus will still be lent to the Treasury. Mr. Dorgan says Social Security taxes should never be used except to pay Social Security benefits. But his proposal does nothing to prevent that.

The ostensible reason we are running a surplus is to build up a reserve that can be used to pay benefits when the Baby-Boom generation retires. Dorgan and Co. say the original balanced-budget amendment would deplete that reserve, seriously endangering future benefits. Nonsense. The "reserve" consists of government bonds. These are nothing more than IOUs, which cannot be repaid unless future taxpayers are willing. When the Baby Boomers retire, taxes will have to rise to pay their benefits. That's true whether Social Security runs a surplus today or not.

The opponents insist that excluding Social Security from the amendment would shield it from politicians eager to starve Grandma so they can hand out goodies to special interests. Since Congress wouldn't be able to reduce the deficit by cutting Social Security benefits, those benefits would be as safe as the gold in Fort Knox.

This argument is neat, simple and hopelessly naive. What it overlooks is that if Congress can't use the surplus to balance the budget, it can always get rid of the surplus by cutting payroll taxes—then raise taxes an equivalent amount elsewhere to pay for the programs it wants. It could also cut benefits to allow even deeper cuts in the payroll tax, which would permit additional tax increases to finance spending that doesn't help the elderly. The protection for Social Security would soon turn out to be no protection at all.

The opponents of the original amendment take the politically easy position of saying that the Constitution shouldn't require the budget to be balanced at the expense of the elderly. What they mean is that the Constitution shouldn't require the budget to be balanced at the expense of anyone.

The fact is, the same funds will be invested in the same bonds, and the credit of the United States will have to take care of those bonds in the future or people on Social Security will not have the money. You saw the deficits expected in Social Security during the next century.

The fact is, unless we balance this budget, unless we get fiscal discipline into the Constitution, I guarantee we are not going to do what is necessary to solve our fiscal problems. We are certainly not going to have the funds to take care of Social Security in the future.

So, passing the balanced budget amendment in its current form, in the form that we have here, the only one that has a chance of passage, is our only hope to get spending under control.

Mr. President, I am prepared to turn the floor over to the majority leader.

Mr. REID. Mr. President, I see the leader here. I have just a couple of more comments. I have about 5 more minutes, Mr. Leader?

Mr. LOTT. That will be fine.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I would first of all say I don't know who this man is from the Washington Times, but having read that before coming here I know why he writes for that newspaper. I think he would have trouble getting a job anyplace else with the logic he uses in that.

As far as I am concerned, he is perpetuating the myth that Social Security proceeds will and should be used to balance the budget. I think that is wrong. Remember, the commission that just reported to us in the last few months said that some of those trust fund moneys should be invested in private securities. We cannot do that if all the money goes to balancing the budget, as will happen with the underlying amendment.

My friend from Utah said all through this debate that Social Security is the only way, using the excesses, the surplus from Social Security, that you can balance the budget. That does not make it right. That is wrong. If you told a future Social Security recipient the money you are paying in and your employer is paying in is going to be used to balance the budget, it is going to pay for foreign aid and other type things, I don't think they would be too happy.

Senator DOMENICI said it about as well as we could in 1990 when he said,

> I voted for the Hollings proposal because I support the concept of taking Social Security out of the budget deficit calculations. We need a firewall around those funds to make sure the reserves are there to pay Social Security benefits in the next century.

The Reid amendment is the firewall that the chairman of the Budget Committee called for 6 years ago. We should pass it. It can be done with my amendment.

I further say that the President of the United States, in his radio address this past Saturday said:

> It would prevent us from responding to foreign challenges abroad or economic trouble at home, if to do so resulted in even a minor budget deficit. And because it would write a specific economic policy into our Constitution, it could force the Secretary of the Treasury to cut Social Security, or drive the budget into courts of law when a deficit occurred when Congress was not working on the budget. In a court of law, judges could be forced to halt Social Security checks or to raise taxes just to meet the demands of the constitutional amendment.

It is wrong to balance the budget using Social Security surpluses. That is what Congressman DAVID MCINTOSH, Republican from the State of Indiana, said when he stated, "Republicans cannot allow ourselves to be defined as cutting Social Security." They will. Anyone voting for the underlying amendment and not for the Reid amendment will be deemed as cutting Social Security because that, in fact, is what would occur.

The PRESIDING OFFICER. The Senator from Mississippi.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

MEASURE PLACED ON THE CALENDAR—H.R. 581

Mr. LOTT. Mr. President, I understand there is a bill due for its second reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 581) to amend Public Law 104–208 to provide that the President may make funds appropriated for population planning and other population assistance available on March 1, 1997, subject to restrictions on assistance to foreign organizations that perform or actively promote abortions.

Mr. LOTT. I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar pursuant to rule 14.

UNANIMOUS CONSENT REQUEST—H.R. 581

Mr. LOTT. Mr. President, the bill that was just placed on the calendar is the so-called Smith–Oberstar U.N. population funding bill.

I now ask unanimous consent the Senate turn to H.R. 581 by the close of business on Thursday, February 27, and there be 30 minutes for debate, equally divided in the usual form, with no amendments in order, and that following the conclusion or yielding back of the time, the bill be read a third time and the Senate proceed to a vote on passage of H.R. 581 with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, on behalf of the Democratic leadership, I object.

The PRESIDING OFFICER. Objection is heard.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 581. An act to amend Public Law 104–208 to provide that the President may make funds appropriated for population assistance available on March 1, 1997, subject to restrictions on assistance to foreign organizations that perform or actively promote abortions.

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–1104. A communication from the Secretary of Health and Human Services, transmitting, the report on administration on aging pension counseling demonstration program; to the Committee on Labor and Human Resources.

EC–1105. A communication from the Assistant Secretary for Occupational Safety and Health, Department of Labor, transmitting, pursuant to law, the report of a rule relative to injury and illness survey, received on February 11, 1997; to the Committee on Labor and Human Resources.

EC–1106. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to migratory bird hunting, (RIN1018–AD69) received on February 11, 1997; to the Committee on Environment and Public Works.

EC–1107. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled "VA Homeless Providers Grant and Per Diem" (RIN2900–AH89) received on February 12, 1997; to the Committee on Veterans' Affairs.

EC–1108. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative Conservation Reserve Long-Term Policy, (RIN0560–AE95) received on February 12, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1109. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to electric loans, (RIN0572–AB30) received on February 13, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1110. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of rule relative to tomatoes, received on February 14, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1111. A communication from the Secretary of Defense, transmitting, a report of a retirement; to the Committee on Armed Services.

EC–1112. A communication from the Secretary of Defense, transmitting, a report of a retirement; to the Committee on Armed Services.

EC–1113. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report entitled "Vision 21: The Plan for 21st Century Laboratories and Test

and Evaluation Centers of the Department of Defense"; to the Committee on Armed Services.

EC–1114. A communication from the General Counsel, Department of Defense, transmitting, pursuant to law, a report relative to court-martial sentence enhancement; to the Committee on Armed Services.

EC–1115. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report on purchases from foreign entities for fiscal year 1996; to the Committee on Armed Services.

EC–1116. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a property transfer report; to the Committee on Armed Services.

EC–1117. A communication from the Chief Counsel, Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to recordkeeping, received on February 14, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1118. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule relative to special flood hazard areas, (RIN3067–AC53) received on February 14, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1119. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule relative to deposits in banks or trust companies, received on February 12, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1120. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–1121. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a rule with respect to bank holding companies, received on February 20, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1122. A communication from the Secretary from the Securities and Exchange Commission, transmitting, pursuant to law, the report entitled "Exemption of Investment in Certain Nonutility Companies"; to the Committee on Banking, Housing, and Urban Affairs.

EC–1123. A communication from the Major General, Director of Civil Works, U.S. Army Corps of Engineers, Department of the Army, transmitting, pursuant to law, the report of a rule relative to nationwide permits, received on February 12, 1997; to the Committee on Environment and Public Works.

EC–1124. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report under the Architectural Barriers Act for fiscal year 1996; to the Committee on Environment and Public Works.

EC–1125. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to polar bear trophies, (RIN1018–AD04) received on February 13, 1997; to the Committee on Environment and Public Works.

EC–1126. A communication from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules including one rule relative to the Clean Air Act, (FRL–5688–7, 5689–2) received on February 12, 1997; to the Committee on Environment and Public Works.

EC–1127. A communication from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of one rule relative to approval and promulgation of air quality plans, (FRL–5690–4) received on February 14, 1997; to the Committee on Environment and Public Works.

EC–1128. A communication from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of three rules including one rule relative to the Clean Air Act, (FRL–5688–2, 5689–6, 5690–9) received on February 14, 1997; to the Committee on Environment and Public Works.

EC–1129. A communication from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules including one rule relative to approval and promulgation of plans, (FRL–5680–3, 5688–5) received on February 19, 1997; to the Committee on Environment and Public Works.

EC–1131. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report entitled "Status of the State Small Business Stationary Source Technical and Environmental Compliance Assistance Programs (SBTCP)"; to the Committee on Environment and Public Works.

EC–1132. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule relative to value engineering, (RIN2125–AD33) received on February 13, 1997; to the Committee on Environment and Public Works.

EC–1133. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 95–02; to the Committee on Appropriations.

EC–1134. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–1135. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a budget request and justification for fiscal year 1998; to the Committee on Rules and Administration.

EC–1136. A communication from the Acting Secretary of Energy, transmitting, pursuant to law, a report relative to natural gas; to the Committee on Energy and Natural Resources.

EC–1137. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a rule entitled "Standards for Business Practices" received on February 19, 1997; to the Committee on Energy and Natural Resources.

EC–1138. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report on U.S. contributions to international organizations; to the Committee on Foreign Relations.

EC–1139. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to Nonproliferation and Disarmament Fund activities; to the Committee on Foreign Relations.

EC–1140. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report on emergy communications during fiscal year 1996; to the Committee on Labor and Human Resources.

EC–1141. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule concerning iron-containing supplements and drugs received on February 18, 1997; to the Committee on Labor and Human Resources.

EC–1142. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report on the notice of final funding priorities received on February 18, 1997; to the Committee on Labor and Human Services.

EC–1143. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the report of the justification of budget estimates for fiscal year 1998; to the Committee on Labor and Human Services.

EC–1144. A communication from the Assistant Secretary of Labor for Employment Standards, transmitting, pursuant to law, a rule entitled "Technical Amendments of Rules Relating to Labor-Management Programs" (RIN1215–AB16) received on February 19, 1997; to the Committee on Labor and Human Resources.

EC–1145. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report relative to fee for fiscal year 1995; to the Committee on Labor and Human Resources.

EC–1146. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated February 1, 1997; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Finance, and to the Committee on Foreign Relations.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources:

Special Report entitled "Report on Legislative Activities of the Committee on Labor and Human Resources During the 104th Congress" (Rept. No. 105–5).

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. THOMAS (for himself and Mr. ROBB):

S. 342. A bill to extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices; to the Committee on Foreign Relations.

S. 343. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Mongolia; to the Committee on Finance.

By Mrs. BOXER:

S. 344. A bill to require the relocation of a National Weather Service radar tower which

is on Sulphur Mountain near Ojai, California; to the Committee on Commerce, Science, and Transportation.

By Mr. ROBB:

S. 345. A bill to amend chapter 57 of title 5, United States Code, to provide for the payment to Federal employees of meal expenses required while serving on a security detail in the protection of a Federal officer, and for other purposes; to the Committee on Governmental Affairs.

By Mr. WELLSTONE:

S. 346. A bill to assure fairness and assistance to patients and health care providers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CLELAND (for himself, Mr. COVERDELL, Ms. MOSELEY-BRAUN, Mr. REID, Mr. HOLLINGS, Mr. BINGAMAN, Mr. FORD, Mr. AKAKA, Mr. LEVIN, Mr. KERRY, Mr. CONRAD, Mr. BREAUX, Mr. LUGAR, Mr. HAGEL, Mr. NICKLES, Mr. ROCKEFELLER, Mr. COCHRAN, Mr. LEAHY, Mr. THURMOND, Mr. BUMPERS, Mr. LIEBERMAN, Mr. WARNER, Mrs. HUTCHISON, and Mr. HUTCHINSON):

S. 347. A bill to designate the Federal building located at 100 Alabama Street NW, in Altanta, Georgia, as the "Sam Nunn Federal Center"; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself and Mr. ROBB):

S. 342. A bill to extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices; to the Committee on Foreign Relations.

HONG KONG ECONOMIC AND TRADE OFFICES LEGISLATION

Mr. THOMAS. Mr. President, I rise as chairman of the Subcommittee on East Asian and Pacific Affairs to introduce S. 342, a bill to extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices located in the United States. I am pleased to be joined by Senator ROBB as an original cosponsor.

The Hong Kong Government maintains Economic and Trade Offices in several countries to represent the Colony's economic and trade interests abroad; there are three such Offices in the United States—San Francisco, New York, and Washington. As my colleagues are aware, at midnight on June 30, 1997, Hong Kong will revert to the jurisdiction of the People's Republic of China as the Hong Kong Special Administrative Region [HKSAR]. The HKSAR will purportedly, under agreements reached between the PRC and the United Kingdom, enjoy a high degree of autonomy from the central government in Beijing except in the areas of foreign policy and defense. That autonomy includes the right to maintain economic and trade ties with third countries independent of Beijing.

The Hong Kong Policy Act of 1992 provided, inter alia, that the United States should invite Hong Kong to maintain its Economic and Trade Offices after June 30. The reasoning was not only to continue to facilitate our trade relationship with our ninth biggest trading partner; in addition, the move was meant to underscore our commitment to an autonomous Hong Kong after 1997.

This bill would extend to these offices and employees the provisions of the International Organizations Immunities Act and the Agreement on State and local Taxation of Foreign Employees of Public International Organizations, thereby assuring that these offices are treated in the same manner as others similarly situated—such as the Taipei Economic and Cultural Representative Offices, Taiwan's representative in the United States.

Identical legislation passed the Senate unanimously late last year, but was not considered by the House before we adjourned sine die. Because the June deadline looms so near, I hope that we can move this bill quickly and without amendment through both Houses before the July 1 reversion of Hong Kong to China's jurisdiction.

By Mr. THOMAS (for himself and Mr. ROBB):

S. 343. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Mongolia; to the Committee on Finance.

MONGOLIA MFN LEGISLATION

Mr. THOMAS. Mr. President, I rise as chairman of the Subcommittee on East Asian and Pacific Affairs to introduce S. 343, a bill to authorize the extension of nondiscriminatory treatment—formerly known as "most-favored nation status"—to the products of Mongolia. I am pleased to be joined by Senator ROBB and Senator MCCAIN as original cosponsors.

Mongolia has undergone a series of remarkable and dramatic changes over the last few years. Sandwiched between the former Soviet Union and China, it was one of the first countries in the world to become Communist after the Russian Revolution. After 70 years of Communist rule, though, the Mongolian people have recently made great progress in establishing a democratic political system and creating a free-market economy. Just last year, the country held its third election under its new constitution, resulting in a parliamentary majority for the coalition of democratic opposition parties. Rather than attempt to maintain its hold on power, the former government peaceably—and commendably—transferred power to the new government.

Mongolia has demonstrated a strong desire to build a friendly and cooperative relationship with the United States on trade and related matters since its turn towards democracy. We concluded a bilateral trade treaty with that country in 1991, and a bilateral investment treaty in 1994. Mongolia has received nondiscriminatory trading status since 1991, and has been found to be in full compliance with the freedom of emigration requirements of title IV of the Trade Act of 1974. In addition, it has acceded to the agreement establishing the World Trade Organization.

Mr. President, Mongolia has clearly demonstrated that it is fully deserving of joining the ranks of those countries to which we extend nondiscriminatory trade status. The extension of that status would not only serve to commend the Mongolians on their impressive progress, but would also enable the United States to avail itself of all its rights under the WTO with respect to Mongolia.

I have another, more parochial, reason for being interested in MFN status for Mongolia. Mongolia and my home State of Wyoming are sister States; a strong relationship between the two has developed over the last 4 years. Many of Mongolia's provincial governors have visited the State, and the two governments have established partnerships in education, agriculture, and livestock management. Like Wyoming, Mongolia is a high plateau with mountains on the northwest border, where many of the residents make their living by raising livestock. I am pleased to see the development of this mutually beneficial relationship, and am sure that the extension of nondiscriminatory trade status will serve to strengthen it further.

Mr. President, I introduced an identical bill in the last Congress at the very end of the legislative year, as did Congressman BEREUTER in the House. We both realized that it was too late in the year to move the legislation forward before we adjourned sine die, but we hoped that by introducing the bill then that it would serve as a catalyst to serious discussion of the issue in this Congress. I was very appreciative that last year the distinguished chairman of the Finance Committee, Senator ROTH, indicated his willingness to favorably consider the legislation early in this Congress, and look forward to working with him.

By Mrs. BOXER:

S. 344. A bill to require the relocation of a National Weather Service radar tower which is on Sulphur Mountain near Ojai, CA; to the Committee on Commerce, Science, and Transportation.

NATIONAL WEATHER SERVICE LEGISLATION

• Mrs. BOXER. 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. 344

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

SECTION 1. RELOCATION OF RADAR TOWER.

(a) REQUIREMENT TO RELOCATE RADAR TOWER.—Not later than 18 months after the

date of the enactment of this Act, the Secretary shall relocate the National Weather Service radar tower which is located on Sulphur Mountain near Ojai, California, to a site which complies with the criteria listed in subsection (b).

(b) CRITERIA FOR NEW SITE.—The new site for the radar tower referred to in subsection (a) shall be selected so that the relocation—

(1) will not result in degradation of service; and

(2) will minimize the negative impact of the radar tower on residential areas.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit a report to Congress that includes—

(1) an identification of the new site selected for the radar tower; and

(2) evidence which was considered in reaching the conclusion that relocation of the radar tower to the site selected meets the criteria listed in subsection (b).

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "degradation of service" means any decrease in or failure to maintain the quality and type of weather services provided by the National Weather Service to the public; and

(2) the term "Secretary" means the Secretary of Commerce.•

By Mr. ROBB:

S. 345. A bill to amend chapter 57 of title 5, United States Code, to provide for the payment to Federal employees of meal expenses required while serving on a security detail in the protection of a Federal officer, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEE LEGISLATION

• Mr. ROBB. Mr. President, today I introduce legislation to right an obvious wrong. As I was reading the Washington Post on January 6, 1997, I ran across a brief mention that employees of the CIA who are assigned to protect the Director of Central Intelligence must pay their own way when they are forced to buy meals because of their assigned protection duties.

Evidently these Federal employees are required to keep a line of sight on the Director 24 hours a day, which sometimes entails following him to restaurants. These restaurants in turn refuse to let the protection detail occupy a table without purchasing a meal. While this may sound trivial, I do not believe it is fair to require a Federal employee to buy an expensive meal as part of their job. I am sure you'll agree that if a person is going to spend that kind of money on a meal, they should be enjoying it with a good friend or loved one, not watching their boss across the room.

For that reason, I am introducing this bill, which would authorize any Federal agency to pay the meal expenses for cases like this one for an employee who is serving on a 24-hour-a-day security detail which requires the employee to remain in the line of sight of the person being protected. I understand that certain agencies already have this authority, but it clearly should be extended to all Federal agencies. I hope that this noncontroversial measure can be examined by the appropriate committee and quickly passed. The existing situation is blatantly unfair and needs to be changed.

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

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

LOOKS UNLIKE AMERICA

(By Al Kamen)

Even some of the Clinton administration diversity policy were embarrassed by President Clinton's strong-arming Transportation Secretary Federico Peña into accepting a nomination to be energy secretary—a job for which he is notably lacking in credentials.

But the ethno-gender contortions were deemed, in the best inside-the-Beltway political wisdom, essential to pay off the Hispanic vote with two Cabinet seats.

Yet, after so much effort expended on Cabinet diversity, the Clinton White House itself remains a comfortable, mostly white boys club, with hardly an African American, Latino or Asian American in any senior job.

With the anticipated departure of public liaison office director Alexis M. Herman, the only minority in the top 25 or so senior staff members is first lady Hillary Rodham Clinton's chief of staff, Margaret A. Williams—and she may leave soon.

New Chief of Staff Erskine B. Bowles has three openings—and may have more—at that assistant to the president level: a political affairs director to replace Douglas Sosnik, who moved up to be "counselor"; a replacement for Herman; and one for outgoing White House counsel Jack Quinn.

Administration officials say to keep an eye on former representative Alan Wheat (D-Mo.) and the Labor Department's wage and hour division chief Maria Echaveste, both mentioned for Cabinet jobs.

But "Look Like America"? Not the senior staff.

IN LIKE QUINN?

Speaking of Quinn, the search goes on for a replacement, and the list doesn't appear too long. The problem, as one senior administration official put it, is "finding someone who's smart enough to do it and yet dumb enough to take it."

The most prominently mentioned name for the job is former U.S. attorney Charles F.C. Ruff, who had been under consideration for the attorney generalship after Zoe E. Baird went down in flames until it was discovered he had a nanny problem himself. Ruff is public-service minded, so he might be persuaded. And he's been a partner at Covington & Burling, so he presumably would have enough savings to cover his legal fees.

CAREER COUNSELOR

Job alert. There are lots of openings in the counsel's office.

Associate White House counsel Elena Kagan, a tenured constitutional law professor on leave from the University of Chicago, had two going-away parties, the movers ready to go and a class waiting for her today. But the students will have to wait. New domestic policy chief Bruce Reed persuaded her to stick around and be his top deputy.

Another associate counsel, David B. Fein, however, stuck with his original plan and has gone to private practice in Connecticut. Even before Quinn threw in the towel, he was looking for staff. Shortly after the election, Quinn asked U.S. attorney Eric H. Holder Jr. to "make referrals and recommendations to him about individuals who might be interested in moving to the White House Counsel's Office in the new administration," according to a memo Holder sent his assistants.

"So that I can be responsive to Quinn," Holder said, "I would like to gather the names of those interested in this opportunity and will then personally forward them to Quinn. . . . (And don't worry, I won't hold it against you for expressing interest in this opportunity—I think it's a great one!)"

DINNER DUTY

Browsing on the General Accounting Office World Wide Web page (we obviously need to get out more), we came across the Ebenezer Scrooge Memorial Memo of 1996. The Dec. 30 GAO decision memo involves a CIA request to reimburse members of the director's security detail for meals they were obliged to buy on duty.

"According to the CIA," the memo says, the security folks traveling with the director or deputy are to "remain in the line of sight of the official they are protecting. On occasion [they] must accompany one of the officials" to area restaurants and sit at nearby tables so as to be unobtrusive but in the line of sight. "Some restaurants require that members of the detail order meals while sitting at these tables. The cost of these meals, often substantial, has been borne by the individual members of the detail," the memo said, adding that the agency thinks it, not the overworked security people, should pick up the tab.

Tough luck, the GAO said. The law says no government employee can get a free meal while at "a normal duty station," except for "extreme emergency situations," and this isn't one of them. Congress can and has overridden the restriction for some agencies, but not for the CIA. So until Congress acts, the security detail pays.

STARRING ROLES

John D. Bates, deputy independent counsel in charge of the Washington operation for Kenneth W. Starr, is resuming his responsibilities at the end of this month as head of the civil division in the U.S. Attorney's Office here. Bates had been on a six-month leave that somehow stretched two years. But he'll continue to oversee some matters at Starr's shop for some time. Assistant U.S. attorney Eric A. Dubelier, who had been working on White House travel office matters for Starr, also has returned to run the terrorism section of the criminal division, while continuing to do some work in the counsel operation. Should we read something into this? Probably not.

LIFE AFTER LEGISLATURE

Retiring Sen. Sam Nunn (D-Ga.), who chaired the Armed Services Committee back when Democrats were in the majority, has signed on as a partner in King & Spaulding's Atlanta office, with a second office here.

Outgoing Rep. Robert S. Walker (R-Pa.), who chaired the Science Committee and the House Republican Leadership, is off to be president of the Wexler Group.•

By Mr. WELLSTONE:

S. 346. A bill to assure fairness and assistance to patients and health care providers, and for other purposes; to

the Committee on Labor and Human Resources.

THE PATIENT PROTECTION ACT OF 1997

• Mr. WELLSTONE. Mr. President, I introduce the Patient Protection Act of 1997. This bill addresses the issue of fairness in health care today.

Mr. President, the last few years have seen an enormous growth in managed care health plans. Now, more than 50 percent of Americans are enrolled in some kind of managed care arrangement. We have learned a lot in the past several years about what works and what doesn't in managed care, in all kinds of health insurance for that matter.

And, let me be clear that I recognize that there are things that are working well in managed care and other types of plans. We have seen a decrease in the rate of increase in healthcare costs. Health plans are emphasizing prevention and early intervention. Health plans are largely moving from managing costs to managing care to managing health.

All of this is good, but enough time has gone by that we have found the problems, the glitches, the occasions and circumstances where patient and providers are not equal stakeholders in the systems and where they are treated unfairly, where their voices are either silent or disregarded. I am deeply concerned about the lack of availability of protections for patients and providers participating in all forms of health plans. This includes not only managed care plans in their various forms, but also point-of-service and traditional—fee-for-service—plans as well. The inclusion of self-insured plans, MEWA's multiple employer welfare agreements—and association plans is an important component of this act because it extends provisions to some of those consumers who most need the protections.

Many States are currently developing and moving similar bills through their legislatures and assemblies. There is a clear cry for these corrections and protections. However, even if all 50 States were to pass patient protection acts, not all Americans would benefit from these protections. I believe that now more than ever, Federal standards are needed to ensure that consumers are protected in our rapidly changing health care delivery environment. Almost 50 percent of Americans, those who belong to health plans regulated by the Federal Government, are excluded from State based protections. According to a report released by the GAO in July 1995, 44 million Americans are covered under exempt plans. There are an additional 70 million who are covered by other employer plans that may also be outside of the realm of State authority. In addition, self-funded plans are becoming more common, especially in smaller businesses. The standards that I am proposing should assure fairness for consumers and providers, while still encouraging health plans to pursue innovative approaches to providing high quality, cost-effective care. I am sure, Mr. President, that each of us is committed to fairness and understands the need for the Federal Government to work cooperatively with the States on this issue.

My Patient Protection Act of 1997 will do several things that will ease the confusion so often present for consumers and providers in the health care system. It will assist them with their rights as participants in health plans.

The act will award a grant to each State to establish an office of consumer education counseling, and assistance with health care. This will help consumers choose among the many plans available to them, understand their rights for appeals if care that their provider advises is denied, and receive support if they undertake a grievance procedure. These offices will be modeled after the successful ones in the Medicare Program, staffed largely by volunteers, that have helped seniors find their way through what might be for many an overwhelming situation.

The act will require that health plans disclose certain information so that consumers and providers are better informed. Information that must be disclosed ranges from the financial health of the plan to its internal review process and criteria used in making decisions about treatment. No longer will there be a black hole in health plans into which very personal information about a patient goes, something unknown happens and out comes a decision to treat or not treat the problem. That simply is not the way to provide health care in a democracy.

The act will require that plans ensure timely access to services and specialized treatment expertise, when clinically indicated.

The act will require the development of health plan standards, including utilization review activities and handling of grievances of consumers or providers. Providers and consumers will be involved in the development of these processes.

The act will protect providers by requiring mechanisms for due process and disallowing dismissal of providers from the panel of a health plan without cause. It adds antigag clause and whistle-blower protection in order to ensure that consumers receive information that they need about health care options and quality of health care.

In a country where many are either uninsured or underinsured, it is especially important that attempts to control costs be accompanied by clear legal rights for consumers and providers. With a competitive insurance market lacking adequate consumer protections and a health care system that says it's OK to leave some people out, what's to prevent plans from discriminating against patients who are likely to need expensive clinical services?

Mr. President, these are not anti-managed care provisions. As a matter of fact, they are not anti anything. They are positive steps that will restore a better balance between health plans, consumers, and providers. Responsible health plans already comply with the standards that the Patient Protection Act would establish. But the Patient Protection Act would ensure that all patients and providers are guaranteed at least a baseline of protection.

We are currently seeing attempts to regulate health care on a disease-by-disease basis. This is not the best way to protect consumers and providers. We need to focus on maintaining the unique relationship between health care providers and their patients, so that optimal care is available. Congress should not be in the business of deciding how long a patient needs to stay in the hospital for treatment of a specific condition, or whether a specific technology should be offered to a specific patient. We should instead make certain that health care providers can take into account the uniqueness of each of their patients in developing a rational and appropriate plan of care that can be followed. We can do this by ensuring that consumers and providers are included in the utilization review and decisionmaking process. The framework provided by the Patient Protection Act of 1997 will allow this to occur.

These issues will become increasingly important as managed care arrangements proliferate, competition increases, more and more Americans and children lose their health insurance coverage, and costs continue to escalate. Until we are willing to make the hard choices and deal with the underlying problems in our current system, the very least we should do is enact some sensible protections that safeguard patients' and providers' rights.

Mr. President, many people are fond of saying that health care reform is happening now—employers are managing their costs by enrolling increasing numbers of employees in managed care plans and new provider networks are emerging daily. But with so much attention being paid to the cost and business of health care, the providers and patients are losing substantial control over decisions affecting patients' health. It is therefore all the more important that we provide patient and provider protections. The Patient Protection Act of 1997 will go a long way toward doing that.

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. 346

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 "Patient Protection Act of 1997".

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
TITLE I—OFFICE FOR CONSUMER INFORMATION, COUNSELING AND ASSISTANCE WITH HEALTH CARE
Sec. 101. Establishment.
TITLE II—UTILIZATION MANAGEMENT
Sec. 201. Definitions.
Sec. 202. Requirement for utilization review program.
Sec. 203. Standards for utilization review.
TITLE III—HEALTH PLAN STANDARDS
Sec. 301. Health plan standards.
Sec. 302. Minimum solvency requirements.
Sec. 303. Information on terms of plan.
Sec. 304. Access.
Sec. 305. Credentialing for health providers.
Sec. 306. Grievance procedures.
Sec. 307. Confidentiality standards.
Sec. 308. Discrimination.
Sec. 309. Prohibition on selective marketing.
TITLE IV—MISCELLANEOUS PROVISIONS
Sec. 401. Enforcement.
Sec. 402. Effective date.
Sec. 403. Preemption.

SEC. 2. DEFINITIONS.

Unless specifically provided otherwise, as used in this Act:

(1) CARRIER.—The term "carrier" means a licensed insurance company, a hospital or medical service corporation (including an existing Blue Cross or Blue Shield organization, within the meaning of section 833(c)(2) of Internal Revenue Code of 1986 as in effect before the date of the enactment of this Act), a health maintenance organization, or other entity licensed or certified by the State to provide health insurance or health benefits.

(2) COVERED INDIVIDUAL.—The term "covered individual" means a member, enrollee, subscriber, covered life, patient or other individual eligible to receive benefits under a health plan.

(3) EMERGENCY SERVICES.—The term "emergency services" means those health care services that are provided to a patient after the sudden onset of a health condition that manifests itself by symptoms of sufficient severity, including severe pain, and the absence of such immediate health care attention could reasonably be expected, to result in—

(A) placing the patient's health in serious jeopardy;

(B) serious impairment to bodily function; or

(C) serious dysfunction of any bodily organ or part.

(4) HEALTH PLAN.—The term "health plan" includes any organization that seeks to arrange for, or provide for the financing and coordinated delivery of, health care services directly or through a contracted health provider panel, and shall include health maintenance organizations, preferred provider organizations, single service health maintenance organizations, single service preferred provider organizations, other entities such as provider-hospital or hospital-provider organizations, employee welfare benefit plans (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and multiple employer welfare plans or other association plans, as well as carriers.

(5) HEALTH PROVIDER.—The term "health provider" means an individual who is licensed or certified under State law to provide health care services and who is operating within the scope of such licensure or certification.

(6) MANAGED CARE PLAN.—

(A) IN GENERAL.—The term "managed care plan" means a plan operated by a managed care entity (as defined in subparagraph (B)), that provides for the financing and delivery of health care services to persons enrolled in such plan through—

(i) arrangements with selected providers to furnish health care services;

(ii) explicit standards for the selection of participating providers;

(iii) organizational arrangements for ongoing quality assurance, utilization review programs, and dispute resolution; and

(iv) financial incentives for persons enrolled in the plan to use the participating providers and procedures provided for by the plan.

(B) MANAGED CARE ENTITY.—The term "managed care entity" includes a licensed insurance company, hospital or medical service plan (including provider and provider-hospital networks), health maintenance organization, an employer or employee organization, or a managed care contractor (as defined in subparagraph (C)), that operates a managed care plan.

(C) MANAGED CARE CONTRACTOR.—The term "managed care contractor" means a person that—

(i) establishes, operates, or maintains a network of participating providers;

(ii) conducts or arranges for utilization review activities; and

(iii) contracts with an insurance company, a hospital or health service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a managed care plan.

(7) PROVIDER NETWORK.—The term "provider network" means, with respect to a health plan that restricts access, those providers who have entered into a contract or agreement with the plan under which such providers are obligated to provide items and services under the plan to eligible individuals enrolled in the plan, or have an agreement to provide services on a fee-for-service basis.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless specifically provided otherwise .

(9) SPECIALIZED TREATMENT EXPERTISE.—The term "specialized treatment expertise" means expertise in diagnosing and treating unusual diseases and conditions, diagnosing and treating diseases and conditions that are usually difficult to diagnose or treat, and providing other specialized health care.

(10) SPONSOR.—The term "sponsor" means a carrier or employer that provides a health plan.

(11) UTILIZATION REVIEW.—The term "utilization review" means a set of formal techniques designed to monitor and evaluate the clinical necessity, appropriateness and efficiency of health care services, procedures, providers and facilities. Techniques may include ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning, and retrospective review.

TITLE I—OFFICE FOR CONSUMER INFORMATION, COUNSELING AND ASSISTANCE WITH HEALTH CARE

SEC. 101. ESTABLISHMENT.

(a) IN GENERAL.—The Secretary shall award a grant to each State and each State shall use amounts received under the grant to establish an Office for Consumer Information, Counseling and Assistance with Health Care (referred to in this section as the "Office"). Each such Office shall perform public outreach and provide education and assistance concerning consumer rights with respect to health insurance and benefits as provided for in subsection (d).

(b) USE OF GRANT.—

(1) IN GENERAL.—A State shall use a grant under this section—

(A) to administer the Office and carry out the duties described in subsection (d);

(B) to solicit and award contracts to private, nonprofit organizations applying to the State to administer the Office and carry out the duties described in subsection (d); or

(C) in the case of a State operating a consumer information counseling and assistance program on the date of enactment of this Act, to expand and improve such program.

(2) CONTRACTS.—With respect to the contract described in paragraph (1)(B), the contract period shall be not less than 2 years and not more than 4 years.

(c) STAFF.—A State shall ensure that the Office has sufficient staff (including volunteers) and local offices throughout the State to carry out its duties under this section and a demonstrated ability to represent and work with a broad spectrum of consumers, including vulnerable and underserved populations.

(d) DUTIES.—An Office established under this section shall—

(1) establish a State-wide toll-free hotline to enable consumers to contact the Office;

(2) have the ability to provide culturally appropriate assistance that as far as practicable takes into consideration under this subsection language needs;

(3) develop outreach programs to provide health insurance and health benefits information, counseling, and assistance;

(4) provide outreach and education relating to consumer rights and responsibilities under this Act, including the rights and services available through the Office;

(5) provide individuals with assistance in enrolling in health plans (including providing plan comparisons), or in obtaining services or reimbursements from health plans;

(6) provide individuals with assistance in filing applications for appropriate State health plan premium assistance programs;

(7) provide individuals with information and advocacy concerning existing grievance procedures and institute systems of referral to appropriate Federal or State departments or agencies for assistance with problems related to insurance coverage (including legal problems);

(8) ensure that regular and timely access is provided to the services available through the Office;

(9) implement training programs for staff members (including volunteer staff members) and collect and disseminate timely and accurate health care information to staff members;

(10) not less than once each year, conduct public hearings to identify and address community health care needs;

(11) coordinate its activities with the staff of the appropriate departments and agencies of the State government and other appropriate entities within the State; and

(12) carry out any other activities determined appropriate by the Secretary.

(e) STATE DUTIES.—

(1) ACCESS TO INFORMATION.—The State shall ensure that, for purposes of carrying out the duties of the Office, the Office has appropriate access to relevant information, subject to the application of procedures to ensure confidentiality of enrollee and proprietary health plan information.

(2) REPORTING AND EVALUATION REQUIREMENTS.—

(A) REPORT.—The Office shall annually prepare and submit to the State a report on the nature and patterns of consumer complaints received by the Office during the year for which the report is prepared. Such report shall contain any policy, regulatory, and legislative recommendations for improvements in the activities of the Office together with a record of the activities of the Office.

(B) EVALUATION.—The State shall annually evaluate the quality and effectiveness of the Office in carrying out the activities described in subsection (d).

(3) CONFLICTS OF INTEREST.—The State shall ensure that no individual involved in selecting the entity with which to enter into a contract under subsection (b)(1)(B), or involved in the operation of the Office, or any delegate of the Office, is subject to a conflict of interest.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE II—UTILIZATION MANAGEMENT

SEC. 201. DEFINITIONS.

As used in this title:

(1) ADVERSE DETERMINATION.—The term "adverse determination" means a determination that an admission to or continued stay at a hospital or that another health care service that is required has been reviewed and, based upon the information provided, does not meet the requirements for clinical necessity, appropriateness, level of care, or effectiveness.

(2) AMBULATORY REVIEW.—The term "ambulatory review" means utilization review of health care services performed or provided in an outpatient setting.

(3) APPEALS PROCEDURE.—The term "appeals procedure" means a formal process under which a covered individual (or an individual acting on behalf of a covered individual), attending provider or facility may appeal an adverse utilization review decision rendered by the health plan or its designee utilization review organization.

(4) CARE COORDINATOR.—The term "care coordinator" means a health provider who performs case management functions in consultation with the interdisciplinary health care team, the patient, family, and community.

(5) CASE MANAGEMENT.—The term "case management" means a coordinated set of activities conducted for the individual patient management of serious, complicated, protracted or chronic health conditions that provides cost-effective and benefit-maximizing treatments for extremely resource-intensive conditions.

(6) CLINICAL REVIEW CRITERIA.—The term "clinical review criteria" means the recorded (written or otherwise) screening procedures, decision abstracts, clinical protocols and practice guidelines used by the health plan to determine necessity and appropriateness of health care services.

(7) COMPARABLE.—The term "comparable" means a health provider who is licensed or certified in a manner that permits the provider to authorize the equipment, services, or procedures that are the subject of a review.

(8) CONCURRENT REVIEW.—The term "concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(9) DISCHARGE PLANNING.—The term "discharge planning" means the formal process for determining, coordinating and managing the care a patient receives following the discharge of the patient from a facility.

(10) FACILITY.—The term "facility" means an institution or health care setting providing the prescribed health care services under review. Such term includes hospitals and other licensed inpatient facilities, ambulatory surgical or treatment centers, skilled nursing facilities, residential treatment centers, diagnostic, laboratory and imaging centers and rehabilitation and other therapeutic health care settings.

(11) PROSPECTIVE REVIEW.—The term "prospective review" means utilization review conducted prior to an admission or a course of treatment.

(12) RETROSPECTIVE REVIEW.—The term "retrospective review" means utilization review conducted after health care services have been provided to a patient. Such term does not include the retrospective review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding and adjudication for payment.

(13) SECOND OPINION.—The term "second opinion" means an opportunity or requirement to obtain a clinical evaluation by a provider other than the provider originally making a recommendation for a proposed health service to assess the clinical necessity and appropriateness of the initial proposed health service.

(14) UTILIZATION REVIEW ORGANIZATION.—The term "utilization review organization" means an entity that conducts utilization review.

SEC. 202. REQUIREMENT FOR UTILIZATION REVIEW PROGRAM.

A health plan shall have in place a utilization review program that meets the requirements of this title and that is certified by the State.

SEC. 203. STANDARDS FOR UTILIZATION REVIEW.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Secretary of Labor (referred to in this title as the "Secretaries"), shall establish standards for the establishment, operation, and certification and periodic recertification of health plan utilization review programs.

(b) ALTERNATIVE STANDARDS.—

(1) IN GENERAL.—A State may certify a health plan as meeting the standards established under subsection (a) if the State determines that the health plan has met the utilization standards required for accreditation as applied by a nationally recognized, independent, nonprofit accreditation entity.

(2) REVIEW BY STATE.—A State that makes a determination under paragraph (1) shall periodically review the standards used by the private accreditation entity to ensure that such standards meet or exceed the standards established by the Secretaries under this title.

(c) UTILIZATION REVIEW PROGRAM REQUIREMENTS.—The standards developed by the Secretaries under subsection (a) shall require that utilization review programs comply with the following:

(1) DOCUMENTATION.—A health plan shall provide a written description of the utilization review program of the plan, including a description of—

(A) any activities assigned from the health plan to other entities;

(B) the policies and procedures used under the program to evaluate clinical necessity; and

(C) the clinical review criteria, information sources, and the process used to review and approve the provision of health care services under the program.

(2) PROHIBITION.—With respect to the administration of the utilization review program, a health plan may not employ utilization reviewers or contract with a utilization management organization if the conditions of employment or the contract terms include financial incentives to reduce or limit the provision of clinically necessary or appropriate services to covered individuals.

(3) REVIEW AND MODIFICATION.—A health plan shall develop procedures for periodically reviewing and modifying the utilization review of the plan. Such procedures shall provide for the participation of providers and consumers in the health plan in the development and review of utilization review policies and procedures.

(4) DECISION PROTOCOLS.—

(A) IN GENERAL.—A utilization review program shall develop and apply recorded (written or otherwise) utilization review decision protocols. Such protocols shall be based on sound health care evidence.

(B) PROTOCOL CRITERIA.—The clinical review criteria used under the utilization review decision protocols to assess the appropriateness of health care services shall be clearly documented and available to participating health providers upon request. Such protocols shall include a mechanism for assessing the consistency of the application of the criteria used under the protocols across reviewers, and a mechanism for periodically updating such criteria.

(5) REVIEW AND DECISIONS.—

(A) REVIEW.—The procedures applied under a utilization review program with respect to the preauthorization and concurrent review of the necessity and appropriateness of health care devices, services or procedures, shall require that qualified, comparable health care providers supervise review decisions. With respect to a decision to deny the provision of health care devices, services or procedures, a comparable provider shall conduct a subsequent review to determine the clinical appropriateness of such a denial. Comparable health providers from the appropriate specialty area shall be utilized in the review process.

(B) DECISIONS.—All utilization review decisions shall be made in a timely manner, as determined appropriate when considering the urgency of the situation.

(C) ADVERSE DETERMINATIONS.—With respect to utilization review, an adverse determination or noncertification of an admission, continued stay, or service shall be clearly documented, including the specific clinical or other reason for the adverse determination or noncertification, and be available to the covered individual and the affected provider or facility. A health plan may not deny or limit coverage with respect to a service that the enrollee has already received solely on the basis of lack of prior authorization or second opinion, to the extent that the service would have otherwise been covered by the plan had such prior authorization or a second opinion been obtained.

(D) NOTIFICATION OF DENIAL.—A health plan shall provide a covered individual with timely notice of an adverse determination or noncertification of an admission, continued

stay, or service. Such a notification shall include information concerning the utilization review program appeals procedure as well as the telephone number for the Office.

(6) REQUESTS FOR AUTHORIZATION.—A health plan utilization review program shall ensure that requests by covered individuals or providers for prior authorization of a nonemergency service shall be answered in a timely manner after such request is received. If utilization review personnel are not available in a timely fashion, any health care services provided shall be considered approved.

(7) NEW TECHNOLOGIES.—A utilization review program shall implement policies and procedures to evaluate the appropriate use of new health care technologies or new applications of established technologies, including health care procedures, drugs, and devices. The program shall ensure that appropriate providers participate in the development of technology evaluation criteria.

(8) SPECIAL RULE.—Where prior authorization for a service or other covered item is obtained under a program under this section, the service shall be considered to be covered unless there was intentional fraud or intentionally incorrect information provided at the time such prior authorization was obtained. If a provider intentionally supplied the incorrect information that led to the authorization of clinically unnecessary care, the provider shall be prohibited from collecting payment directly from the enrollee, and shall reimburse the plan and subscriber for any payments or copayments the provider may have received.

(d) HEALTH PLAN REQUIREMENTS.—

(1) DISCLOSURE OF INFORMATION.—

(A) PROSPECTIVE COVERED INDIVIDUALS.—A health plan shall, with respect to any materials distributed to prospective covered individuals, include a summary of the utilization review procedures of the plan.

(B) COVERED INDIVIDUALS.—A health plan shall, with respect to any materials distributed to newly covered individuals, include a clear and comprehensive description of utilization review procedures of the plan and a statement of patient rights and responsibilities with respect to such procedures.

(C) STATE OFFICIALS.—

(i) IN GENERAL.—A health plan shall disclose to the State insurance commissioner, or other designated State official, the health plan utilization review program policies, procedures, and reports required by the State for certification.

(ii) STREAMLINING OF PROCEDURES.—To the extent practicable, a State shall implement procedures to streamline the process by which a health plan documents compliance with the requirements of this Act, including procedures to condense the number of documents filed with the State concerning such compliance.

(2) TOLL-FREE NUMBER.—A health plan shall have a membership card which shall have printed on the card the toll-free telephone number that a covered individual should call to receive precertification utilization review decisions.

(3) EVALUATION.—A health plan shall establish mechanisms to evaluate the effects of the utilization review program of the plan through the use of member satisfaction data or through other appropriate means.

(e) EMERGENCY CARE.—

(1) EMERGENCY MEDICAL CONDITION.—For purposes of this section the term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson (including the parent of a minor child or the guardian of a disabled individual), who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

(A) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

(B) serious impairment to bodily functions, or

(C) serious dysfunction of any bodily organ or part.

(2) PREAUTHORIZATION.—With respect to emergency services furnished in a hospital emergency department, a health plan shall not require prior authorization for the provision of such services if the enrollee arrived at the emergency department with symptoms that reasonably suggested an emergency medical condition based on the judgment of a prudent layperson, regardless of whether the hospital was affiliated with the health plan. All procedures performed during the evaluation and treatment of an emergency medical condition shall be covered under the health plan.

TITLE III—HEALTH PLAN STANDARDS

SEC. 301. HEALTH PLAN STANDARDS.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services, in conjunction with the Secretary of Labor (referred to in this title as the "Secretaries"), shall establish standards for the certification and periodic recertification of health plans, including standards which require plans to meet the requirements of this title.

(b) STATE CERTIFICATION.—

(1) IN GENERAL.—A State shall provide for the certification of health plans if the certifying authority designated by the State determines that the plan meets the applicable requirements of this Act.

(2) REQUIREMENT.—Effective on January 1, 1999, a health plan sponsor may only offer a health plan in a State if such plan is certified by the State under paragraph (1).

(c) CONSTRUCTION.—Whenever in this title a requirement or standard is imposed on a health plan, the requirement or standard is deemed to have been imposed on the sponsor of the plan in relation to that plan.

SEC. 302. MINIMUM SOLVENCY REQUIREMENTS.

(a) IN GENERAL.—Except as provided in subsection (b), each State shall apply minimum solvency requirements to all health plans offered or operating within the State to ensure the fiscal integrity of such plans. A health plan shall meet the financial reserve requirements that are established by the State to assure proper payment for health care services provided under the plan. Such requirements may include plan participation in a mechanism to provide for indemnification of plan failures even if a plan has met the reserve requirements.

(b) FEDERAL STANDARDS.—The Secretaries shall establish minimum solvency standards that shall apply to all self-insured health plans. Such standards shall at least meet the solvency requirements established by the National Association of Insurance Commissioners.

SEC. 303. INFORMATION ON TERMS OF PLAN.

(a) IN GENERAL.—A health plan shall provide prospective covered individuals with written information concerning the terms and conditions of the health plan to enable such individuals to make informed decisions with respect to a certain system of health care delivery. Such information shall be standardized so that prospective covered individuals may compare the attributes of all such plans offered within the coverage area.

(b) UNDERSTANDABILITY.—Information provided under this section, whether written or oral shall be easily understandable, truthful, linguistically appropriate and objective with respect to the terms used. Descriptions provided in such information shall be consistent with standards developed for supplemental insurance coverage under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(c) REQUIRED INFORMATION.—Information required under this section shall include information concerning—

(1) coverage provisions, benefits, and any exclusions by category of service or product;

(2) plan loss ratios with an explanation that such ratios reflect the percentage of the premiums expended for health services;

(3) prior authorization or other review requirements including preauthorization review, concurrent review, post-service review, post-payment review and procedures that may lead the patient to be denied coverage for, or not be provided, a particular service or product;

(4) an explanation of how plan design impacts enrollees, including information on the financial responsibility of covered individuals for payment for coinsurance or other out-of-plan services;

(5) covered individual satisfaction statistics, including disenrollment statistics and satisfaction statistics from those who disenroll;

(6) advance directives and organ donation;

(7) the characteristics and availability of health care providers and institutions participating in the plan, including descriptions of the financial arrangements or contractual provisions with hospitals, utilization review organizations, physicians, or any other provider of health care services that would affect the services offered, referral or treatment options, or provider's fiduciary responsibility to patients, including financial incentives regarding the provision of services; and

(8) quality indicators for the plan and for participating health providers under the plan, including population-based statistics such as immunization rates and performance measures such as survival after surgery, adjusted for case mix.

SEC. 304. ACCESS.

(a) IN GENERAL.—A health plan shall demonstrate that the plan has a sufficient number, distribution, and variety of qualified health care providers to ensure that all covered health care services will be available and accessible in a timely manner to adults, infants, children, and individuals with disabilities enrolled in the plan. Plans shall make reasonable efforts to address issues of cultural competence and appropriateness with respect to providers.

(b) AVAILABILITY OF SERVICES.—A health plan shall ensure that services covered under the plan are available in a timely manner that ensures a continuity of care, are accessible within a reasonable proximity to the residences of the enrollees, are available within reasonable hours of operation, and include emergency and urgent care services when clinically necessary and available which shall be accessible within the service area 24-hours a day, seven days a week.

(c) SPECIALIZED TREATMENT.—A health plan shall demonstrate that plan enrollees have meaningful access, when clinically indicated in the judgment of the treating health provider, to specialized treatment expertise.

(d) CHRONIC CONDITIONS.—

(1) IN GENERAL.—Any process established by a health plan to coordinate care and control costs may not impose an undue burden on enrollees with chronic health conditions. The plan shall ensure a continuity of care and shall, when clinically indicated in the judgment of the treating health provider, ensure ongoing direct access to relevant specialists for continued care.

(2) CARE COORDINATOR.—In the case of an enrollee who has a severe, complex, or chronic condition, the health plan shall determine, based on the judgment of the treating health provider, whether it is clinically necessary or appropriate to use a care coordinator from an interdisciplinary team.

(e) REQUIREMENT.—

(1) IN GENERAL.—The requirements of this section may not be waived and shall be met in all areas where the health plan has enrollees, including rural areas. With respect to children, such services shall include pediatric and pediatric specialty services.

(2) OUT-OF-NETWORK SERVICES.—If a health plan fails to meet the requirements of this section, the plan shall arrange for the provision of out-of-network services to enrollees in a manner that provides enrollees with access to services in accordance with the principles and parameters set forth in this section.

SEC. 305. CREDENTIALING FOR HEALTH PROVIDERS.

(a) IN GENERAL.—A health plan shall credential health providers furnishing health care services under the plan.

(b) CREDENTIALING PROCESS.—

(1) IN GENERAL.—A health plan shall establish a credentialing process. Such process shall ensure that a health provider is credentialed prior to that provider being listed as a health provider in the health plan's marketing materials, in accordance with recorded (written or otherwise) policies and procedures.

(2) RESPONSIBILITY CHIEF HEALTH CARE OFFICER.—The chief health care officer of the health plan, or another designated health provider, shall have responsibility for the credentialing of health providers under the plan.

(3) UNIFORM APPLICATIONS.—A State shall develop a basic uniform application that shall be used by all health plans in the State for credentialing purposes.

(4) STANDARDS.—

(A) IN GENERAL.—Credentialing decisions under a health plan shall be based on objective standards with input from health providers credentialed under the plan. Information concerning all application and credentialing policies and procedures shall be made available for review by the health providers involved upon written request.

(B) RIGHT TO REVIEW INFORMATION.—A health provider who undergoes the credentialing process shall have the right to review the basis information, including the sources of that information, that was used to meet the designated credentialing criteria.

SEC. 306. GRIEVANCE PROCEDURES.

(a) IN GENERAL.—A health plan shall adopt a timely and organized system for resolving complaints and formal grievances filed by covered individuals. Such system shall include—

(1) recorded (written or otherwise) procedures for registering and responding to complaints and grievances in a timely manner;

(2) documentation concerning the substance of complaints, grievances, and actions taken concerning such complaints and grievances, which shall be in writing, and be available upon request to the Office for Consumer Information, Counseling and Assistance with Health Care;

(3) procedures to ensure a resolution of a complaint or grievance;

(4) the compilation and analysis of complaint and grievance data;

(5) procedures to expedite the complaint process if the complaint involves a dispute about the coverage of an immediately and urgently needed service; and

(6) procedures to ensure that if an enrollee orally notifies a health plan about a complaint, the plan (if requested) must send the enrollee a complaint form that includes the telephone numbers and addresses of member services, a description of the plan's grievance procedure, and the telephone number of the Officer for Consumer Information, Counseling and Assistance with Health Care where enrollees may register complaints.

(b) APPEAL PROCESS.—A health plan shall adopt an appeals process to enable covered individuals and providers to appeal decisions that are adverse to the covered individuals. Such a process shall include—

(1) the right to a review by a grievance panel;

(2) the right to a second review with a different panel, independent from the health plan; and

(3) an expedited process for review in emergency cases.

The Secretaries shall develop guidelines for the structure and requirements applicable to the independent review panel.

(c) NOTIFICATION.—With respect to the complaint, grievance, and appeals processes required under this section, a health plan shall, upon the request of a covered individual, provide the individual a written decision concerning a complaint, grievance, or appeal in a timely fashion.

(d) NON-IMPEDIMENT TO BENEFITS.—The complaint, grievance, and appeals processes established in accordance with this section may not be used in any fashion to discourage, prevent, or deny a covered individual from receiving clinically necessary care in a timely manner.

(e) DUE PROCESS WITH RESPECT TO CREDENTIALING.—

(1) RECEIPT OF INFORMATION.—A health provider who is subject to credentialing under section 305 shall, upon written request, receive from the health plan any information obtained by the plan during the credentialing process that, as determined by the credentialing committee, does not meet the credentialing standards of the plan, or that varies substantially from the information provided to the health plan by the health provider.

(2) SUBMISSION OF CORRECTIONS.—A health plan shall have a formal, recorded (written or otherwise) process by which a health provider may submit supplemental information to the credentialing committee if the health provider determines that erroneous or misleading information has been previously submitted. The health provider may request that such information be reconsidered in the evaluation for credentialing purposes.

(3) NO ENTITLEMENT.—

(A) IN GENERAL.—A health provider is not entitled to be selected or retained by a health plan as a participating or contracting provider whether or not such provider meets the credentialing standards established under section 305.

(B) ECONOMIC CONSIDERATIONS.—If economic considerations, including the health care provider's patterns of expenditure per patient, are part of a selection decision, objective criteria shall be used in examining such considerations and a written description of such criteria shall be provided to applicants, participating health providers, and enrollees. Any economic profiling of health providers must be adjusted to recognize case mix, severity of illness, and the age and gender of patients of a health provider's practice that may account for higher or lower than expected costs, to the extent appropriate data in this regard is available to the health plan.

(4) TERMINATION, REDUCTION OR WITHDRAWAL.—

(A) PROCEDURES.—A health plan shall develop and implement procedures for the reporting, to appropriate authorities, of serious quality deficiencies that result in the suspension or termination of a contract with a health provider.

(B) REVIEW.—A health plan shall develop and implement policies and procedures under which the plan reviews the contract privileges of health providers who—

(i) have seriously violated policies and procedures of the health plan;

(ii) have lost their privilege to practice with a contracting institutional provider; or

(iii) otherwise pose a threat to the quality of service and care provided to the enrollees of the health plan.

At a minimum, the policies and procedures implemented under this subparagraph shall meet the requirements of the Health Care Quality Improvement Act of 1986.

(C) COMMUNICATION.—Health plans shall not restrict nor inhibit communication between providers and patients or penalize a provider making public the failure of the health plan to comply with the provisions of this Act.

(D) LIABILITY.—A health plan shall not require a provider to sign any type of hold-harmless agreement as a requirement for participation in the health plan.

(E) DUE PROCESS.—The policies and procedures implemented under subparagraph (B) shall include requirements for the timely notification of the affected health provider of the reasons for the reduction, withdrawal, or termination of privileges, and shall provide the health provider with the right to appeal initially to the health plan and subsequently, upon failure to resolve a dispute, to an independent entity, the determination of reduction, withdrawal, or termination. No reduction, withdrawal or termination of privileges shall be made without cause.

(F) AVAILABILITY.—A written copy of the policies and procedures implemented under this paragraph shall be made available to a health provider on request prior to the time at which the health provider contracts to provide services under the plan.

SEC. 307. CONFIDENTIALITY STANDARDS.

(a) IN GENERAL.—A health plan shall ensure that the confidentiality of specified enrollee patient information and records is protected.

(b) POLICIES AND PROCEDURES.—A health plan shall have written confidentiality policies and procedures. Such policies and procedures shall, at a minimum—

(1) protect the confidentiality of enrollee patient information within the administrative structure of the health plan with special attention to sensitive health conditions and history;

(2) protect health care record information;

(3) protect claim information;

(4) establish requirements for the release of information; and

(5) inform health plan employees of the confidentiality policies and procedures and enforce compliance with such policies and procedures.

(c) PATIENT CARE PROVIDERS AND FACILITIES.—A health plan shall ensure that providers, offices and facilities responsible for providing covered items or services to plan enrollees have implemented policies and procedures to prevent the unauthorized or inadvertent disclosure of confidential patient information to individuals who should not have access to such information.

(d) RELEASE OF INFORMATION.—An enrollee in a health plan shall have the opportunity to approve or disapprove the release of identifiable personal patient information by the health plan, except where such release is required under applicable law.

SEC. 308. DISCRIMINATION.

(a) ENROLLEES.—A health plan (network or non-network) may not discriminate or engage (directly or through contractual arrangements) in any activity, including the selection of service area, that has the effect of discriminating against an individual on the basis of race, culture, national origin, gender, language, socio-economic status, age, disability, health status including genetic information, or anticipated utilization of health services.

(b) PROVIDERS.—A health plan may not discriminate in the selection of members of the health provider or provider network (and in establishing the terms and conditions for membership in the network) of the plan based on—

(1) the race, national origin, culture, age or disability of the health provider; or

(2) the socio-economic status, disability, health status, or anticipated utilization of health services of the patients of the health provider.

SEC. 309. PROHIBITION ON SELECTIVE MARKETING.

A health plan may not engage in marketing or other practices intended to discourage or limit the issuance of health plans to individuals on the basis of health condition, geographic area, industry, or other risk factors.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. ENFORCEMENT.

(a) IN GENERAL.—A State shall prohibit the offering or issuance of any health plan in such State if such plan does not—

(1) have in place a utilization review program that is certified by the State as meeting the requirements of title II;

(2) comply with the standards developed under title III;

(3) have in place a credentialing program that meets the requirements of section 305;

(4) comply with the requirements of title IV; and

(5) meet any other requirements determined appropriate by the Secretary.

(b) SELF-INSURED PLANS.—The Secretary of Labor may take corrective action to terminate or disqualify a self-insured plan that does not meet the standards developed under this subsection.

SEC. 402. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act shall take effect on the date of enactment of this Act.

(b) STANDARDS.—The standards and programs required under this Act shall apply to health plans beginning on January 1, 1999.

(c) OFFICE FOR CONSUMER INFORMATION, COUNSELING AND ASSISTANCE WITH HEALTH CARE.—A State shall have in place the Office required under section 101 on January 1, 1999. The Secretary may award grants for the establishment of such Offices beginning on the date of enactment of this Act.

(d) OTHER REQUIREMENTS.—The requirements of title IV shall apply to health plans beginning on January 1, 1999.

(e) REGULATIONS.—The Secretaries described in section 301(a) may promulgate regulations to carry out this Act.

SEC. 403. PREEMPTION.

Nothing in this Act shall be construed to preempt any State law, or the implementation of such a State law, that provides protections for individuals that are equivalent to or stricter than the provisions of this Act.●

By Mr. CLELAND (for himself, Mr. COVERDELL, Ms. MOSELEY-BRAUN, Mr. REID, Mr. HOLLINGS, Mr. BINGAMAN, Mr. FORD, Mr. AKAKA, Mr. LEVIN, Mr. KERRY, Mr. CONRAD, Mr. BREAUX, Mr. LUGAR, Mr. HAGEL, Mr. NICKLES, Mr. ROCKEFELLER, Mr. COCHRAN, Mr. LEAHY, Mr. THURMOND, Mr. BUMPERS, Mr. LIEBERMAN, Mr. WARNER, Mrs. HUTCHISON, and Mr. HUTCHINSON):

S. 347. A bill to designate the Federal building located at 100 Alabama Street NW, in Atlanta, GA, as the "Sam Nunn Federal Center"; to the Committee on Environment and Public Works.

SAM NUNN FEDERAL CENTER LEGISLATION

● Mr. CLELAND. Mr. President, today, I honor Senator SAM NUNN, my friend, and one of America's most outstanding public servants. In recognition of the exceptional service Senator SAM NUNN has given to Georgia, the Senate, and the United States, I believe it would be fitting that the new Federal building in Atlanta be designated the "Sam Nunn Federal Center."

Senator NUNN has provided exemplary bipartisan leadership over the past 24 years, serving in a variety of leadership positions including both chairman and ranking member of the Senate Armed Services Committee and the chairman and ranking member on the Senate's Permanent Subcommittee on Investigations. In his years in the U.S. Senate, Senator NUNN earned the reputation as an internationally recognized expert on economic policy, defense, and national security.

Respected and honored by both his colleagues and constituents, it has been said of Senator NUNN, "Unlike some who gained prominence in the nation's capital, Nunn has not done so at the expense of his home base * * * Public events shift and change, but SAM NUNN keeps right on being SAM NUNN." First elected to the Senate in 1972, SAM NUNN has been one of the most admired and respected Members of the U.S. Senate and has consistently been ranked among the most effective Senators in surveys of journalists and congressional staffers.

Senator NUNN has recently ended his many years of service as a U.S. Senator and I am deeply honored to now occupy his seat. I believe that naming the Federal building in Atlanta after Senator NUNN would be a permanent way in which we can appropriately recognize Senator NUNN's contributions to the Nation. I urge my fellow colleagues to join me in honoring my friend, and one of America's most admired public servants, and support the passage of the bill to designate the "Sam Nunn Federal Center." In conclusion, I would like to have Senator BYRD's September 27 floor statement made in tribute to Senator NUNN re-entered in the RECORD.

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

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

[From the Congressional Record, Sept. 27, 1996]

TRIBUTE TO SENATOR SAM NUNN

Mr. BYRD. Mr. President, we are rapidly approaching that season when we shall witness the departure of many of our colleagues who have elected not to serve beyond this Congress.

Mr. President, I was the 1,579th Senator of 1,826 men and women who have served in the U.S. Senate from the beginning. I have seen many fine Senators come and go. As I think back over the years, something good might well have been said about most, if not all, of these Senators. We are prone, of course, to deliver heartfelt eulogies, speeches declaring our regrets that our colleagues choose to leave the service of this body.

About all of these Senators whom I have seen depart the Senate, some good could be said, unlike Lucius Aelius Aurelius Commodus, the Roman emperor who served from 180 to 192 A.D., one of the few Roman emperors about whom nothing good could be said.

I don't think that any of the Senators that I can recall at the moment who voluntarily retired with honor from this body were Senators about whom nothing good could be said. But shortly, we will witness the departure of one of the truly outstanding United States Senators of our time, and when I say "of our time," I mean my time as a Member of Congress for 44 years, a Member of this body for 38 years. The departure of SAM NUNN will be an irreparable loss. Someone might be able to take his place over a period of years.

I remember the death of Senator Russell, Richard Russell of Georgia, on January 21, 1971, 25 years ago. In the course of those 25 years, one-quarter of a century, I have to say that I have not seen the likeness of Richard Russell, except in Senator SAMUEL AUGUSTUS NUNN.

So it may be another 25 years, it may be 50 years before we see the likeness of Senator NUNN.

I pay tribute to this distinguished colleague who is retiring from the Senate after 24 years—illustrious years. There are many things that one can say about SAM NUNN, as he has been consistently productive, growing in stature year by year to become, without doubt, the leading Senate voice on national defense security and alliance issues—the leading voice. His accomplishments, of which there are many, are notable and derive from an approach to his work which is unfailingly thorough and well-focused. He is blessed with an exceptional intellect, and in Senator NUNN's case that sharp intellect combines with a much rarer talent for harnessing creative visions to practical techniques. SAM NUNN has been especially successful as a legislator in this body because of his ability to

reduce complicated issues to an understandable scope, while avoiding oversimplification. Then he works patiently and persistently to build bipartisan support.

Indeed, his many ideas and initiatives are often shared and supported by his colleagues across the aisle. In a day when bipartisanship is as rare as platinum and gold and rubies, and certainly as valuable, SAM NUNN epitomizes that for which so many of us strive, and often fail to achieve—bipartisan consensus which the people so desire and which fuels large majorities behind legislative endeavors. The ingredients of vision coupled with practicality, and balance between liberal and conservative views, mark his spectacularly successful career as a Senator and are textbook examples for the younger Members of this body and the newer Members of this body in the years to come to heed and to emulate.

SAM NUNN hails from Georgia, where commitment to the Nation's defense runs deeply, and from whence some of our greatest legislators on national defense have emerged. He has upheld the great Georgia tradition so ably begun by his granduncle Representative Carl Vinson, with whom I served in the House of Representatives before coming to the Senate, and his predecessor, Senator Richard B. Russell.

While Senator NUNN has only served as the chairman or ranking member of the Armed Services Committee for 12 years, his record of achievement and the reverence in which he is held in this body are comparable to that—and I know—comparable to that of the great Russell. This is a feat of enormous distinction. The State of Georgia has to be extremely proud to have given such talented sons to our Republic, men who have so well borne the mantle of responsibility to protect the defense of our Nation and promote its fighting forces.

Now, if you ask SAM NUNN what he regards as the most important of his many, many achievements in affecting and directing U.S. policy in the national defense arena, I doubt—and I have never asked him this question—but I doubt that he would mention the more widely publicized of his achievements, such as his role in developing the Stealth fighter; or the many initiatives he authored to reduce the dangers of war in the Russian-American relationship; or the meaningful measures enacted to reduce and make safer the world's inventories of nuclear weapons and fissile materials; or even his role in broadening and deepening American leadership in NATO, in Bosnia, in the Persian Gulf, or in Haiti. It is in the less heralded, less glamorous but critically important area of the morale and welfare of our men and women in uniform that is at the top of the list that SAM NUNN might himself cite as his most noteworthy achievement in the defense area.

Senator NUNN was the key player in meeting the needs of the All Volunteer Force so that we could attract and retain the kind of men and women who could effectively manage and lead our forces across the globe in all environments. He constructed a benefits package for the men and women who fought so well in the Kuwait Desert in Operation Desert Storm. He crafted the post-cold war transition measures that address the needs of our military personnel as they make their way from the front lines of the cold war back into American civilian society.

He has worked tirelessly to instill a sense of pride and loyalty in our uniformed men and women that is of such great value to the Nation. As Edmund Burke said on March 22, 1775, "It is the love of the people; it is their attachment to their government, from the sense of the deep stake they have in such a glorious institution, which gives you your army and navy, and infuses in both that liberal obedience, without which your army would be a base rabble, and your navy nothing but rotten timber."

Now I have been privileged to serve with SAM NUNN as a member of the Armed Services Committee and with SAM NUNN as its leader. Senators are not renowned for their managerial skills, but the Armed Services Committee under SAM NUNN's leadership has been superbly managed.

In my 44 years in Congress, I have yet to see a chairman of any committee who excelled SAM NUNN. In my humble judgment, he is the best committee chairman that I have ever seen in these 44 years in Congress, including myself. I worked hard at being a good chairman. But Senator NUNN, to me, represents the ideal, the model, the paragon of excellence as a chairman.

Unusual among authorization committees in the Senate, he produced, from 1987 through 1994, eight straight authorization acts, each of which continued major initiatives to build a better managed, sounder Department of Defense. He was the key figure behind the so-called Goldwater-Nichols Reorganization Act, which decentralized power in the armed services, giving more on-the-ground authority to our unified commanders in the geographic areas where they had to prepare forces to fight in various contingencies. He developed the legislation which produced the Defense Base Closure and Realignment Commission, which cut through the political snarls involved in closing bases, and has been a most effective tool in downsizing the DOD establishment in a fair and orderly way.

Over the years our uniformed leaders have consistently looked to SAM NUNN as their champion, as a strong but sensitive force, who empathized with their special needs and could be counted on to take the kind of action appropriate to best enhance the morale of the men under their command. He did not fail them.

Perhaps some of the most creative ideas that SAM NUNN willed into reality came in the knotty area of reducing the quantum of danger in the Russian-American relationship. He championed, together with JOHN WARNER, programs to increase communication between the American and Russian leadership, and thus reduce the possibilities of tragic, accidental nuclear war. Together with RICHARD LUGAR, he crafted a successful program to dismantle nuclear weapons possessed by the states of the former Soviet Union. He led the Senate Arms Control Observer Group for many years, as my appointee to that group when I was Majority Leader, traveling frequently to Geneva, leading delegations of Senators to ensure that progress on the INF and START Treaties had the knowledge and support of the United States Senate. He traveled extensively to Russia, and in turn Russian legislative leaders traveled to the United States, to exchange views and develop cooperative solutions to problems, thereby increasing the level of confidence and understanding between these two superpowers. Lately he has developed additional initiatives, again with a leading Republican counterpart, Senator DOMENICI, to tackle the problem of terrorist actions against the United States. All in all, SAM NUNN, when he leaves this Chamber and walks out of this door for the last time as a Member of this body, can take immense pride in his long, intense and patient efforts in the superpower relations arena. Those hard-won initiatives have had a substantial impact on the measure of safety in our world. It is indeed no exaggeration to say that the world today is a safer place in part because of the monumental efforts of one man, the senior Senator from the State of Georgia—SAM NUNN.

These achievements and the quality of his dedication and work on defense, alliance and international issues, ranging from NATO to arms control and reduction, anti-terrorism, and joint U.S.-Russian threat reduction and communications measures have propelled his glorious reputation far beyond the Senate. He is known internationally and he is viewed universally as an expert in the defense field. He is well known in official circles around the globe and is widely sought for his wise counsel.

Is it not remarkable that in my time there would have been two chairmen of the Senate Armed Services Committee, two "tall men, who lived above the fog in public duty and in private thinking"—Senator Richard Russell and Senator SAMUEL NUNN—both experts in the field of national defense. Both of whom sought for their wise counsel,—sought out on this floor,—sought out before the bar of the Senate, in the well, sought out in foreign capitals for their wise counsel.

It is not an overstatement to say SAM NUNN's reach and impact have been international and characterized by workable, sound proposals and brilliant judgment. The global scope of his work has set him apart from the vast majority of men who have served in this body and is a testimony to his dedication to the addressing of the burning issues of sanity and order in our world today.

While SAM NUNN will undoubtedly be remembered for his Senate service in the area of national defense, as if that were not enough, his energy and creativity have also been evident in many other areas. The range of his thinking and his talents as a legislator and policy maker encompass everything from health care, to student loans, to insurance industry reform. In his farewell address, announcing his retirement, in Georgia on October 9, 1995, he dwelled extensively on the need for America to put our youth first, to work on protecting our children from street violence and drugs. He spoke eloquently of the need to reverse the saturation of our TV airwaves with programs of sex and violence. He focused on the need to reinvigorate our educational system in order to reincorporate great numbers of American citizens back into the working culture of our nation. He has developed successful legislation to lay the groundwork for a nationwide "civilian service corps" by offering education benefits in exchange for public service. As the co-chairman of the Strengthening of America Commission, a bipartisan group of business, educational, labor and academic leaders, he has proposed an impressive plan to make radical changes in the income tax code to refocus our economy on savings and investment and away from consumption.

Most importantly, and as my fellow Senators well know, SAM NUNN's success is in large part attributable to his hard rock integrity.

A religious man, he does not go around wearing his religion on his sleeve; he does not go around making a big whoop-de-do about his religion, but he is a religious man, a moral man. SAM NUNN is known as a man whose judgment can be trusted. How many times have I heard Senators come to the Senate floor to vote on a measure and ask:

"How is SAM voting on this one?" He is a leader in this body, in spite of the fact that he has not especially sought to lead. He has not been elected to a leadership position, but he has grown into a leadership position. He is a natural leader. His is the best type of leadership, because it is a leadership that is born of strong character. Horace Greeley said: "Fame is a vapor; popularity an accident; riches take wings. Those who cheer today, may curse tomorrow. Only one thing endures: character."

SAM NUNN epitomizes that great trait, character. The Senate will feel the loss of SAM NUNN and feel it deeply. His legacy and achievements certainly will grow with time. I am personally deeply sorry that he has chosen to go. He will leave an empty place in the Senate.

Napoleon rejoiced that the "bravest of the brave," Marshal Ney, had escaped and had returned across the Dnieper River, even though he had lost all of his cannons. Napoleon ordered that there be a salute to celebrate the escape and the return of Ney. And he said, "I have more than 400 million francs in the cellar of the Tuileries in Paris, and I would have gladly given them all for the ransom of my old companion in arms."

Had SAM NUNN been an officer in the Grand Army of France, Napoleon would have given everything he possessed for another SAM NUNN.

His great natural talents will continue to bring him to the forefront of the national policy discussion, and he will, I know, continue to achieve great things in a variety of new settings.

I have never really felt about a man in the Senate—other than Senator Richard Russell—as I have felt about SAM NUNN. I was the majority whip in the Senate when SAM NUNN came to the Senate, and I urged that he be placed on the Senate Armed Services Committee. As a member of the Steering Committee, I cast my vote to put SAM NUNN on that committee. That is where he wanted to serve. I watched him grow. I have had some differences, from time to time—minor, of course—with SAM on some issues. That is not the point. SAM has fulfilled my idea of what a Senator ought to be.

There were 74 delegates chosen to attend the Constitutional Convention. The Convention met behind closed doors from May 25 to September 17, 1787. Fifty-five of those 74 delegates who were chosen participated, and 39 of the 74 signed the Constitution of the United States. I can see in my mind's eye a SAM NUNN in that gallery. I might well imagine that, as they met from day to day, if SAM NUNN had been a participant, they would have come, as they come here when Members of this body gather in the well, and asked, "What does SAM NUNN think about this?" I have no difficulty in imagining that. In such an august gathering as was that Convention, which sat in 1787, with George Washington, the Commander in Chief at Valley Forge and the soon-to-be first President of the United States, I can imagine that it would have been the same there. They would have said, "What does SAM NUNN think? How is he going to vote?"

The First Congress was to have convened on March 4, 1789. And only 8 Senators—less than a quorum—of the 22 were there on March 4, 1789. Five States were represented—New Hampshire, Connecticut, Massachusetts, Pennsylvania, and Georgia. And the Senator from Georgia who attended that day was William Few.

It could very well have been SAM NUNN as a Member of that first Senate, serving with Oliver Ellsworth, Maclay and Morris, and others. And as they met to blaze the pioneer paths of this new legislative body, the U.S. Senate, I have no problem in imagining that, often, those men would have turned to SAM NUNN and said, "How are you going to vote, SAM?" "How is SAM going to vote?"

I think every Member of this body shares with me that feeling about SAM NUNN. He could have been an outstanding U.S. Senator at any time in the history of this Republic—not this democracy. When the Convention completed its work, a lady approached Benjamin Franklin and said, "Dr. Franklin, what have you given us?" He didn't answer, "A democracy, Madam." He said, "A republic, Madam, if you can keep it."

Now, what is there about SAM NUNN that makes him this kind of man? He is not the typical politician that one conjures up in his mind when thinking about Senators and other politicians. Senator NUNN is not glib. He doesn't jump to hasty conclusions.

He does not rush to be ahead of all of the other Senators so that he will get the first headline. He thinks about the problem, and he logically, methodically, and systematically arrives at a decision. Then he carefully prepares to put that decision into action.

I suppose that had he lived at the time of Socrates, who lived during the chaos of the great Peloponnesian wars, SAM would have been out there in the marketplace debating with Socrates, about whom Cicero said he "brought down philosophy from Heaven to Earth." SAM would have been a hard man for Socrates to put down because he has that talent, that knack of thinking, an organized thinking, and the consideration of a matter logically, carefully, and thoroughly. He is truly a man for all seasons. His wisdom, his judgment, and his statesmanship have reflected well on the profession of public service at a time when fierce "take-no-prisoners politics" has embroiled the Nation to alarming degrees.

Napoleon did not elect to go into Spain, and Wellington was concerned that Napoleon himself might lead. Wellington later told Earl Stanhope that Napoleon was superior to all of his marshals and that his presence on the field was like 40,000 men in the balance. SAM NUNN, the 1,668th Senator to appear on this legislative field of battle, is like having a great number in array against or for your position.

I was looking just this morning over the names of those Senators who are leaving, and examining their votes on what is called pejoratively the Legislative Line-Item Veto Act of 1995. Of those Senators who are leaving, seven voted against that colossal monstrosity, for which many of those who voted will come to be sorry. If this President is reelected, he will have it within his power to make them sorry. He is just the man who might do it.

Among the departing Senators, SAM NUNN is one of those who opposed that bill. Senator HEFLIN, Senator JOHNSTON, Senator PELL, Senator PRYOR, Senator COHEN, Senator HATFIELD, and Senator NUNN voted, to their everlasting honor, against that miserable piece of junk.

Just wait until this President exercises that veto and see how they come to heel—h-e-e-l. They will rue the day. But SAM NUNN voted against it.

For the outstanding quality of his character as well as for the brilliance of his service, this Senate and the Nation are eternally in his debt. He will always command, in my heart and in my memory, a place with Senator Richard Russell.

God, give us men. A time like this demands
Strong minds, great hearts, true faith, and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Men who can stand before a demagog
And damn his treacherous flatteries without winking.
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking;
For while the rabble, with their thumb-worn creeds,
Their large professions and their little deeds,
Mingle in selfish strife, lo. Freedom weeps,
Wrong rules the land and waiting justice sleeps.
God give us men.
Men who serve not for selfish booty,
But real men, courageous, who flinch not at duty.
Men of dependable character; men of sterling worth.
Then wrongs will be redressed and right will rule the earth.
God, give us men.

Men like SAMUEL AUGUSTUS NUNN.●

ADDITIONAL COSPONSORS

S. 1

At the request of Mr. COVERDELL, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1, a bill to provide for safe and affordable schools.

S. 25

At the request of Mr. MCCAIN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 25, a bill to reform the financing of Federal elections.

S. 28

At the request of Mr. THURMOND, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 29

At the request of Mr. LUGAR, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 29, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 30

At the request of Mr. LUGAR, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 30, a bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from inheritance taxes.

S. 31

At the request of Mr. LUGAR, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 31, a bill to phase- out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 104

At the request of Mr. MURKOWSKI, the names of the Senator from Wyoming

[Mr. ENZI] and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of S. 104, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 121

At the request of Mr. MOYNIHAN, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of S. 121, a bill to amend the Internal Revenue Code of 1986 to provide for 501(c)(3) bonds a tax treatment similar to governmental bonds, and for other purposes.

S. 127

At the request of Mr. MOYNIHAN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 127, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.

S. 221

At the request of Mr. GREGG, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 221, a bill to amend the Social Security Act to require the Commissioner of Social Security to submit specific legislative recommendations to ensure the solvency of the social security trust funds.

S. 251

At the request of Mr. SHELBY, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 251, a bill to amend the Internal Revenue Code of 1986 to allow farmers to income average over 2 years.

S. 257

At the request of Mr. LUGAR, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Kansas [Mr. ROBERTS] were added as cosponsors of S. 257, a bill to amend the Commodity Exchange Act to improve the act, and for other purposes.

S. 261

At the request of Mr. DOMENICI, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 261, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 278

At the request of Mr. GRAMM, the names of the Senator from Nebraska [Mr. HAGEL] and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of S. 278, a bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections.

S. 294

At the request of Mrs. HUTCHISON, the names of the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Virginia [Mr. WARNER], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 294, a bill to amend chapter 51 of title 18, United States Code, to establish Federal penalties for the killing or attempted killing of a law enforcement officer of the District of Columbia, and for other purposes.

S. 305

At the request of Mr. D'AMATO, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 305, a bill to authorize the President to award a gold medal on behalf of the Congress to Francis Albert "Frank" Sinatra in recognition of his outstanding and enduring contributions through his entertainment career and humanitarian activities, and for other purposes.

S. 314

At the request of Mr. THOMAS, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 314, a bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

S. 317

At the request of Mr. CRAIG, the names of the Senator from North Carolina [Mr. FAIRCLOTH] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 317, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 318

At the request of Mr. D'AMATO, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 318, a bill to amend the Truth in Lending Act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes.

S. 325

At the request of Mr. BUMPERS, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 325, a bill to repeal the percentage depletion allowance for certain hardrock mines.

S. 326

At the request of Mr. BUMPERS, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 326, a bill to provide for the reclamation of abandoned hardrock mines, and for other purposes.

S. 327

At the request of Mr. BUMPERS, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 327, a bill to ensure that Federal taxpayers receive a fair return for the extraction of locatable minerals on public domain lands, and for other purposes.

AMENDMENTS SUBMITTED

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

GRAHAM AMENDMENT NO. 7

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to proposed by him to the joint resolution, Senate Joint Resolution 1, proposing an amendment to the Constitution of the United States to require a balanced budget; as follows:

On page 2, line 17, strike "held by the public".

REID AMENDMENT NO. 8

Mr. REID proposed an amendment to the joint resolution, Senate Joint Resolution 1, supra; as follows:

On page 3, line 19, after the proposed insert "The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds (as and if modified to preserve the solvency of the Funds) used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article.".

NOTICE OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Tuesday, February 25, 1997, at 9 a.m. in SR-328A. The purpose of the hearing will be to discuss the impact of estate taxes on farmers.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Wednesday, February 26, 1997, at 9 a.m. in SR-328A. The purpose of the hearing will be to discuss the impact of capital gains taxes on farmers.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that an Executive Session of the Senate Committee on Labor and Human Resources will be held on Wednesday, February 26, 1997, 9:30 a.m., in SD-430 of the Senate Dirksen Building. The following are on the agenda to be considered.

1. S. 295, Teamwork for Employees and Managers [TEAM] Act.

2. S. 4, The Family Friendly Workplace Act.

3. Presidential nominations.

For further information, please call the committee, 202/224-5375.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet to conduct an oversight hearing during the session of the Senate on Wednesday, February 26, 1997, at 9:30 a.m. on the President's budget request for fiscal year 1998 for the Bureau of Indian Affairs [BIA] and Indian Health Service [IHS]. The hearing will be held in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Thursday, February 27, 1997, at 9:30 a.m. to approve the letter to the Committee on the Budget concerning the Committee's budget views and estimates for fiscal year 1998 for Indian programs. The meeting will be held in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Thursday, February 27, 1997, 10 a.m., in SD-430 of the Senate Dirksen Building. The subject of the hearing is Reauthorization of Higher Education Act. For further information, please call the committee, 202/224-5375.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Tuesday, March 4, 1997, at 10 a.m. in SD-G50. The purpose of the hearing will be to receive testimony regarding the school lunch and school breakfast programs.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Wednesday, March 5, 1997, at 9 a.m. in SR-328A. The purpose of the hearing will be to review the U.S. Department of Agriculture's business plan and reorganization management.

ADDITIONAL STATEMENTS

TRIP TO SINGAPORE

• Mr. GRASSLEY. Mr. President, I rise today to report to the Senate on an official trip I took with a House Ways and Means Committee delegation in December 1996 to Hong Kong, Beijing, and Singapore. I was privileged to be the only United States Senator to serve as an official delegate to the first ministerial meeting of the World Trade Organization.

The WTO was formed by the Uruguay Round Agreement, ratified by Congress in 1994, and is the successor to the General Agreements on Tariffs and Trade. It serves as a forum for multilateral trade negotiations and a dispute settlement body. The first ministerial was called to measure progress on the implementation of Uruguay round commitments and seek further liberalization in selected areas of trade. Although I discuss the various meetings of the delegation in Hong Kong and Beijing, this report will focus on our meetings in Singapore.

FRIDAY, DECEMBER 6, 1996

Upon arriving in Hong Kong, the delegation met with U.S. Consul General Richard Boucher and several Hong Kong business and government officials. The primary topic of discussion was Hong Kong's transition to Chinese control on July 1, 1997.

SATURDAY, DECEMBER 7, 1996

On Saturday, the delegation met with representatives of the American Chamber of Commerce of Hong Kong. The upcoming transition was again discussed as was the annual debate in the Congress on China's most-favored-nation status.

MONDAY, DECEMBER 9, 1996

On the first day of the ministerial, the delegation was briefed by Acting U.S. Trade Representative Charlene Barshefsky and Federal Communications Commission Chairman Reed Hunt. Ms. Barshefsky stressed the importance of completing negotiations on the Information Technology Agreement while in Singapore. She believed that an agreement was imminent but sought our support when discussing the ITA with other countries, delegations.

The delegation asked Ms. Barshefsky about the negotiations to bring China into the WTO. I stressed the need for China to open its markets for U.S. agricultural products and to reduce the authority of its state trading enterprises. Ms. Barshefsky stressed three points relating to China's entry into the WTO. First, China must remedy its bilateral problems with the United States, especially on agriculture and intellectual property rights. China must increase market access to U.S. agricultural exports. Finally, China must abide by the decisions and policies of a rules-based system, the WTO.

Mr. Hunt briefed the delegation on the telecommunications negotiations. Mr. Hunt said that the focus in these talks will be on deregulation in order to open the global communications industry to foreign competition. Since the United States has one of the most open markets, our companies have the most to gain by liberalizing trade in this area.

TUESDAY DECEMBER 10, 1996

On Tuesday morning, I broke from the delegation for breakfast with Deputy Secretary Richard Rominger and the Administrator of the Foreign Agriculture Service, Gus Schumacher, both with the United States Department of Agriculture. We discussed our current bilateral trade disputes with the European Union, primarily with Bt corn and the veterinary equivalency standards.

At the time, the EU was deciding whether to accept Bt corn, a genetically modified organism, exported from the U.S. Failure to accept this product would have jeopardized all of our corn exports to Europe. Subsequent to the Singapore meeting, the EU decided to allow Bt corn into its markets.

The second issue, unfortunately, has yet to be resolved. The EU has failed to certify most U.S. meat packing plants for export to Europe. This failure will jeopardize current exports, such as pet food, as well as potential sales of beef and pork. The issue was to be resolved in December but a decision has now been delayed until April.

Because of the EU's actions, I have introduced a bill with the minority leader, Senator DASCHLE, to address the situation. S. 220 requires the U.S. Trade Representative to determine whether the European Union's action violates any trade agreements, including the 1992 meat agreement and the sanitary/phytosanitary provisions of the Uruguay Round Agreement. If agreements have been breached, USTR is required to take some action, which could include unilateral sanctions. I urge the European Union to remedy this situation before sanctions are necessary.

I rejoined the delegation to meet with Singapore Minister of Trade and Industry Yeo Cheow Tong. The delegation thanked the minister for his nation's hospitality and leadership at the ministerial. We impressed upon him the need to consummate the Information Technology Agreement in order to make the ministerial a success. I urged Minister Yeo, in his leadership role at the conference, to assist the United States in resolving the veterinary equivalency issue with the Europeans. This was appropriate because Singapore recognizes the equivalency of the United States meat inspection system as it transships United States meat to other Asian nations.

We also met with the Canadian delegation. Talks focused on several bilateral issues with our two nations, including the recent NAFTA panel on

dairy and poultry and the U.S. sugar program. I also asked the Canadians opinion on two issues: China's accession to the WTO and the dispute on veterinary equivalency between the United States and the EU. The Canadian delegation agreed fully with my position on China. Specifically, they said that WTO members should not lower entry standards for China and that market access and subsidy issue must be addressed before China is admitted.

Regarding the veterinary equivalency issue, the Canadian delegation agreed that sanitary and phytosanitary provisions of trade agreements must be upheld in order to maintain the grassroots support of farmers for free trade agreements.

On Tuesday, the delegation also met with delegations from Taiwan and the European Parliament, and had the opportunity to express our gratitude to the Prime Minister of Singapore for his nation's hospitality.

The Taiwanese expressed their strong desire to join the WTO. Chairman PHIL CRANE, speaking for the delegation, agreed that Taiwan was close to meeting the requirements for joining the WTO. But he urged Taiwan to be patient while the United States worked through some of its problems with China. I cautioned the Taiwanese that further progress must be made on reducing barriers for agricultural products, such as beef, pork, and poultry. The leader of the Taiwan Parliament, Mr. Vincent Slew, responded that he did not "see any problem" with making the necessary agricultural reforms.

The discussions with the European Parliamentary delegation focused on three issues: Bt corn, veterinary equivalency, and allowing China into the WTO. I raised questions about the EU's potentially keeping Bt corn and other genetically modified organisms from their markets. The European delegation argued that their citizens have an intense distrust of the scientific evidence and government policy because of the recent BSE—mad cow disease—crisis in Europe.

They pointed out that 80 percent of their consumers are against bringing Bt corn into their country and they would consider keeping all U.S. corn out in order to protect their consumers. At least, the Europeans argued, they would require separation and labeling of Bt corn. As I stated earlier, this issue has since been resolved and Bt corn grown in the United States has been accepted in the European markets.

The European delegation promised to look into the veterinary equivalency problem and thought we could make progress in certifying United States meat packing plants. On China, I argued that if the Europeans are truly concerned with their farmers, they should insist that China enter the WTO only on commercially meaningful terms. The European delegation agreed, saying that China must meet all requirements, including those on market access, before joining the WTO.

WEDNESDAY, DECEMBER 11, 1996

On Wednesday, the delegation received a full briefing from acting USTR Charlene Barshefsky. She discussed the Statement on Agriculture, outstanding bilateral issues with the European Union, and China's desire to enter the WTO. I pointed out that the terms of China's accession will determine whether China becomes our largest export market for agriculture products or our toughest competitor. To emphasize the importance of agriculture to trade agreements, I also noted that one-half of the nongovernmental observers at the ministerial were from the agriculture sector.

The delegation also met with United States Ambassador to Singapore, Mr. Chorba, and Singapore Foreign Minister Jayakumar. I asked Minister Jayakumar to help bring the other Asian nations on board with the Information Technology Agreement. The minister replied that they shared the United States interest in completing the ITA in Singapore and they would do what they can to accomplish that.

THURSDAY, DECEMBER 12, 1996

On Thursday, the delegation met with United States Assistant Secretary of State Alan Larson to discuss the recent trip of Secretary of State Christopher to China. This meeting was to prepare the delegation, for its meetings in Beijing.

FRIDAY, DECEMBER 13, 1996

In Beijing, the delegation received a briefing from the United States Embassy on the Chinese economy and trade situation. Later that day we met with Vice Minister Sun Zhenyu, the American Chamber of Commerce, State Planning Commission Vice Chairman Gan Ziyu, and Vice Premier Zhu Ronghi, member of the standing committee. Several issues were discussed including trade relations between the two countries.●

TRIBUTE TO THE NEVADA TAXPAYERS ASSOCIATION

● Mr. REID. Mr. President, I rise today to pay tribute to the Nevada Taxpayers Association. On February 25, 1997, the association will celebrate 75 years of service to the citizens of Nevada. It is my honor to salute the organization for its diligent efforts to inform and serve the public on tax policy issues.

The Nevada Taxpayers Association is the only tax policy and analysis organization of its kind in Nevada. The mission of this preeminent organization is to protect and preserve sensible fiscal policy that is beneficial to Nevada's citizens, and to enhance fiscal policies that impact our State, county, and city governments.

Since 1922, the Nevada Taxpayers Association has represented the interests of the citizens of Nevada, as well as business and industry, to create a fair and equitable revenue system. For the past 75 years, Nevada's past and current Governors have worked cooperatively with the Nevada Taxpayers Association to ensure the best tax structure possible for the State.

This year, the State of Nevada will celebrate Nevada Taxpayers Association Day on February 25. I applaud the Nevada Taxpayers Association for the integral role it has played, and continues to play, in fiscal policy analysis and research in Nevada. On behalf of all taxpayers in Nevada who have benefited from the association's many publications, reports, and analyses, I wholeheartedly thank them for their invaluable service. It is my pleasure to speak on behalf of the Nevada Taxpayers Association, and I commend the organization for its unwavering support of the rights of taxpayers.●

TRIBUTE TO DAN LACROIX ON BEING NAMED 1997 ROCHESTER CITIZEN OF THE YEAR

● Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Dan LaCroix, honorary member of Gonic PTA, on being named the 1997 Rochester "Citizen of the Year" by the Rochester Chamber of Commerce. I commend his outstanding community commitment and congratulate him on this well-deserved honor.

Dan's community involvements are numerous. He participated in the juvenile diversion program, the substance abuse prevention task force, and he is a current member of the red ribbon program. Dan is a coach of the Rochester Youth Soccer Association, vice-president of the Rochester girls softball, and chairperson of the community relations girls softball.

Dan is known to many as always willing to take responsibility, whether to chair a committee, organize fairs, trips, and dances, or to help people in need. Whatever activity he commits to, he always gets the job done.

Dan has dedicated his time, talent and energy to serving the residents of Rochester in an exemplary way. I am proud to honor Dan LaCroix's outstanding community commitment, which is so important to the future and prosperity of Rochester. We are indeed indebted to him for his efforts. Congratulations to Dan for this distinguished recognition. I am honored to represent him in the U.S. Senate.●

CAFE STANDARDS

● Mr. ABRAHAM. Mr. President, I rise today to speak once again on the matter of corporate average fuel economy standards. Recently, a number of colleagues from both sides of the aisle

joined with me to introduce Senate bill 286, legislation to freeze CAFE standards at current levels unless changed by Congress.

There are a host of reasons why this legislation should be adopted, Mr. President. Chief among these: CAFE standards should be frozen so that we may put a stop to the highly inappropriate practice of allowing unelected bureaucrats to set far-reaching policies that have significant effects on the safety and economic well-being of the American people. I believe that such responsibility should lie with this legislature, the body entrusted by our Constitution with the duty to determine whether any proposed policy change is in the best interests of the American people.

Mr. President, in today's Washington Times commentary section, Bruce Bartlett, a senior fellow with the National Center for Policy Analysis, outlines several serious problems with increased CAFE standards. Mr. Bartlett's article illustrates clearly the need for Congress to regain control of CAFE standards and I ask that this article be printed in the RECORD.

The article follows:

[From the Washington Times, Feb. 24, 1997]

HIDDEN COSTS OF THE CAFE CAPER

(By Bruce Bartlett)

In 1975, at the height of the energy crisis, Congress passed legislation mandating auto manufacturers to meet corporate average fuel economy (CAFE) standards. Each auto company was expected to ensure that the average fuel efficiency for all its new car sales would be at least 18 mpg by 1978. The standard was raised in steps to 27.5 mpg by 1990, where it remains currently. However, the Clinton administration has signaled a desire to raise the CAFE standard, despite mounting evidence that the whole program has been a failure.

The biggest problem with CAFE is that there is virtually no evidence it has reduced aggregate gasoline consumption. It is true that auto fuel efficiency has risen 70 percent since 1973, from 13.3 mpg on average to 22.56 mpg in 1995. However, as the figure indicates, the higher fuel efficiency has simply encouraged people to drive more. The average number of miles driven per year has risen 24 percent since 1980, from 9,141 miles to 11,329 in 1995. Thus, even though the average use now uses just 502 gallons of gasoline per year, compared to 771 gallons in 1973, total fuel consumption has continued to rise.

Another problem with CAFE is that it has led to a loss of auto jobs in the U.S. The reason is that there are separate CAFE standards for domestic and imported autos. This has encouraged domestic auto companies to increase the percentage of foreign parts used in some of their models in order to reclassify them as foreign-made. For example, in 1989 Ford turned two of its least fuel efficiency cars, the Crown Victoria and the Grand Marquis, into "imported" cars by reducing their domestic content from 90 percent to less than 75 percent. This allowed Ford to increase the average fuel economy of its domestically produced cars, where it was having a problem meeting the new CAFE standard, while lowering the average for its imported models, where it had room to spare.

Finally, there is growing evidence that CAFE has been detrimental to safety. To increase fuel efficiency, auto companies have had to produce smaller, lighter cars that are less safe than larger, heavier cars. And auto companies have often had to heavily discount these smaller models in order to increase their sales and lower their average corporate fuel economy. Thus a 1989 study estimated that CAFE standards would cost 2,200 to 3,900 lives over the next 10 years.

Virtually all economists agree that higher gasoline taxes would do a far better job of reducing gasoline consumption than CAFE—assuming there is any real need to do so. At a minimum, there should be no further increase in CAFE standards.•

TRIBUTE TO COLIN RIZZIO FOR REVEALING A SAT ERROR

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Colin Rizzio for his outstanding math expertise, which led him to uncover an error on the SAT exams. His quick insight has gained much national recognition in the last few weeks including an appearance on "Good Morning America" and on the "Today" show. Colin is a 17-year-old senior at Contoocook Valley Regional High School in New Hampshire. He is an above-average student who kept a cool head under testing conditions. Colin discovered an error which had been overlooked by internal and external math specialists while he was taking the SAT last Columbus Day. He took the time to consider different possibilities the math question offered and revealed the error. Thanks to Colin, the test will now be rescored and students' scores will go up nationwide as the flawed math question has been tossed out.

As a former teacher, I am always heartened by stories of students who go the extra mile for educational integrity. Colin is the type of student who asks "What if?" In this case, his inquisitive nature gained him much notoriety.

It is students like Colin that contribute to the future of the Granite State and I am proud to be his Senator. I congratulate Colin on his outstanding achievement and I wish this exemplary student all the best for his future educational endeavors.•

NARCOTICS CERTIFICATION

• Mr. BIDEN. Mr. President, I wish to discuss an important decision facing the President this week in the fight against drug trafficking: Whether to certify that Mexico and Colombia have taken sufficient steps in the past year in combating the narcotics trade. The choice is important not merely because it affects our bilateral relations with these countries, but also because it will send a broader signal about our seriousness of purpose in the war on drugs.

Of course, there will be other nations whose performance on counter narcotics will be assessed by the President this week. But when it comes to the narcotics trade, Mexico and Colombia are in a league by themselves—Colombia, as the leading source country for cocaine, and a major source of heroin, and Mexico, as the leading transit country for cocaine, and as a significant source for heroin, methamphetamines, and marijuana. And it is because of their predominance in the narcotics trade that the President's decision becomes a barometer of the U.S. commitment to this effort.

Before discussing my specific views on the Colombian and Mexican cases, however, I want to briefly offer some general observations about the drug certification process.

Just over 10 years ago, in the 1986 omnibus drug bill, the United States began a process of annually certifying the performance of countries which were either a major source of narcotics, or a major transit route for narcotics trafficking. Decertification does not merely carry a stamp of political disapproval. By law, nations decertified are ineligible for most U.S. foreign aid, and the United States is required to vote against loans for such nations in international financial institutions such as the World Bank.

The President has three choices: First, he can certify that a country is fully cooperating with the United States, or is taking adequate steps on its own, to combat the narcotics trade. Second, he can decertify a country—a statement that it has not met that standard. Finally, he can provide a national interest waiver—a statement that the country has not met the standards of the law, but that the U.S. national interest lies in continuing the assistance programs.

Not surprisingly, the nations subject to the scrutiny of the decertification process have not been thrilled with the honor. Indeed, many nations have protested that the United States has no right to challenge their performance on counternarcotics—given that the large demand in this country helps to generate the supply. Other nations perceive the certification process as an effort to shift the blame for our drug problem.

I firmly reject such arguments.

First, while I concede that the demand in the United States for narcotics has contributed to the explosive growth of the drug trade in Latin America in the last two decades, the dramatic increase in the power of the narcotics cartels—particularly in Colombia and Mexico—cannot be blamed upon the United States alone. The nations themselves must bear responsibility for their own neglect—for failing to take effective action against vast criminal enterprises which arose before their eyes.

Of course, the United States must do its part to combat the drug problem.

Over the past decade, we have. For example, we have steadily increased both our financial resources and our political commitment to combating the narcotics trade. We now spend $16 billion annually on our national drug program, as compared to $4.7 billion a decade ago. We have devised a national strategy, written by a drug czar who coordinates national policy from the White House. We have increased sentences at the Federal level for narcotics traffickers. We have strengthened controls on money laundering and the trade in precursor chemicals. There is more to be done. But by any objective measure, the United States continues to do its part.

Second, I strongly disagree with the suggestion that the United States has no business assessing the performance of other nations in the drug war. The decision by the United States to maintain a partnership with another government—any government—must be based on an assessment of whether the cooperation between the two sides advances American interests. This is hardly a radical concept; rather, it is the daily practice of diplomacy.

The people of the United States should expect nothing less. How else can we justify providing the full benefits of partnership—including foreign assistance and special trade preferences—unless we are satisfied that the other nation is doing its part on issues of great concern to us?

After a decade of experience with the certification law, we can reach a conclusion about its utility—and whether it is worth preserving. I believe a strong case can be made that it should be.

In the first few years after enactment of the law, the certification process, it is fair to say, was less than effective. It was the custom of the Reagan and Bush administrations to only decertify those nations with which our relations were already badly damaged. In other words, the primary focus was not on narcotics performance but on geopolitics.

Thus, in the late 1980's, the nations regularly decertified were Syria and Iran—both on the list of state sponsors of terrorism; Afghanistan, then a satellite of the Soviet Union; and Panama, then under the control of General Noriega. In the Bush administration, after the U.S invasion ousted Noriega, Panama again was certified, and the nation of Burma—by then under the control of despotic generals—was added to this list of usual suspects. But not once did either President Reagan or Bush decertify a democratic ally.

The message of this action was clear: Maintaining normal diplomatic relations took precedence over our anti-narcotics interests. As a result, most nations that were major drug trafficking centers came to expect that certification would be the norm—and that for all the talk and supposed pressure from Washington, they would not pay a price if they failed to meet our expectations.

Under President Clinton, that approach has changed for the better—and for that change much credit must go not only to the President, but also to the previous Secretary of State, Warren Christopher. Most significantly, last year President Clinton decertified Colombia—a democratic nation which had, for much of the 1990's, been a close partner in the war on drugs. But when it became clear that the President of Colombia had taken campaign contributions from drug dealers—a matter that I will discuss shortly—and that his government lacked the political will to confront the drug trade, President Clinton stated plainly that Colombia had not met the standard of the law.

That decision has profound implications elsewhere. Nations everywhere took notice—and are now on notice that the United States would make its decision on certification based on the standards of the law, not on the dictates of diplomacy. That, in turn, has greatly empowered the State Department and the law enforcement agencies—which now have greater leverage in holding our foreign partners to their counternarcotics commitments.

In sum, because of the "truth-in-certification" which we now practice, I believe that the process has become a useful tool in our ongoing effort to procure the assistance of other nations in the war on drugs. Any effort to repeal the law or alter it significantly would be misguided.

That is not to say the law is perfect—few laws are. During consideration of the foreign assistance legislation in the Foreign Relations Committee, I will be open to exploring ways of improving the certification process—to assure that the law advances our common objective: of ensuring that all nations join us in fighting the scourge of drugs.

But that question is for another day. Today our primary attention must be devoted to the issue at hand: whether to certify that Colombia and Mexico have met the standard of the law. I renew my call—which I also made last year—to decertify Colombia and to not fully certify Mexico, but instead grant a national interest waiver.

As has been widely reported, credible evidence suggests that Colombian President Ernesto Samper accepted millions of dollars in campaign contributions from the Cali cartel during the 1994 Presidential campaign. An investigation by the Colombian Congress—an investigation which our State Department has described as a "patently flawed process"—absolved Samper. But the conclusion of the Congress is not surprising, because many members of that body are also under investigation for accepting bribes from the cartel.

President Samper might have overcome the stain of these allegations by taking concrete action to combat the drug trade. In fact, Samper had pledged such action in a letter to many members of this body in July 1994. But Samper's pledge proved to be, in large part, an empty gesture.

For example, long-promised reform of the sentencing system—which provides inadequate penalties for drug trafficking—has not been enacted, although the Colombian Congress is just now taking up the issue. The inadequacy of the current system was amply demonstrated last month, when two noted leaders of the Cali cartel were sentenced to relatively light sentences—10½ years in one case, 9 years in another. They were fined just $2 million. None of their assets were forfeited. Under the sentencing system in effect, the actual time served may be reduced by half. Worse still, the evidence is strong that they continue to operate their empires from prison—operations which the Colombian Government has done little to prevent.

Other measures, such as reconsideration of extradition or strengthening the Colombian money laundering statute, might have permitted the certification of Colombia. But extradition is not on the table; and the money laundering statute is only now being considered in a special session—a transparent last-ditch effort to head off decertification.

I say all this in full knowledge that there are thousands of dedicated officials in the Colombian National Police, and millions of ordinary Colombian citizens, who abhor the destructive nature of the drug trade on their own society, and are fully committed to combating it. I admire their courage and determination to fight on, despite the dangers of confronting the drug lords, who have no respect for human life.

But how can we be assured of the Government's commitment against drug trafficking when the President of the country himself almost surely benefited from the drug trade?

This must be an essential consideration in any certification decision: whether there exists corruption at high levels of government. We cannot demand perfection in implementation of policy. We cannot impose impossibly high burdens. But we can demand that the highest levels of government remain free from suspicion.

Colombia has failed that test. Stated plainly, the corruption at the top in Bogotá is the single most glaring failure in Colombia's performance—and the overriding reason that I recommend decertification.

Mr. President, there is no joy in this conclusion. But we cannot overlook the corruption involving President Samper and the Congress, and we cannot avoid the conclusion that Colombia has not done enough to combat the drug trade.

The story for Mexico is different than Colombia's. The key difference is the commitment of the President of Mexico, who I believe is steadfast in his determination to root out corruption in the Mexican police system. Unfortunately, his personal commitment has, thus far, been insufficient to cleanse a police system that is rotten to the core.

The examples of police corruption in Mexico abound. The most troubling example was revealed just last week. A veteran general of the Mexican Army, a man hired just 3 months ago to head Mexico's antinarcotics agency—precisely because he was believed to be incorruptible—was fired after being accused of taking payments from one of Mexico's leading drug barons.

The arrest of General Gutierrez raises several important questions about the United States-Mexican relationship in fighting the drug war. First, why did Mexico fail to alert us when it first suspected General Gutierrez some 2 weeks before his arrest? As a consequence, how much intelligence did the United States share in that 2-week period with Mexico that has now been compromised? Additionally, why did our intelligence assets fail to learn that the general had been placed under investigation? Finally, will we be able, in the short term, to continue cooperative law enforcement efforts—or will we have to step back and reassess the level and scope of our joint programs?

Mr. President, we must have answers to these questions—both from our Government and from the Mexican Government.

But until we get those answers, and until we see follow through by the Mexican Government on certain promises, I do not believe that we should certify that Mexico has provided full cooperation in the war on drugs. Instead, however, I do believe that the President would be justified in granting Mexico a vital national interest waiver. That decision—less than full certification—would send a strong political signal to the Mexican Government that its performance last year was inadequate, without causing a total disruption in our joint efforts.

In making this recommendation, I should note that Mexico has made some progress in its effort to combat the narcotics trade. Last year, at our urging, it enacted several important anticrime laws—an organized crime law, a money laundering statute, and a chemical diversion statute. It has agreed to extradite, under exceptional circumstances, Mexican nationals. It has agreed to set up organized crime task forces in key locations in northern and western Mexico.

All this is important. But, as the saying goes, the proof is in the pudding. We have seen only a handful of extraditions. We await implementation of the new anticrime laws. And we await full funding and adequate support for the task forces.

Most important, we must see institutional changes to root out corruption—for that remains the largest obstacle to combating the drug cartels. All the laws, all the promises, all the task forces will be insufficient if Mexico cannot rectify the systemic corruption in its law enforcement agencies. Mexico's efforts to confront corruption, ultimately, will be the test of whether it is serious in combating the narcotics trade.

Let me reiterate that I believe that, in contrast to the case of Colombia, Mexico has a President who is on our side. President Zedillo has demonstrated great courage in advancing an agenda of institutional reform and in trying to weed out corrupt actors in his government. We must stand with him in this effort. But we must also be honest about the situation as we now see it —and honesty compels the conclusion that Mexico should not be fully certified.

But I do not believe that we should take the step of decertifying Mexico. President Zedillo's demonstrated leadership amid the growing drug threat is the fundamental reason I propose a national interest waiver for Mexico. A full decertification of Mexico could have long-lasting, damaging repercussions that we cannot now predict. At a minimum, it could inhibit the political space that President Zedillo has to press forward with his agenda of reform. And if we destroy the President's political ability resolve to combat the drug traffickers, we will have achieved nothing—and we may well lose the gains that we have recently achieved.

Even as I recommend decertification for Colombia, and a national interest waiver for Mexico, I should emphasize that this issue can—under the law—be revisited during the coming year as to Colombia. The law permits the President to provide a national interest waiver during the course of the year provided there has been a fundamental change in government, or a fundamental change in the conditions that led to not providing a full certification in the first instance.

In this regard, I encourage the Clinton Administration to spell out benchmarks for Colombia to achieve in the coming months —benchmarks that, if achieved, would permit the President to move forward with a national interest waiver.

Mr. President, I do not underestimate the difficulties facing Colombia and Mexico in combating the power of the drug barons. But the difficulty of the challenge cannot be an excuse for insufficient action. Given the massive scourge of drugs confronting us, we must continue to raise the level of expectations and attention given to the drug trade by our southern neighbors. This is what the certification process calls for, and this is what our nation must do.•

REGULATIONS REGARDING DISCLOSURE OF CERTAIN PRO BONO LEGAL SERVICES

• Mr. SMITH of New Hampshire. Mr. President, consistent with the provisions of Senate Resolution 321, adopted October 3, 1996, I ask that the "Regulations Regarding Disclosure of Certain Pro Bono Legal Services," adopted by the Senate Select Committee on Ethics on February 13, 1997, be printed in the CONGRESSIONAL RECORD of the 105th Congress.

The regulations follow:

SENATE SELECT COMMITTEE ON ETHICS REGULATIONS

On October 3, 1996, the Senate agreed to S. Res. 321, which provides:

Resolved, That (a) notwithstanding the provisions of the Standing Rules of the Senate or Senate Resolution 508, adopted by the Senate on September 4, 1980, pro bono legal services provided to a Member of the Senate with respect to a civil action challenging the validity of a Federal statute that expressly authorizes a Member to file an action: (1) Shall not be deemed a gift to the Member; (2) shall not be deemed to be a contribution to the office account of the Member; and (3) shall not require the establishment of a legal expense trust fund.

(b) The Select Committee on Ethics shall establish regulations providing for the public disclosure of information relating to pro bono legal services performed as authorized by this resolution.

The following regulations, adopted on and effective as of February 13, 1997, are promulgated by the Select Committee on Ethics pursuant to S. Res. 321, and are applicable to Members to the United States Senate during the time of their service in or to the Senate.

REGULATIONS REGARDING DISCLOSURE OF CERTAIN PRO BONO LEGAL SERVICES

A Member who accepts pro bono legal services with respect to a civil action challenging the validity of a Federal statute as authorized by S. Res. 321 shall submit a report to the Office of Public Records of the Secretary of the Senate and the Senate Select Committee on Ethics within 30 days of the date on which an attorney or law firm begins performance of the pro bono services for the Member (or, for such services provided to a Member prior to the publication of these regulations, within 30 days of the publication of these regulations in the Congressional Record).

All reports filed pursuant to these Regulations shall include the following information: (1) A description of the nature of the civil action, including the Federal statute to be challenged; (2) the caption of the case and the cause number, as well as the court in which the action is pending, if the civil action has been filed in court; and (3) the name and address of each attorney who performed pro bono services for the Member with respect to the civil action, as well as the name and the address of the firm, if any, with which the attorney is affiliated.

All documents filed pursuant to these regulations shall be available at the Office of Public Records of the Secretary of the Senate for public inspection and copying within two business days following receipt of the documents by that office.

Any person requesting a copy of such documents shall be required to pay a reasonable fee to cover the cost of reproduction.

REMINDER REGARDING AMICUS CURIAE

The disclosure requirements for accepting certain pro bono legal services pursuant to S. Res. 321 do not affect the ability of a Member to accept pro bono legal services to appear in a legal proceeding by amicus curiae brief without necessity of a Legal Expense Trust Fund and without disclosure or reporting. See, Committee Interpretative Ruling 442 (4/15/92), and Committee Regulations Governing Trust Funds (9/30/80, amended 8/10/88).•

FIVE POINT PLAN TO BRING FREEDOM AND DEMOCRACY TO CUBA

• Mr. MACK. Mr. President, 1 year ago today, Fidel Castro brutally murdered Armando Alejandre, Jr., Mario de la Peña, Carlos Costa, and Pablo Morales—three Americans and one a legal U.S. resident. These men were shot down while flying on a humanitarian mission over international waters between the United States and Cuba.

This incident was the latest in Fidel Castro's reign of tyranny over the people of Cuba. The unjustified downing of the two brothers to the rescue planes came shortly after Fidel Castro had stopped a prodemocracy and human rights meeting in Havana. Dozens of prodemocracy Cubans were arrested, detained, and harassed. Just the year before, on March 13, 1994, a tugboat brimming with freedom-seeking Cubans headed for America was rammed by Castro's government ships until it sank. Some 40 people died, only because they yearned to be free. Year after year, Fidel Castro's Cuba tightens the stranglehold it has on basic political and economic freedom.

To those who believe in the cause of Cuban freedom—in libertad—it is unfortunate that it took an act of such callous disregard for human life and freedom to get the world to pay attention to Fidel Castro's repression of the Cuban people.

As we honor the memory of the downed pilots today, we should take time to reflect upon the current state of United States policy toward Cuba. We must ask ourselves—are we doing everything we can to isolate Fidel and to save the Cuban people from the jaws of tyranny? I believe the answer is, unequivocally, no.

After the attack on the American pilots, President Clinton appeared to reverse his policy of appeasement toward Fidel Castro by signing the Helms-Burton legislation. Unfortunately, the administration's actions since the signing have been weaker than the President's rhetoric.

First, the President has failed to stand firm in the defense of freedom—not once, but twice. He has chosen to protect the interests of foreign companies over the cause of Cuban freedom by postponing implementation of a key part of the Helms-Burton law. He has unilaterally placed a moratorium on the right of U.S. citizens to sue foreign companies that profit from property those citizens owned before Fidel Castro stole it.

Second, after the downing of the brothers to the rescue aircraft, President Clinton promised compensation to the families of the victims and criminal indictments against those in Cuba responsible for the murders. On March 7, 1996, then-Senate Majority Leader Bob Dole, along with myself and Representatives LINCOLN DIAZ-BALART and ILEANA ROS-LEHTINEN sent a letter to President Clinton urging him to "immediately direct the Attorney General to seek the indictment of all those responsible for the heinous crime of February 24, 1996." Now a year later, the families still have not been fully compensated and the Cuban officials who committed these murders are still free.

For the sake of the people of Cuba, Mr. President, the United States cannot waiver in its commitment to bringing an end to Castro's rule. If we demand of other nations that they not do business with the Castro government, then we must demand of ourselves a steadfast policy of concrete action, not just empty words.

America must do everything we can to bring freedom and democracy to Cuba—not just for the benefit of Cubans, but to protect the security of Americans.

Mr. President, it is with this commitment to action that I offer the following five points to bring freedom and democracy to Cuba, and I call on the President to take these steps without delay.

First, Fidel Castro must be exposed for what he really is—an authoritarian dictator worried only about maintaining power at any expense. The Cuban people have a word for this called desenmascarar, which means to remove the mask. We need to remove the mask of Fidel Castro as a romantic and cigar-smoking friend; he is a murderer and drug trafficker; and he tortures and imprisons political dissidents.

Second, we must reverse our policy since 1995 of returning freedom-seeking Cuban refugees and political dissidents to Cuba, and promote the same level of compassion among our allies and friends around the world. At a time when our own State Department classifies Cuba as one of the greatest violators of human rights in the world, it is unconscionable for the President to order the return of these brave people back into the hands of their oppressor. In addition, we should encourage our friends and allies to exhibit the same level of compassion in dealing with the suffering Cuban people. We should further promote the efforts of the United Nations and the International Committee for the Red Cross in gaining access to Cuba.

Third, we must increase our efforts to support and encourage Cuba's budding civil society. This is best accomplished by increasing support for pro-freedom and democracy groups through the National Endowment for Democracy and other effective groups dedicated to democratic reforms.

Fourth, military and nuclear subsidies to Cuba must be halted. Fidel currently benefits economically from the presence of the Russian intelligence facility at Lourdes, Cuba. In addition, International Atomic Energy Agency money is being spent to maintain the Juragua nuclear power plant, in contradiction to current United States policy.

Fifth, stop the flow of drugs from Cuba. For the past several decades, Cuba has served as a transhipment point for narcotics entering the United States. Castro uses this drug flow as a means of acquiring much needed cash and as a weapon against the United States. High-ranking members of the Castro government benefit from this source of revenue and several are currently under indictment in the United States on drug trafficking charges.

If we implement these specific actions identified in my five points and insist upon executing the strategy mandated by Congress in Helms-Burton of isolating Castro and supporting the Cuban people, we can hope for a free and democratic Cuba.

Mr. President, I would conclude my remarks with a plea to those who would appease Fidel Castro. Castro heads a government which denies basic freedoms to 11 million people. Fidel Castro will not change. His only interest is the perpetuation of his totalitarianism. He continues to force his people to work for slave wages; he denies them the freedom to read and speak freely, to associate freely, and to work hard and profit from their effort and intellect so that their children can live better lives.

Over the years I have consistently said that freedom is the core of all human progress. Mr. President, on the anniversary of the downing of the brothers to the rescue pilots, let us honor their memory by fulfilling their commitment—and our American commitment—to a free and democratic Cuba.•

RULES OF PROCEDURE OF THE SELECT COMMITTEE ON ETHICS

• Mr. SMITH of New Hampshire. Mr. President, in accordance with rule XXVI(2) of the Standing Rules of the Senate, I ask that the Rules of Procedure of the Select Committee on Ethics, which were adopted February 23, 1978, and revised May 1993, be printed in the CONGRESSIONAL RECORD for the 105th Congress.

The rules follow:

SELECT COMMITTEE ON ETHICS—RULES OF PROCEDURE

RULE 1. GENERAL PROCEDURES

(a) Officers: The Committee shall select a Chairman and a Vice Chairman from among its Members. In the absence of the Chairman, the duties of the Chair shall be filled by the Vice Chairman or, in the Vice Chairman's absence, a Committee Member designated by the Chairman.

(b) Procedural Rules: The basic procedural rules of the Committee are stated as a part of the Standing Orders of the Senate in Senate Resolution 338, 88th Congress, as amended, as well as other resolutions and laws. Supplementary Procedural Rules are stated herein and are hereinafter referred to as the Rules. The Rules shall be published in the Congressional Record not later than thirty days after adoption, and copies shall be made available by the Committee office upon request.

(c) Meetings:

(1) The regular meeting of the Committee shall be the first Thursday of each month while Congress is in session.

(2) Special meetings may be held at the call of the Chairman or Vice Chairman if at least forty-eight hours notice is furnished to all Members. If all Members agree, a special meeting may be held on less than forty-eight hours notice.

(3)(A) If any Member of the Committee desires that a special meeting of the Committee be called, the Member may file in the office of the Committee a written request to the Chairman or Vice Chairman for that special meeting.

(B) Immediately upon the filing of the request the Clerk of the Committee shall notify the Chairman and Vice Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman or the Vice Chairman does not call the requested meeting, to be held within seven calendar days after the filing of the request, any three of the Members of the Committee may file their written notice in the office of the Committee that a special meeting of the Committee will be held at a specified date and hour; such special meeting may not occur until forty-eight hours after the notice is filed. The Clerk shall immediately notify all Members of the Committee of the date and hour of the special meeting. The Committee shall meet at the specified date and hour.

(d) Quorum:

(1) A majority of the Members of the Select Committee shall constitute a quorum for the transaction of business involving complaints and allegations of misconduct, including the consideration of matters involving sworn complaints, unsworn allegations or information, resultant preliminary inquiries, initial reviews, investigations, hearings, recommendations or reports and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three Members shall constitute a quorum for the transaction of the routine business of the Select Committee not covered by the first subparagraph of this paragraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one Member of the quorum is a Member of the majority Party and one Member of the quorum is a Member of the minority Party. During the transaction of routine business any Member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the Members of the Select Committee are present.

(3) Except for an adjudicatory hearing under Rule 6 and any deposition taken outside the presence of a Member under Rule 7, one Member shall constitute a quorum for hearing testimony, provided that all Members have been given notice of the hearing and the Chairman has designated a Member of the majority Party and the Vice Chairman has designated a Member of the minority Party to be in attendance, either of whom in the absence of the other may constitute the quorum.

(e) Order of Business: Questions as to the order of business and the procedure of the Committee shall in the first instance be decided by the Chairman and Vice Chairman, subject to reversal by a vote by a majority of the Committee.

(f) Hearing Announcements: The Committee shall make public announcement of the date, place and subject matter of any hearing to be conducted by it at least one week before the commencement of that hearing, and shall publish such announcement in the Congressional Record. If the Committee determines that there is good cause to commence a hearing at an earlier date, such notice will be given at the earliest possible time.

(g) Open and Closed Committee Meetings: Meetings of the Committee shall be open to the public or closed to the public (executive session), as determined under the provisions of paragraphs 5 (b) to (d) of Rule XXVI of the Standing Rules of the Senate. Executive session meetings of the Committee shall be closed except to the Members and the staff of the Committee. On the motion of any Member, and with the approval of a majority of the Committee Members present, other individuals may be admitted to an executive session meeting for a specified period or purpose.

(h) Record of Testimony and Committee Action: An accurate stenographic or transcribed electronic record shall be kept of all Committee proceedings, whether in executive or public session. Such record shall include Senators' votes on any question on which a recorded vote is held. The record of a witness' testimony, whether in public or executive session, shall be made available for inspection to the witness or his counsel under Committee supervision; a copy of any testimony given by that witness in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness if he so requests. (See Rule 6 on Procedures for Conducting Hearings.)

(i) Secrecy of Executive Testimony and Action and of Complaint Proceedings:

(1) All testimony and action taken in executive session shall be kept secret and shall not be released outside the Committee to any individual or group, whether governmental or private, without the approval of a majority of the Committee.

(2) All testimony and action relating to a sworn complaint shall be kept secret and shall not be released by the Committee to any individual or group, whether governmental or private, except the respondent, without the approval of a majority of the Committee, until such time as a report to the Senate is required under Senate Resolution 338, 88th Congress, as amended, or unless otherwise permitted under these Rules. (See Rule 9 on Procedures for Handling Committee Sensitive and Classified Materials.)

(j) Release of Reports to Public: No information pertaining to, or copies of any Committee report, study, or other document which purports to express the view, findings, conclusions or recommendations of the Committee in connection with any of its activities or proceedings may be released to any individual or group whether governmental or private, without the authorization of the Committee. Whenever the Chairman or Vice Chairman is authorized to make any determination, then the determination may be released at his or her discretion. Each Member of the Committee shall be given a reasonable opportunity to have separate views included as part of any Committee report. (See Rule 9 on Procedures for Handling Committee Sensitive and Classified Materials.)

(k) Ineligibility or Disqualification of Members and Staff:

(1) A Member of the Committee shall be ineligible to participate in any Committee proceeding that relates specifically to any of the following:

(A) The Member's own conduct;

(B) The conduct of any employee or officer that the Member supervises, as defined in paragraph [12] of Rule XXXVII of the Standing Rules of the Senate;

(C) The conduct of any employee or any officer that the Member supervises; or

(D) A complaint, sworn or unsworn, that was filed by a Member, or by any employee or officer that the Member supervises.

(2) If any Committee proceeding appears to relate to a Member of the Committee in a manner described in subparagraph (1) of this paragraph, the staff shall prepare a report to the Chairman and Vice Chairman. If either the Chairman or the Vice Chairman concludes from the report that it appears that the Member may be ineligible, the Member shall be notified in writing of the nature of the particular proceeding and the reason that it appears that the Member may be ineligible to participate in it. If the Member agrees that he or she is ineligible, the Member shall so notify the Chairman or Vice Chairman. If the Member believes that he or she is not ineligible, he or she may explain the reasons to the Chairman and Vice Chairman, and if they both agree that the Member is not ineligible, the Member shall continue to serve. But if either the Chairman or Vice Chairman continues to believe that the Member is ineligible, while the Member believes that he or she is not ineligible, the matter shall be promptly referred to the Committee. The Member shall present his or her arguments to the Committee in executive session. Any contested questions concerning a Member's eligibility shall be decided by a majority vote of the Committee, meeting in executive session, with the Member in question not participating.

(3) A Member may also disqualify himself from participating in a Committee proceeding in other circumstances not listed in subparagraph (k)(1).

(4) The President of the Senate shall be given written notice of the ineligibility or disqualification of any Member from any initial review, investigation, or other proceeding requiring the appointment of another Member in accordance with subparagraph (k)(5).

(5) Whenever a Member of the Committee is ineligible to participate in or disqualifies himself from participating in any initial review, investigation, or other substantial Committee proceeding, another Member of the Senate who is of the same party shall be appointed by the Senate in accordance with the provisions of paragraph 1 of Rule XXIV

of the Standing Rules of the Senate, to serve as a Member of the Committee solely for the purposes of that proceeding.

(6) A Member of the Committee staff shall be ineligible to participate in any Committee proceeding that the staff director or outside counsel determines relates specifically to any of the following:

(A) the staff Member's own conduct;

(B) the conduct of any employee that the staff Member supervises;

(C) the conduct of any Member, officer or employee for whom the staff Member has worked for any substantial period; or

(D) a complaint, sworn or unsworn, that was filed by the staff Member. At the direction or with the consent of the staff director or outside counsel, a staff Member may also be disqualified from participating in a Committee proceeding in other circumstances not listed above.

(l) Recorded Votes: Any Member may require a recorded vote on any matter.

(m) Proxies; Recording Votes of Absent Members:

(1) Proxy voting shall not be allowed when the question before the Committee is the initiation or continuation of an initial review or an investigation, or the issuance of a report or recommendation related thereto concerning a Member or officer of the Senate. In any such case an absent Member's vote may be announced solely for the purpose of recording the Member's position and such announced votes shall not be counted for or against the motion.

(2) On matters other than matters listed in paragraph (m)(1) above, the Committee may order that the record be held open for the vote of absentees or recorded proxy votes if the absent Committee Member has been informed of the matter on which the vote occurs and has affirmatively requested the Chairman or Vice Chairman in writing that he be so recorded.

(3) All proxies shall be in writing, and shall be delivered to the Chairman or Vice Chairman to be recorded.

(4) Proxies shall not be considered for the purpose of establishing a quorum.

(n) Approval of Blind Trusts and Foreign Travel Requests Between Sessions and During Extended Recesses: During any period in which the Senate stands in adjournment between sessions of the Congress or stands in a recess scheduled to extend beyond fourteen days, the Chairman and Vice Chairman, or their designees, acting jointly, are authorized to approve or disapprove blind trusts under the provision of Rule XXXIV, and to approve or disapprove foreign travel requests which require immediate resolution.

(o) Committee Use of Services or Employees of Other Agencies and Departments: With the prior consent of the department or agency involved, the Committee may (1) utilize the services, information, or facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee, the Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the Chairman and Vice Chairman of the Committee, acting jointly, determine that such action is necessary and appropriate.

RULE 2: PROCEDURES FOR SWORN COMPLAINTS

(a) Sworn Complaints: Any person may file a sworn complaint with the Committee, alleging that any Senator, or officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of his or her duty as a Member, officer, or employee of the Senate, or has engaged in improper conduct which may reflect upon the Senate.

(b) Form and content of Complaints: A complaint filed under paragraph (a) shall be in writing and under oath, and shall set forth in simple, concise and direct statements:

(1) The name and legal address of the party filing the complaint (hereinafter, the complainant);

(2) The name and position or title of each Member, officer, or employee of the Senate who is specifically alleged to have engaged in the improper conduct or committed the violation (hereinafter, the respondent);

(3) The nature of the alleged improper conduct or violation, including, if possible, the specific provision of the Senate Code of Official Conduct or other law, rule, or regulation alleged to have been violated.

(4)(A) A statement of the facts within the personal knowledge of the complainant that are alleged to constitute the improper conduct or violation.

(B) The term "personal knowledge" is not intended to and does not limit the complainant's statement to situations that he or she personally witnessed or to activities in which the complainant was a participant.

(C) Where allegations in the sworn complaint are made upon the information and belief of the complainant, the complaint shall so state, and shall set forth the basis for such information and belief.

(5) The complainant must swear that all of the information contained in the complaint either (a) is true, or (b) was obtained under circumstances such that the complainant has sufficient personal knowledge of the source of the information reasonably to believe that it is true. The complainant may so swear either by oath or by solemn affirmation before a notary public or other authorized official.

(6) All documents in the possession of the complainant relevant to or in support of his or her allegations may be appended to the complaint.

(c) Processing of Sworn Complaints:

(1) When the Committee receives a sworn complaint against a Member, officer or employee of the Senate, it shall determine by majority vote whether the complaint is in substantial compliance with paragraph (b) of this rule.

(2) If it is determined by the Committee that a sworn complaint does not substantially comply with the requirements of paragraph (b), the complaint shall be returned promptly to the complainant, with a statement explaining how the complaint fails to comply and a copy of the rules for filing sworn complaints. The complainant may resubmit the complaint in the proper form. If the complaint is not revised so that it substantially complies with the stated requirements, the Committee may in its discretion process the complaint in accordance with Rule 3.

(3) A sworn complaint against any Member, officer, or employee of the Senate that is determined by the Committee to be in substantial compliance shall be transmitted to the respondent within five days of that determination. The transmittal notice shall include the date upon which the complaint was received, a statement that the complaint conforms to the applicable rules, a statement that the Committee will immediately begin an initial review of the complaint, and a statement inviting the respondent to provide any information relevant to the complaint to the Committee. A copy of the Rules of the Committee shall be supplied with the notice.

RULE 3: PROCEDURES ON RECEIPT OF ALLEGATIONS OTHER THAN A SWORN COMPLAINT; PRELIMINARY INQUIRY

(a) Unsworn Allegations or Information: Any Member or staff Member of the Committee shall report to the Committee, and any other person may report to the Committee, any credible information available to him or her that indicates that any named or unnamed Member, officer or employee of the Senate may have—

(1) violated the Senate Code of Official Conduct;

(2) violated a law;

(3) violated any rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate; or

(4) engaged in improper conduct which may reflect upon the Senate. Such allegations or information may be reported to the Chairman, the Vice Chairman, a Committee Member, or a Committee staff Member.

(b) Sources of Unsworn Allegations or Information: The information to be reported to the Committee under paragraph (a), may be obtained from a variety of sources, including but not limited to the following:

(1) sworn complaints that do not satisfy all of the requirements of Rule 2;

(2) anonymous or informal complaints, whether or not satisfying the requirements of Rule 2;

(3) information developed during a study or inquiry by the Committee or other committees or subcommittees of the Senate, including information obtained in connection with legislative or general oversight hearings;

(4) information reported by the news media; or

(5) information obtained from any individual, agency or department of the executive branch of the Federal Government.

(c) Preliminary Inquiry:

(1) When information is presented to the Committee pursuant to paragraph (a), it shall immediately be transmitted to the Chairman and the Vice Chairman, for one of the following actions:

(A) The Chairman and Vice Chairman, acting jointly, may conduct or may direct the Committee staff to conduct, a preliminary inquiry.

(B) The Chairman and Vice Chairman, acting jointly, may present the allegations or information received directly to the Committee for it to determine whether an initial review should be undertaken. (See paragraph (d).)

(2) A preliminary inquiry may include any inquiries, interviews, sworn statements, depositions, and subpoenas that the Chairman and Vice Chairman deem appropriate to obtain information upon which to make any determination provided for by this Rule.

(3) At the conclusion of a preliminary inquiry, the Chairman and Vice Chairman shall receive a full report of its findings. The Chairman and Vice Chairman, acting jointly, shall then determine what further action, if any, is appropriate in the particular case, including any of the following:

(A) No further action is appropriate, because the alleged improper conduct or violation is clearly not within the jurisdiction of the Committee;

(B) No further action is appropriate, because there is no reason to believe that the alleged improper conduct or violation may have occurred; or

(C) The unsworn allegations or information, and a report on the preliminary inquiry, should be referred to the Committee, to determine whether an initial review should be undertaken. (See paragraph (d).)

(4) If the Chairman and the Vice Chairman are unable to agree on a determination at the conclusion of a preliminary inquiry, then they shall refer the allegations or information to the Committee, with a report on the preliminary inquiry, for the Committee to determine whether an initial review should be undertaken. (See paragraph (d).)

(5) A preliminary inquiry shall be completed within sixty days after the unsworn allegations or information were received by the Chairman and Vice Chairman. The sixty day period may be extended for a specified period by the Chairman and Vice Chairman, acting jointly. A preliminary inquiry is completed when the Chairman and the Vice Chairman have made the determination required by subparagraphs (3) and (4) of this paragraph.

(d) Determination Whether to Conduct an Initial Review: When information or allegations are presented to the Committee by the Chairman and the Vice Chairman, the Committee shall determine whether an initial review should be undertaken.

(1) An initial review shall be undertaken when—

(A) there is reason to believe on the basis of the information before the Committee that the possible improper conduct or violation may be within the jurisdiction of the Committee; and

(B) there is reason to believe on the basis of the information before the Committee that the improper conduct or violation may have occurred.

(2) The determination whether to undertake an initial review shall be made by recorded vote within thirty days following the Committee's receipt of the unsworn allegations or information from the Chairman or Vice Chairman, or at the first meeting of the Committee thereafter if none occurs within thirty days, unless this time is extended for a specified period by the Committee.

(3) The Committee may determine that an initial review is not warranted because (a) there is no reason to believe on the basis of the information before the Committee that the improper conduct or violation may have occurred, or (b) the improper conduct or violation, even if proven, is not within the jurisdiction of the Committee.

(A) If the Committee determines that an initial review is not warranted, it shall promptly notify the complainant, if any, and any known respondent.

(B) If there is a complainant, he or she may also be invited to submit additional information, and notified of the procedures for filing a sworn complaint. If the complainant later provides additional information, not in the form of a sworn complaint, it shall be handled as a new allegation in accordance with the procedures of Rule 3. If he or she submits a sworn complaint, it shall be handled in accordance with Rule 2.

(4)(A) The Committee may determine that there is reason to believe on the basis of the information before it that the improper conduct or violation may have occurred and may be within the jurisdiction of the Committee, and that an initial review must therefore be conducted.

(B) If the Committee determines that an initial review will be conducted, it shall promptly notify the complainant, if any, and the respondent, if any.

(C) The notice required under subparagraph (B) shall include a general statement of the information or allegations before the Committee and a statement that the Committee will immediately begin an initial review of the complaint. A copy of the rules of the Committee shall be supplied with the notice.

(5) If a Member of the Committee believes that the preliminary inquiry has provided sufficient information for the Committee to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred, the Member may move that the Committee dispense with the initial review and move directly to the determinations described in Rule 4(f). The Committee may adopt such a motion by majority vote of the full Committee.

RULE 4: PROCEDURES FOR CONDUCTING AN INITIAL REVIEW

(a) Basis for Initial Review: The Committee shall promptly commence an initial review whenever it has received either (1) a sworn complaint that the Committee has determined is in substantial compliance with the requirements of Rule 2, or (2) unsworn allegations or information that have caused the Committee to determine in accordance with Rule 3 that an initial review must be conducted.

(b) Scope of Initial Review:

(1) The initial review shall be of such duration and scope as may be necessary to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(2) An initial review may include any inquiries, interviews, sworn statements, depositions, and subpoenas that the Committee deems appropriate to obtain information upon which to make any determination provided for by this rule.

(c) Opportunity for Response: An initial review may include an opportunity for any known respondent or his designated representative, to present either a written or oral statement, or to respond orally to questions from the Committee. Such an oral statement or answers shall be transcribed and signed by the person providing the statement or answers.

(d) Status Reports: The Committee staff or outside counsel shall periodically report to the Committee in the form and according to the schedule prescribed by the Committee. The reports shall be confidential.

(e) Final Report: When the initial review is completed, the staff or outside counsel shall make a confidential report to the Committee on findings and recommendations.

(f) Committee Action: As soon as practicable following submission of the report on the initial review, the Committee shall determine by a recorded vote whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Committee may make any of the following determinations:

(1) The Committee may determine that there is not such substantial credible evidence. In this case, the Committee shall report its determination to the complainant, if any, and to the respondent, together with an explanation of the basis for the determination. The explanation may be as detailed as the Committee desires, but it is not required to include a complete discussion of the evidence collected in the initial review.

(2) The Committee may determine that there is such substantial credible evidence, but that the alleged violation is inadvertent, technical, or otherwise of a de minimis nature. In this case, the Committee may attempt to correct or to prevent such violation by informal methods. The Committee's final determination in this matter shall be reported to the complainant, if any, and to the respondent, if any.

(3) The Committee may determine that there is such substantial credible evidence, but that the alleged violation, if proven, although not of a de minimis nature, would not be sufficiently serious to justify the severe disciplinary actions specified in Senate Resolution 338, 88th Congress, as amended (i.e., for a Member, censure, expulsion, or recommendation to the appropriate party conference regarding the Member's seniority or positions of responsibility; of for an officer or employee, suspension or dismissal). In this case, the Committee, by the recorded affirmative vote of at least four Members, may propose a remedy that it deems appropriate. If the respondent agrees to the proposed remedy, a summary of the Committee's conclusions and the remedy proposed and agreed to shall be filed as a public record with the Secretary of the Senate and a notice of the filing shall be printed in the Congressional Record.

(4) The Committee may determine, by recorded affirmative vote of at least four Members, that there is such substantial credible evidence, and also either:

(A) that the violation, if proved, would be sufficiently serious to warrant imposition of one of the severe disciplinary actions listed in paragraph (3); of

(B) that the violation, if proven, is less serious, but was not resolved pursuant to the procedure in paragraph (3). In either case, the Committee shall order that an investigation promptly be conducted in accordance with Rule 5.

RULE 5: PROCEDURES FOR CONDUCTING AN INVESTIGATION

(a) Definition of Investigation: An "investigation" is a proceeding undertaken by the Committee, by recorded affirmative vote of at least four Members, after a finding on the basis of an initial review that there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within its jurisdiction has occurred.

(b) Scope of Investigation: When the Committee decides to conduct an investigation, it shall be of such duration and scope as is necessary for the Committee to determine whether a violation within its jurisdiction has occurred. In the course of the investigation, designated outside counsel, or if the Committee determines not to use outside counsel, the Committee or its staff, may conduct inquiries or interviews, take sworn statements, use compulsory process as described in Rule 7, or take any other actions that the Committee deems appropriate to secure the evidence necessary to make this determination.

(c) Notice to Respondent: The Committee shall give written notice to any known respondent who is the subject of an investigation. The notice shall be sent to the respondent no later than five working days after the Committee has voted to conduct an investigation. The notice shall include a statement of the nature of the possible violation, and a description of the evidence indicating that a possible violation occurred. The Committee shall offer the respondent an opportunity to present a statement or to respond to questions from Members of the Committee, the Committee staff, or outside counsel.

(d) Right to a Hearing: The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate.

(e) Progress Reports to Committee: The Committee staff or outside counsel shall periodically report to the Committee concerning the progress of the investigation. Such reports shall be delivered to the Committee in the form and according to the schedule prescribed by the Committee, and shall be confidential.

(f) Report of Investigation:

(1) Upon completion of an investigation, including any hearings held pursuant to Rule 6, the outside counsel or the staff shall submit a confidential written report to the Committee, which shall detail the factual findings of the investigation and which may recommend disciplinary action, if appropriate. Findings of fact of the investigation shall be detailed in this report whether or not disciplinary action is recommended.

(2) The Committee shall consider the report of the staff or outside counsel promptly following its submission. The Committee shall prepare and submit a report to the Senate, including a recommendation to the Senate concerning disciplinary action, if appropriate. A report shall be issued, stating in detail the Committee's findings of fact, whether or not disciplinary action is recommended. The report shall also explain fully the reasons underlying the Committee's recommendation concerning disciplinary action, if any. No recommendation or resolution of the Committee concerning the investigation of a Member, officer or employee of the Senate may be approved except by the affirmative recorded vote of not less than four Members of the Committee.

(3) Promptly, after the conclusion of the investigation, the Committee's report and recommendation shall be forwarded to the Secretary of the Senate, and a copy shall be provided to the complainant and the respondent. The full report and recommendation shall be printed and made public, unless the Committee determines by majority vote that it should remain confidential.

RULE 6: PROCEDURES FOR HEARINGS

(a) Right to Hearing: The Committee may hold a public or executive hearing in any inquiry, initial review, investigation, or other proceeding. The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate. (See Rule 5(d).)

(b) Non-Public Hearings: The Committee may at any time during a hearing determine in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate whether to receive the testimony of specific witnesses in executive session. If a witness desires to express a preference for testifying in public or in executive session, he or she shall so notify the Committee at least five days before he or she is scheduled to testify.

(c) Adjudicatory Hearings: The Committee may, by majority vote, designate any public or executive hearing as an adjudicatory hearing; and, any hearing which is concerned with possible disciplinary action against a respondent or respondents designated by the Committee shall be an adjudicatory hearing. In any adjudicatory hearing, the procedures described in paragraph (j) shall apply.

(d) Subpoena Power: The Committee may require, but subpoena or otherwise, the attendance and testimony of such witnesses and the production of such correspondence, books, papers, documents or other articles as it deems advisable. (See Rule 7.)

(e) Notice of Hearings: The Committee shall make public an announcement of the date, place, and subject matter of any hearing to be conducted by it, in accordance with Rule 1(f).

(f) Presiding Officer: The Chairman shall preside over the hearings, or in his absence the Vice Chairman. If the Vice Chairman is also absent, a Committee Member designated by the Chairman shall preside. If an oath or affirmation is required, it shall be administered to a witness by the Presiding Officer, or in his absence, by any Committee Member.

(g) Witnesses:

(1) A subpoena or other request to testify shall be served on a witness sufficiently in advance of his or her scheduled appearance to allow the witness a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel if desired.

(2) The Committee may, by a majority vote, rule that no Member of the Committee or staff or outside counsel shall make public the name of any witness subpoenaed by the Committee before the date of that witness' scheduled appearance, except as specifically authorized by the Chairman and Vice Chairman, acting jointly.

(3) Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Committee at least two working days in advance of the hearing at which the statement is to be presented. The Chairman and Vice Chairman shall determine whether such statements may be read or placed in the record of the hearing.

(4) Insofar as practicable, each witness shall be permitted to present a brief oral opening statement, if he or she desires to do so.

(h) Right To Testify: Any person whose name is mentioned or who is specifically identified or otherwise referred to in testimony or in statements made by a Committee Member, staff Member or outside counsel, or any witness, and who reasonably believes that the statement tends to adversely affect his or her reputation may—

(1) Request to appear personally before the Committee to testify in his or her own behalf; or

(2) File a sworn statement of facts relevant to the testimony or other evidence or statement of which he or she complained. Such request and such statement shall be submitted to the Committee for its consideration and action.

(i) Conduct of Witnesses and Other Attendees: The Presiding Officer may punish any breaches of order and decorum by censure and exclusion from the hearings. The Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(j) Adjudicator Hearing Procedures:

(1) Notice of hearings: A copy of the public announcement of an adjudicatory hearing, required by paragraph (e), shall be furnished together with a copy of these Rules to all witnesses at the time that they are subpoenaed or otherwise summoned to testify.

(2) Preparation for adjudicatory hearings:

(A) At least five working days prior to the commencement of an adjudicatory hearing the Committee shall provide the following information and documents to the respondent, if any:

(i) a list of proposed witnesses to be called at the hearing;

(ii) copies of all documents expected to be introduced as exhibits at the hearing; and

(iii) a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(B) At least two working days prior to the commencement of an adjudicatory hearing, the respondent, if any, shall provide the information and documents described in divisions (i), (ii) and (iii) of subparagraph (A) to the Committee.

(C) At the discretion of the Committee, the information and documents to be exchanged under this paragraph shall be subject to an appropriate agreement limiting access and disclosure.

(D) If a respondent refuses to provide the information and documents to the Committee (see (A) and (B) of this subparagraph), or if a respondent or other individual violates an agreement limiting access and disclosure, the Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(3) Swearing of witnesses: All witnesses who testify at adjudicatory hearings shall be sworn unless the Presiding Officer, for good cause, decides that witness does not have to be sworn.

(4) Right to counsel: Any witness at an adjudicatory hearing may be accompanied by counsel of his or her own choosing, who shall be permitted to advise the witness of his or her legal rights during the testimony.

(5) Right to cross-examine and call witnesses:

(A) In adjudicatory hearings, any respondent who is the subject of an investigation, and any other person who obtains the permission of the Committee, may personally or through counsel cross-examine witnesses called by the Committee and may call witnesses in his or her own behalf.

(B) A respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his or her behalf. An application shall be approved upon a concise showing by the respondent that the proposed testimony or evidence is relevant and appropriate, as determined by the Chairman and Vice Chairman.

(C) With respect to witnesses called by a respondent, or other individual given permission by the Committee, each such witness shall first be examined by the party who called the witness or by that party's counsel.

(D) At least one working day before a witness' scheduled appearance, a witness or a witness' counsel may submit to the Committee written questions proposed to be asked of that witness. If the Committee determines that it is necessary, such questions may be asked by any Member of the Committee, or by any Committee staff member if directed by a Committee Member. The witness or witness' counsel may also submit additional sworn testimony for the record within twenty-four hours after the last day that the witness has testified. The insertion of such testimony in that day's record is subject to the approval of the Chairman and Vice Chairman acting jointly within five days after the testimony is received.

(6) Admissibility of evidence:

(A) The object of the hearing shall be to ascertain the truth. Any evidence that may be relevant and probative shall be admissible unless privileged under the Federal Rules of Evidence. Rules of evidence shall not be applied strictly, but the Presiding Officer shall exclude irrelevant or unduly repetitious testimony. Objections going only to the weight that should be given evidence will not justify its exclusion.

(B) The Presiding Officer shall rule upon any question of the admissibility of testimony or other evidence presented to the

Committee. Such rulings shall be final unless reversed or modified by a majority vote of the Committee before the recess of that day's hearings.

(C) Notwithstanding paragraphs (A) and (B), in any matter before the committee involving allegations of sexual discrimination, including sexual harassment, or sexual misconduct, by a Member, officer, or employee within the jurisdiction of the Committee, the Committee shall be guided by the standards and procedures of Rule 412 of the Federal Rules of Evidence, except that the Committee may admit evidence subject to the provisions of this paragraph only upon a determination of a majority of the Members of the full Committee that the interests of justice require that such evidence be admitted.

(7) Supplementary hearing procedures: The Committee may adopt any additional special hearing procedures that it deems necessary or appropriate to a particular adjudicatory hearing. Copies of such supplementary procedures shall be furnished to witnesses and respondents, and shall be made available upon request to any Member of the public.

(k) Transcripts:

(1) An accurate stenographic or recorded transcript shall be made of all public and executive hearings. Any Member of the Committee, Committee staff Member, outside counsel retained by the Committee, or witness may examine a copy of the transcript retained by the Committee of his or her own remarks and may suggest to the official reporter any typographical or transcription errors. If the reporter declines to make the requested corrections, the Member, staff Member, outside counsel or witness may request a ruling by the Chairman and Vice Chairman, acting jointly. Any Member or witness shall return the transcript with suggested corrections to the Committee offices within five working days after receipt of the transcript, or as soon thereafter as is practicable. If the testimony was given in executive session, the Member or witness may only inspect the transcript at a location determined by the Chairman and Vice Chairman, acting jointly. Any questions arising with respect to the processing and correction of transcripts shall be decided by the Chairman and Vice Chairman, acting jointly.

(2) Except for the record of a hearing which is closed to the public, each transcript shall be printed as soon as is practicable after receipt of the corrected version. The Chairman and Vice Chairman, acting jointly, may order the transcript of a hearing to be printed without the corrections of a Member or witness if they determine that such Member or witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

(3) The Committee shall furnish each witness, at no cost, one transcript copy of that witness' testimony given at a public hearing. If the testimony was given in executive session, then a transcript copy shall be provided upon request, subject to appropriate conditions and restrictions prescribed by the Chairman and Vice Chairman. If any individual violates such conditions and restrictions, the Committee may recommend by majority vote that he or she be cited for contempt of Congress.

RULE 7: SUBPOENAS AND DEPOSITIONS

(a) Subpoenas:

(1) Authorization for Issuance: Subpoenas for the attendance and testimony of witnesses at depositions or hearings, and subpoenas for the production of documents and tangible things at depositions, hearings, or other times and places designated therein, may be authorized for issuance by either (A) a majority vote of the Committee, or (B) the Chairman and Vice Chairman, acting jointly, at any time before a preliminary inquiry, for the purpose of obtaining information to evaluate unsworn allegations or information, or at any time during a preliminary inquiry, initial review, investigation, or other proceeding.

(2) Signature and Service: All subpoenas shall be signed by the Chairman or the Vice Chairman and may be served by any person eighteen years of age or older, who is designated by the Chairman or Vice Chairman. Each subpoena shall be served with a copy of the Rules of the Committee and a brief statement of the purpose of the Committee's proceeding.

(3) Withdrawal of Subpoena: The Committee, by majority vote, may withdraw any subpoena authorized for issuance by it or authorized for issuance by the Chairman and Vice Chairman, acting jointly. The Chairman and Vice Chairman, acting jointly, may withdraw any subpoena authorized for issuance by them.

(b) Depositions:

(1) Persons Authorized To Take Depositions: Depositions may be taken by any Member of the Committee, designated by the Chairman and Vice Chairman, acting jointly, or by any other person designated by the Chairman and Vice Chairman, acting jointly, including outside counsel, Committee staff, other employees of the Senate, or government employees detailed to the Committee.

(2) Deposition Notices: Notices for the taking of depositions shall be authorized by the Committee, or the Chairman and Vice Chairman, acting jointly, and issued by the Chairman, Vice Chairman, or a Committee staff Member or outside counsel designated by the Chairman and Vice Chairman, acting jointly. Depositions may be taken at any time before a preliminary inquiry, for the purpose of obtaining information to evaluate unsworn allegations or information, or at any time during a preliminary inquiry, initial review, investigation, or other proceeding. Deposition notices shall specify a time and place for examination. Unless otherwise specified, the deposition shall be in private, and the testimony taken and documents produced shall be deemed for the purpose of these rules to have been received in a closed or executive session of the Committee. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear, or to testify, or to produce documents, unless the deposition notice was accompanied by a subpoena authorized for issuance by the Committee, or the Chairman and Vice Chairman, acting jointly.

(3) Counsel at Depositions: Witnesses may be accompanied at a deposition by counsel to advise them of their rights.

(4) Deposition Procedure: Witnesses at depositions shall be examined upon oath administered by an individual authorized by law to administer oaths, or administered by any Member of the Committee if one is present. Questions may be propounded by any person or persons who are authorized to take depositions for the Committee. If a witness objects to a question and refuses to testify, or refuses to produce a document, any Member of the Committee who is present may rule on the objection and, if the objection is overruled, direct the witness to answer the question or produce the document. If no Member of the Committee is present, the individual who has been designated by the Chairman and Vice Chairman, acting jointly, to take the deposition may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or Vice Chairman of the Committee, who may refer the matter to the Committee or rule on the objection. If the Chairman or Vice Chairman, or the Committee upon referral, overrules the objection, the Chairman, Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify or produce documents after having been directed to do so.

(5) Filing of Depositions: Deposition testimony shall be transcribed or electronically recorded. If the deposition is transcribed, the individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence and the transcriber shall certify that the transcript is a true record of the testimony. The transcript with these certifications shall be filed with the chief clerk of the Committee, and the witness shall be furnished with access to a copy at the Committee's offices for review. Upon inspecting the transcript, within a time limit set by the Chairman and Vice Chairman, acting jointly, a witness may request in writing changes in the transcript to correct errors in transcription. The witness may also bring to the attention of the Committee errors of fact in the witness's testimony by submitting a sworn statement about those facts with a request that it be attached to the transcript. The Chairman and Vice Chairman, acting jointly, may rule on the witness's request, and the changes or attachments allowed shall be certified by the Committee's chief clerk. If the witness fails to make any request under this paragraph within the time limit set, this fact shall be noted by the Committee's chief clerk. Any person authorized by the Committee may stipulate with the witness to changes in this procedure.

RULE 8: VIOLATIONS OF LAW; PERJURY; LEGISLATIVE RECOMMENDATIONS; AND APPLICABLE RULES AND STANDARDS OF CONDUCT

(a) Violations of Law: Whenever the Committee determines by majority vote that there is reason to believe that a violation of law may have occurred, it shall report such possible violation to the proper state and federal authorities.

(b) Perjury: Any person who knowingly and willfully swears falsely to a sworn complaint or any other sworn statement to the Committee does so under penalty of perjury. The Committee may refer any such case to the Attorney General for prosecution.

(c) Legislative Recommendations: The Committee shall recommend to the Senate by report or resolution such additional rules, regulations, or other legislative measures as it determines to be necessary or desirable to ensure proper standards of conduct by Members, officers, or employees of the Senate. The Committee may conduct such inquiries as it deems necessary to prepare such a report or resolution, including the holding of hearings in public or executive session and the use of subpoenas to compel the attendance of witnesses or the production of materials. The Committee may make legislative recommendations as a result of its findings in an initial review, investigation, or other proceeding.

(d) Applicable Rules and Standards of Conduct:

(1) No initial review or investigation shall be made of an alleged violation of any law, rule, regulation, or provision of the Senate Code of Official Conduct which was not in effect at the time the alleged violation occurred. No provision of the Senate Code of Official Conduct shall apply to, or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code.

(2) The Committee may conduct an initial review or investigation of an alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Committee.

RULE 9: PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED MATERIALS

(a) Procedures for Handling Committee Sensitive Materials:

(1) Committee Sensitive information or material is information or material in the possession of the Select Committee on Ethics which pertains to illegal or improper conduct by a present or former Member, officer, or employee of the Senate; to allegations or accusation of such conduct; to any resulting preliminary inquiry, initial review, or investigation by the Select Committee on Ethics into such allegations or conduct; to the investigative techniques and procedures of the Select Committee on Ethics; or to other information or material designated by the staff director, or outside counsel designated by the Chairman and Vice Chairman.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of Committee Sensitive information in the possession of the Committee or its staff. Procedures for protecting Committee Sensitive materials shall be in writing and shall be given to each Committee staff Member.

(b) Procedures for Handling Classified Materials:

(1) Classified information or material is information or material which is specifically designated as classified under the authority of Executive Order 11652 requiring protection of such information or material from unauthorized disclosure in order to prevent damage to the United States.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of classified information in the possession of the Committee or its staff. Procedures for handling such information shall be in writing and a copy of the procedures shall be given to each staff Member cleared for access to classified information.

(3) Each Member of the Committee shall have access to classified material in the Committee's possession. Only Committee staff Members with appropriate security clearances and a need-to-know, as approved by the Chairman and Vice Chairman, acting jointly, shall have access to classified information in the Committee's possession.

(c) Procedures for Handling Committee Sensitive and Classified Documents:

(1) Committee Sensitive and classified documents and materials shall be segregated in secure filing safes. Removal from the Committee offices of such documents or materials is prohibited except as necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, or as otherwise specifically approved by the staff director or by outside counsel designated by the Chairman and Vice Chairman.

(2) Each Member of the Committee shall have access to all materials in the Committee's possession. The staffs of Members shall not have access to Committee Sensitive or classified documents and materials without the specific approval in each instance of the Chairman, and Vice Chairman, acting jointly. Members may examine such materials in the Committee's offices. If necessary, requested materials may be taken by a Member of the Committee staff to the office of a Member of the Committee for his or her examination, but the Committee staff Member shall remain with the Committee Sensitive or classified documents or materials at all times except as specifically authorized by the Chairman or Vice Chairman.

(3) Any Member of the Senate who is not a Member of the Committee and who seeks access to any Committee Sensitive or classified documents or materials, other than documents or materials which are matters of public record, shall request access in writing. The Committee shall decide by majority vote whether to make documents or materials available. If access is granted, the Member shall not disclose the information except as authorized by the Committee.

(4) Whenever the Committee makes Committee Sensitive or classified documents or materials available to any Member of the Senate who is not a Member of the Committee, or to a staff person of a Committee Member in response to a specific request to the Chairman and Vice Chairman, a written record shall be made identifying the Member of the Senate requesting such documents or materials and describing what was made available and to whom.

(d) Non-Disclosure Policy and Agreement:

(1) Except as provided in the last sentence of this paragraph, no Member of the Select Committee on Ethics, its staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics shall release, divulge, publish, reveal by writing, word, conduct, or disclose in any way, in whole, or in part, or by way of summary, during tenure with the Select Committee on Ethics or anytime thereafter, any testimony given before the Select Committee on Ethics in executive session (including the name of any witness who appeared or was called to appear in executive session), any classified or Committee Sensitive information, document or material, received or generated by the Select Committee on Ethics or any classified or Committee Sensitive information which may come into the possession of such person during tenure with the Select Committee on Ethics or its staff. Such information, documents, or material may be released to an official of the executive branch properly cleared for access with a need-to-know, for any purpose or in connection with any proceeding, judicial or otherwise, as authorized by the Select Committee on Ethics, or in the event of termination of the Select Committee on Ethics, in such a manner as may be determined by its successor or by the Senate.

(2) No Member of the Select Committee on Ethics staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics, shall be granted access to classified or Committee Sensitive information or material in the possession of the Select Committee on Ethics unless and until such person agrees in writing, as a condition of employment, to the nondisclosure policy. The agreement shall become effective when signed by the Chairman and Vice Chairman on behalf of the Committee.

RULE 10: BROADCASTING AND NEWS COVERAGE OF COMMITTEE PROCEEDINGS

(a) Whenever any hearing or meeting of the Committee is open to the public, the Committee shall permit that hearing or meeting to be covered in whole or in part, by television broadcast, radio broadcast, still photography, or by any other methods of coverage, unless the Committee decides by majority vote that such coverage is not appropriate at a particular hearing or meeting.

(b) Any witness served with a subpoena by the Committee may request not to be photographed at any hearing or to give evidence or testimony while the broadcasting, reproduction, or coverage of that hearing, by radio, television, still photography, or other methods is occurring. At the request of any such witness who does not wish to be subjected to radio, television, still photography, or other methods of coverage, and subject to the approval of the Committee, all lenses shall be covered and all microphones used for coverage turned off.

(c) If coverage is permitted, it shall be in accordance with the following requirements:

(1) Photographers and reporters using mechanical recording, filming, or broadcasting apparatus shall position their equipment so as not to interfere with the seating, vision, and hearing of the Committee Members and staff, or with the orderly process of the meeting or hearing.

(2) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, the coverage shall be conducted and presented without commercial sponsorship.

(3) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(4) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(5) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and the coverage activities in an orderly and unobtrusive manner.

RULE 11: PROCEDURES FOR ADVISORY OPINIONS

(a) When Advisory Opinions Are Rendered:

(1) The Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(2) The Committee may issue an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(b) Form of Request: A request for an advisory opinion shall be directed in writing to the Chairman of the Committee and shall include a complete and accurate statement of the specific factual situation with respect to

which the request is made as well as the specific question or questions which the requestor wishes the Committee to address.

(c) Opportunity for Comment:

(1) The Committee will provide an opportunity for any interested party to comment on a request for an advisory opinion—

(A) which requires an interpretation on a significant question of first impression that will affect more than a few individuals; or

(B) when the Committee determines that comments from interested parties would be of assistance.

(2) Notice of any such request for an advisory opinion shall be published in the Congressional Record, with appropriate deletions to insure confidentiality, and interested parties will be asked to submit their comments in writing to the Committee within ten days.

(3) All relevant comments received on a timely basis will be considered.

(d) Issuance of an Advisory Opinion:

(1) The Committee staff shall prepare a proposed advisory opinion in draft form which will first be reviewed and approved by the Chairman and Vice Chairman, acting jointly, and will be presented to the Committee for final action. If (A) the Chairman and Vice Chairman cannot agree, or (B) either the Chairman or Vice Chairman requests that it be taken directly to the Committee, then the proposed advisory opinion shall be referred to the Committee for its decision.

(2) An advisory opinion shall be issued only by the affirmative recorded vote of a majority of the Members voting.

(3) Each advisory opinion issued by the Committee shall be promptly transmitted for publication in the Congressional Record after appropriate deletions are made to insure confidentiality. The Committee may at any time revise, withdraw, or elaborate on any advisory opinion.

(e) Reliance on Advisory Opinions:

(1) Any advisory opinion issued by the Committee under Senate Resolution 338, 88th Congress, as amended, and the rules may be relied upon by—

(A) Any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered if the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of Senate Resolution 338, 88th Congress, as amended, and of the rules, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

RULE 12: PROCEDURES FOR INTERPRETATIVE RULINGS

(a) Basis for Interpretative Rulings: Senate Resolution 338, 88th Congress, as amended, authorizes the Committee to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction. The Committee also may issue such rulings clarifying or explaining and rule or regulation of the Select Committee on Ethics.

(b) Request for Ruling: A request for such a ruling must be directed in writing to the Chairman or Vice Chairman of the Committee.

(c) Adoption of Ruling:

(1) The Chairman and Vice Chairman, acting jointly, shall issue a written interpretative ruling in response to any such request, unless—

(A) they cannot agree,

(B) it requires an interpretation of a significant question of first impression, or

(C) either requests that it be taken to the Committee, in which event the request shall be directed to the Committee for a ruling.

(2) A ruling on any request taken to the Committee under subparagraph (1) shall be adopted by a majority of the Members voting and the ruling shall then be issued by the Chairman and Vice Chairman.

(d) Publication of Rulings: The Committee will publish in the Congressional Record, after making appropriate deletions to ensure confidentiality, any interpretative rulings issued under this Rule which the Committee determines may be of assistance or guidance to other Members, officers or employees. The Committee may at any time revise, withdraw, or elaborate on interpretative rulings.

(e) Reliance on Rulings: Whenever an individual can demonstrate to the Committee's satisfaction that his or her conduct was in good faith reliance on an interpretative ruling issued in accordance with this Rule, the Committee will not recommend sanctions to the Senate as a result of such conduct.

(f) Rulings by Committee Staff: The Committee staff is not authorized to make rulings or give advice, orally or in writing, which binds the Committee in any way.

RULE 13: PROCEDURES FOR COMPLAINTS INVOLVING IMPROPER USE OF THE MAILING FRANK

(a) Authority To Receive Complaints: The Committee is directed by section 6(b) of Public Law 9309191 to receive and dispose of complaints that a violation of the use of the mailing frank has occurred or is about to occur by a Member or officer of the Senate or by a surviving spouse of a Member. All such complaints will be processed in accordance with the provisions of these Rules, except as provided in paragraph (b).

(b) Disposition of Complaints:

(1) The Committee may dispose of any such complaint by requiring restitution of the cost of the mailing if it finds that the franking violation was the result of a mistake.

(2) Any complaint disposed of by restitution that is made after the Committee has formally commenced an initial review or investigation, must be summarized, together with the disposition, in a notice promptly transmitted for publication in the Congressional Record.

(3) If a complaint is disposed of by restitution, the complainant, if any, shall be notified of the disposition in writing.

(c) Advisory Opinions and Interpretative Rulings: Requests for advisory opinions or interpretative rulings involving franking questions shall be processed in accordance with Rules 11 and 12.

RULE 14: PROCEDURES FOR WAIVERS

(a) Authority for Waivers: The Committee is authorized to grant a waiver under the following provisions of the Standing Rules of the Senate:

(1) Section 101(h) of the Ethics in Government Act of 1978, as amended (Rule XXXIV), relating to the filing of financial disclosure reports by individuals who are expected to perform or who have performed the duties of their offices or positions for less than one hundred and thirty days in a calendar year;

(2) Section 102(a)(2)(D) of the Ethics in Government Act, as amended (Rule XXXIV), relating to the reporting of gifts;

(3) Paragraph 1 of Rule XXXV relating to acceptance of gifts; or

(4) Paragraph 5 of Rule XLI relating to applicability of any of the provisions of the Code of Official Conduct to an employee of the Senate hired on a per diem basis.

(b) Requests for Waivers: A request for a waiver under paragraph (a) must be directed to the Chairman or Vice Chairman in writing and must specify the nature of the waiver being sought and explain in detail the facts alleged to justify a waiver. In the case of a request submitted by an employee, the views of his or her supervisor (as determined under paragraph 12 of Rule XXXVII of the Standing Rules of the Senate) should be included with the waiver request.

(c) Ruling: The Committee shall rule on a waiver request by recorded vote, with a majority of those voting affirming the decision.

(d) Availability of Waiver Determinations: A brief description of any waiver granted by the Committee, with appropriate deletions to ensure confidentiality, shall be made available for review upon request in the Committee office. Waivers granted by the Committee pursuant to the Ethics in Government Act of 1978, as amended, may only be granted pursuant to a publicly available request as required by the Act.

RULE 15: DEFINITION OF "OFFICER OR EMPLOYEE"

(a) As used in the applicable resolutions and in these rules and procedures, the term "officer or employee of the Senate" means:

(1) An elected officer of the Senate who is not a Member of the Senate;

(2) An employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) The Legislative Counsel of the Senate or any employee of his office;

(4) An Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) A Member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) An employee of the Vice President, if such employee's compensation is disbursed by the Secretary of the Senate;

(7) An employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate;

(8) An officer or employee of any department or agency of the Federal Government whose services are being utilized on a full-time and continuing basis by a Member, officer, employee, or committee of the Senate in accordance with Rule XLI(3) of the Standing Rules of the Senate; and

(9) Any other individual whose full-time services are utilized for more than ninety days in a calendar year by a Member, officer, employee, or committee of the Senate in the conduct of official duties in accordance with Rule XLI(4) of the Standing Rules of the Senate.

RULE 16: COMMITTEE STAFF

(a) Committee Policy:

(1) The staff is to be assembled and retained as a permanent, professional, nonpartisan staff.

(2) Each Member of the staff shall be professional and demonstrably qualified for the position for which he or she is hired.

(3) The staff as a whole and each Member of the staff shall perform all official duties in a nonpartisan manner.

(4) No Member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(5) No Member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the Committee without specific advance permission from the Chairman and Vice Chairman.

(6) No Member of the staff may make public, without Committee approval, any Committee Sensitive or classified information, documents, or other material obtained during the course of his or her employment with the Committee.

(b) Appointment of Staff:

(1) The appointment of all staff Members shall be approved by the Chairman and Vice Chairman, acting jointly.

(2) The Committee may determine by majority vote that it is necessary to retain staff Members, including a staff recommended by a special counsel, for the purpose of a particular initial review, investigation, or other proceeding. Such staff shall be retained only for the duration of that particular undertaking.

(3) The Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the Executive Branch of the Government) whenever the Committee determines that the retention of outside counsel if necessary or appropriate for any action regarding any complaint or allegation, initial review, investigation, or other proceeding, which in the determination of the Committee, is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee. The Committee shall retain and compensate outside counsel to conduct any investigation undertaken after an initial review of a sworn complaint, unless the Committee determines that the use of outside counsel is not appropriate in the particular case.

(c) Dismissal of Staff: A staff Member may not be removed for partisan, political reasons, or merely as a consequence of the rotation of the Committee Membership. The Chairman and Vice Chairman, acting jointly, shall approve the dismissal of any staff Member.

(d) Staff Works for Committee as Whole: All staff employed by the committee or housed in Committee offices shall work for the Committee as a whole, under the general direction of the Chairman and Vice Chairman, and the immediate direction of the staff director or outside counsel.

(e) Notice of Summons To Testify: Each Member of the Committee staff shall immediately notify the Committee in the event that he or she is called upon by a properly constituted authority to testify or provide confidential information obtained as a result of and during his or her employment with the Committee.

RULE 17: CHANGES IN SUPPLEMENTARY PROCEDURAL RULES

(a) Adoption of Changes in Supplementary Rules: The Rules of the Committee, other than rules established by statute, or by the Standing Rules and Standing Orders of the Senate, may be modified, amended, or suspended at any time, pursuant to a majority vote of the entire Membership taken at a meeting called with due notice when prior written notice of the proposed change has been provided each Member of the Committee.

(b) Publication: Any amendments adopted to the Rules of this Committee shall be published in the Congressional Record in accordance with Rule XXVI(2) of the Standing Rules of the Senate.•

ORDERS FOR TUESDAY, FEBRUARY 25, 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 a.m. on Tuesday, February 25, I further ask unanimous consent 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. Mr. President, I ask unanimous consent that the Senate recess from the hours of 12:30 to 2:10 p.m. for the weekly policy conferences to meet.

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

PROGRAM

Mr. LOTT. So, now, for the information of all Senators, tomorrow morning the Senate will be resuming debate on the pending Reid amendment to the balanced budget resolution. At 2:10 p.m. tomorrow the Senate will begin 5 minutes of closing remarks followed by a rollcall vote on adoption of House Joint Resolution 36, the resolution regarding U.N. population funding.

Following that vote, the Senate then will resume debate on the Reid amendment, with a vote occurring on or in relation to the amendment at 6 p.m. on Tuesday afternoon.

As a reminder, the Senate will debate Senator Feinstein's amendment on Wednesday morning, from the hours of 9 a.m. to 11 a.m. Following the vote at 11 on or in relation to the Feinstein amendment, Senator TORRICELLI will be recognized to offer an amendment relating to capital budgeting. That amendment is limited to 3 hours for debate.

I thank my colleagues for their cooperation in allowing us to schedule these votes, and I hope we can continue to make progress on this important matter. It is my understanding that just prior to our weekly party conferences, the Democratic leader and I will be able to consult, and hopefully he will be in a position to enter into an agreement outlining the remaining amendments in order to the constitutional amendment. Once that agreement is reached, then we will be in a better position to notify our Members with respect to votes during the remainder of this week.

It is my intention at this time to have votes on Friday on amendments, if necessary, unless we can get an agreement to the contrary. We should know about this tomorrow, and we will let the Members know for sure about votes on Friday and/or Monday.

We want to have, and we have had, a full and fair debate on this very important constitutional amendment, and there have been amendments to that language that have been fully discussed. We continue to reach agreements on those amendments, including a Feinstein amendment, the Reid amendment, and for the Torricelli amendment. But I do think there is a point, at some time, when we need to come to closure on the amendments that are in order, have those debated and voted on if necessary, and then get to final passage. I hope we can get that worked out in the next couple of days.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. LOTT. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:39 p.m, adjourned until Tuesday, February 25, 1997, at 9 a.m.