

SENATE—Tuesday, February 25, 1997

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Almighty God, You have told us that to whom much is given, much shall be required. Today we thank You that You also have shown us that from whom much is required, much will be given. You never ask us to do more than You will provide the strength to accomplish. That's really good news, Father. Today is filled with problems to be solved and issues to be resolved. It is awesome to realize that You seek to do Your work through us. Help us to remember that this is Your Nation, and that we are here to serve You. Grant the Senators a special measure of Your wisdom for the challenges of this day. May they experience Your presence and receive Your guidance. Invade their minds with reignited conviction that they are chosen and called by You and fill their hearts with renewed courage to lead with vision and boldness. This is Your day Lord; show the way. Amen.

Mr. HATCH addressed the Chair.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able chairman of the Judiciary Committee is recognized.

SCHEDULE

Mr. HATCH. Mr. President, on behalf of the majority leader, I announce today that the Senate will resume consideration of Senator REID's amendment to Senate Joint Resolution 1, the balanced budget amendment. Debate is expected throughout the day on this amendment, with the vote occurring on or in relation to the Reid amendment at 6 p.m. today.

By previous agreement, at 2:10 p.m. today, the Senate will begin 5 minutes of closing remarks, followed by a roll-call vote on adoption of House Joint Resolution 36, the resolution regarding U.N. population control.

On Wednesday, the 26th, the Senate will debate Senator FEINSTEIN's amendment from 9 a.m. to 11 a.m. Following the vote at 11 a.m. on or in relation to the Feinstein amendment, Senator TORRICELLI will be recognized to offer an amendment relating to capital budgeting. Senator TORRICELLI's amendment is limited to 3 hours of debate.

I also remind Senators that on Thursday, February 27, at 10 a.m.,

there will be a joint meeting of Congress for an address by His Excellency Eduardo Frei, President of Chile. Members are asked to meet in the Senate Chamber at 9:40 a.m. to proceed as a group to the joint meeting.

I thank my colleagues for their attention.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDENT pro tempore. The clerk will report the unfinished business.

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:

Reid amendment No. 8, 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.

AMENDMENT NO. 8

The PRESIDING OFFICER (Mr. HUTCHINSON). The pending question is amendment No. 8, offered by the Senator from Nevada [Mr. REID]. The time between now and 12:30 is equally divided and controlled in the usual form. Who yields time?

Mr. REID. Mr. President, unless my friend from Utah feels differently, I ask unanimous consent that we initiate a quorum call and the time be charged equally against the two managers.

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. THOMAS. 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. THOMAS. I ask unanimous consent I be allowed to speak for a few minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. REID. If I could interrupt my friend from Wyoming, I ask that the time of my friend from Wyoming be charged against the manager of the underlying amendment.

The PRESIDING OFFICER. That is the regular order.

The Senator is recognized.

Mr. THOMAS. I shall be brief.

Continuing with this important discussion on the balanced budget amendment, I specifically, as was the case

with most of us, spent last week in our home districts. I spent last week in Wyoming at town meetings in places like Sheridan, Buffalo, and Casper, to talk about what people think about what is happening here.

Of course, the balanced budget was one of the prime issues there, and continues to be. I think people are increasingly concerned about our lack of financial fiscal responsibility, of having 28 years without balancing the budget, of continuing to have a government that grows in size, continuing to spend more than we take in. I was persuaded, certainly from those who came to my town meetings, from those I talked to who say, "Look, you need to get this job done." They say, "You all collectively in Washington have been saying every year, yes, we will balance the budget, I want to balance the budget. You have not done it. You have not done it." Now they continue to say, "Well, we do not need a constitutional amendment. We just need to balance the budget." We have not done it. Even those who have been here for a very long time and have gone through this whole thing have not balanced the budget.

The idea you do not need to do something rings a bit hollow to people at home. The Wyoming Legislature is currently meeting. Wyoming has a constitutional requirement that the legislature not spend more than it takes in. It works very well. We will have, I think, certainly a series of amendments, all of which are designed to simply detract from what we are seeking to do, all of which are designed to give an option and an opportunity to not vote for a constitutional amendment, to say, "Well, I am for it, but—" We have been through that before. We will see that again today. "I am for it, but . . ." ". . . but we do not want Social Security included."

Now, we like the President's budget, we are moving toward it. Is Social Security in there? You bet it is. You bet it is. And it would not balance without. It does not balance as it is. So we are moving toward continuing to have an unbalanced budget in this President's proposal.

I feel even renewed, Mr. President, in my quest for a balanced budget amendment, having been home, having talked to people who say, "We do not want more and more spending. We do not want more and more of a central government." Really, when it comes down to it, that is the decision. That is really what it is. Those who want to see Government continue to grow larger, obviously are not for a balanced budget

amendment. Those of us who think that the real message over the last number of years from home has been, look, we want less central Government, we want less spending, we want less taxes, those kinds of activities that can, should be moved to the States, and that is really the core issue. That is really what it is all about.

I am hopeful we will continue this debate this week and have a chance to finally vote, have a chance to pass a constitutional amendment, have a chance to have the discipline that is required to do the things that everybody says they want to do and have it done.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. REID. Would my friend withhold his call for a quorum?

Mr. THOMAS. Sure.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the record is quite clear. The issue on the balanced budget amendment is quite narrow. The issue is whether or not we should balance the budget using the Social Security surplus.

The arguments always are, "Well, we have been doing it in the past." That is my whole premise. Why should we continue to do it in the future and enshrine it in the Constitution? I say no. I say if we are going to balance the budget, we should do it the right way, the hard way, the honest way, and not include in the calculations to arrive at a balanced budget the Social Security surpluses.

We have a number of amendments, and just speaking for this Senator, I have not supported any of the other amendments to the underlying amendment. I want my focus to be very clear. Even though I think when statements are made, as was made by my friend from Wyoming, that my State balances its budget, the fact is they really do not. The fact is that States have their capital expenditures off budget, through their bonding process. The State of Nevada does this, as do the vast majority of the other States. That is how they balance their budget. They simply exclude the costs of building construction and other long-term capital expenditures. Even though there will be an attempt to amend the underlying matter now before this body with a capital expenditure budget, even though I think that makes some sense, I will not support that. My emphasis, my concerns are about the permanent misuse of the Social Security trust fund if my amendment is defeated. I have made that very clear.

As I spoke yesterday, Social Security is a program we have had for 60-plus years. It was a program for dealing with old age, principally. It was not a giveaway. It was not a handout. It is a program that is given to people when

they reach age 62 or 65, whatever eligibility might be for that particular person. It is done without any means testing. Why? Because people have paid into a Social Security trust fund for purposes of having those moneys set aside when they get old. An employer pays in, an employee pays in. It is now about 13 percent of every dollar they earn that is paid into the trust fund for their future years.

As I indicated, trust funds, whether handled by an insurance fiduciary or a lawyer, must be treated very carefully. There are definitions in any dictionary about what a trust fund is. It is "assured reliance on the character, ability, strength or truth of someone or something; one in which confidence is placed; reliance on future payment for property held by one for the benefit of another; something committed or entrusted for one to be used or cared for in the interest of another." This is how Webster defines it. That being the case, Mr. President, it seems to me it is unfair that we use Social Security trust fund moneys for purposes other than for which they were collected.

It is a trust. It is an agreement between the Federal Government of the United States and its workers. We hold these moneys in trust in the interest of the American people. They should not be used for some other purpose. They should not be used for foreign aid. They should not be used for any other purpose. They should be used only for the old-age recipients. I believe Social Security is a binding contract between the U.S. Government and the American people. We should not violate that.

The fact that we have been using those moneys in the past for other purposes does not mean we should continue to do it. I think we should balance the budget, but we should do it in the right way, the fair way, the honest way, by excluding the Social Security trust fund moneys.

In 1983, a commission headed by Alan Greenspan advised raising payroll taxes, with the end of achieving long-term actuarial balance, and hence to ensure that we are prepared for the retirement of the baby boomers. Congress voted to raise the payroll contribution made by workers because these funds are not ordinary taxes but are rather unique moneys contributed to the trust fund that deserve our special consideration and protection.

In 1990, the Senate, understanding the need to protect these Social Security funds, voted 98-2 to pull it out of the unified budget, showing our interest in protecting Social Security trust funds from misuse. The present chairman of the Budget Committee, the senior Senator from New Mexico, said at that time that he reluctantly voted for this amendment, and his reluctance was that it wasn't strong enough. He felt that these moneys should be set aside and not used to offset the deficit.

I appeal to everyone to review the statement made by a person that I believe understands money about as well as anybody in this body. The underlying balanced budget amendment would effectively overturn the 1990 decision to place Social Security off budget and would undermine what then the senior Senator from New Mexico said.

Last year, this body went on record again with a huge vote, pledging we would not raise or cut Social Security in order to balance the budget. Did that vote mean anything? It didn't mean much, because we are in the process now of using surpluses this year to again balance the budget. These votes, the one in 1990 and the one last year, demonstrate the unique position Social Security holds, as well as our commitment to the American people to protect this trust fund that we have set up. It is our obligation to do everything in our power to protect the Social Security trust fund.

It is no different than when any attorney in the United States takes a client's money and puts it into a fund. They cannot use that money for any purpose other than for the client. We can't pay personal expenses. To do so would cause the attorney to lose his or her license. The balanced budget amendment, without an express exemption, places Social Security in serious danger.

So, Mr. President, I believe that we need to step back and understand what a simple message this is. My amendment would simply disallow Social Security trust fund moneys from being used to offset the deficit. That seems fair. If we want to balance the budget, let's do it the right way. The easy way is to use the Social Security moneys. People are running around pounding their chests about what strong people they are for taking Social Security money to balance the budget. That is the easy way. If you really want to balance the budget in 2002, have a real, honest balanced budget, do it the hard way, not the easy way, and take—this year, \$80 billion—that money to mask the deficit. People ask, what would we do? We would have to either cut expenses or raise taxes. That is the only way it can be done—not to circumvent what I think is the clear intent of the Social Security law, that we should not use Social Security surpluses to balance the budget.

So, in short, Mr. President, I think we should pass a balanced budget that isn't a gimmick. It should be a straight on, tough, hard procedure. We should balance the budget without using these huge surpluses in Social Security. We have the President of the United States, among others, including the Congressional Research Service and the Center for Budget and Policy Review, who say that if this underlying amendment passes, the courts will be

deciding what should be cut and whether Social Security gets paid.

So the constitutionally permitted raiding of the trust fund would be devastating to current and future beneficiaries and would undermine confidence in this Nation's most successful Government program. I believe Social Security must be viewed as one leg of a three-legged stool, Mr. President. You should have, in addition to Social Security, private pensions and savings. However, 50 percent of all Americans do not have pension protection. Hence, they rely on Social Security checks as the mainstay of their income in their later years. Letters come in to me daily from seniors in Nevada saying that, without Social Security checks, they would be destitute. They plead with me—and I am sure with others—to protect Social Security. Current polls have shown that young people are concerned about Social Security, and well they should be when people are trying to use their moneys to mask the deficit.

A nationwide poll showed that almost 75 percent of the American public do not want a balanced budget if Social Security surpluses are used to balance the budget. Misuse of Social Security trust funds moneys must stop. If we are going to balance the budget, let's do it the right way. Let's protect Social Security trust funds, as well as the trust of the American worker. In the language of the honorable senior Senator from New Mexico on June 10, 1990, "We need a firewall around those trust funds to make sure that the reserves are there to pay Social Security benefits in the next century."

It could not be said better, because this amendment I have offered does provide that firewall that my friend, the senior Senator from New Mexico, the present chairman of the Budget Committee, said was necessary.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. THOMAS] is recognized.

Mr. THOMAS. Mr. President, I think it is useful for us to talk a little bit about the relatively little debate that goes on here. I think it is appropriate to talk a little about that. I know my friend from Nevada, whom I respect greatly, is sincere in his view. But I don't agree with what he has had to say. That is what this is all about. So I think we ought to talk about a combined budget, and talk a little bit about off-budget kinds of things. Again, my experience comes from Wyoming. The Wyoming Legislature has control over about 30 percent of the budget. All the rest of it is earmarked off to other things. I don't think that is a good idea or a good way to legislate.

Let me, first of all, say that, naturally, if you want to sell a point, you try and get some kind of an emotional thing to say like "save Social Security."

There is not a soul in this place that doesn't want to protect Social Security. We are not talking about protecting Social Security. We are talking about the best way to protect Social Security. Two years from now, when the Social Security revenues have changed substantially, you are going to have it more protected by having it as part of the budget than you will by having it sit off by itself.

Let me talk about this idea of spending it somewhere else. I presume my friend from Nevada would want to invest those surplus dollars so they would have some return to the Social Security fund. They are invested. They are invested in Government securities. They are invested where the law requires they be invested. It is not a matter of spending Social Security funds for other things. The fact is, when we have a deficit in the operating fund of the Government, we have to sell securities. They can sell them to Social Security, to Japan, to me, or to you. Nevertheless, we are using borrowed money. It is borrowed from the Social Security fund. This idea that you are spending it on something else is absolutely false. They are invested. They are protected.

Now, he wants to balance the budget without it. All that takes is \$700 billion of new money. Impossible. You can't do that. You just can't do that. We ought to have a combined budget, and will we be responsible for Social Security? Of course. Those funds get paid in for that purpose. They will be repaid. They have to be repaid to somebody.

So this is a difference of view, and I understand that. But the idea that we take this off budget and set it aside and pass the balanced budget amendment is, of course, just not the case. The courts will decide. Again, we have lots and lots of States that have a balanced budget amendment. Do the courts decide? No, of course not. If the courts are going to come into play, they say to the legislative body, "You have overspent, and you have to find a way to reduce it." And there is nothing particularly wrong with that.

So, Mr. President, I just want to say again this sort of scare tactic that somehow if you are included in there, you are going to forget having it, not think it is important to have Social Security protected, is a fallacy, simply a fallacy. And I just think that we ought to challenge those kinds of comments. It is a little like what happened last year in the election, that the Republicans were going to do away with Medicare. Well, that is not true. The fact is if you do not make some changes in these programs, they will not exist. Just to say leave your hands off of it, leave it alone, is sure death for these kinds of programs.

So we have a dilemma, and we solve it. We have talked about it for a very long time. It is time we move forward

and make some decisions that will put us in a financially strong position, that will make us financially responsible and will include in a combined budget all those things that are there.

I guess we ought to take the highway trust fund off; we ought to take the airport trust fund off; we ought to take off everything that has a designation.

No, we are not going to do that. We are going to use the emotional issue of Social Security to seek to kill an amendment to the Constitution which says the Congress ought to exercise the kind of responsibility that it ought to exercise anyway and has not.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. My only statement to my friend from Wyoming—I am happy to see my western representative friend in the Chamber—is if we have a unified budget, why did we vote on more than one occasion to take it off budget? Social Security is not part of the unified budget. And because we have violated that, what we have done here on the Senate floor and in the House does not make it right. I believe the highway trust fund should be taken off budget. I have offered legislation on this floor—it is pending right now—saying we ought to spend money in the highway trust fund.

The reason we are talking about the Social Security trust fund is just like Willie Sutton; when he was asked why he robbed banks, he said, "That's where the money is." Social Security is where the bucks are. There is very little money in the highway trust fund on a comparable basis to Social Security. So that is why we are protecting Social Security.

Emotional? Yes, it is emotional. It is emotional because people like my friend, Helen Collins, from Nevada said:

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.

The underlined word, Mr. President, is "independence."

So there are people who do consider Social Security an emotional issue because it is emotional.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. 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. REID. I yield such time as may be consumed to my friend, the Senator from North Dakota.

Mr. DORGAN. Mr. President, I would like to begin by inquiring of the Senator from Nevada, Mr. REID, about his perfecting amendment. My understanding of the perfecting amendment as opposed to a substitute here—this is a perfecting amendment—is that he would amend the constitutional amendment to balance the budget in a way that prevents the counting of Social Security receipts and expenditures in that constitutional amendment to balance the budget. Is that correct?

Mr. REID. That is absolutely true. It is this Senator's feeling, as well as the sponsors, of which my friend from North Dakota is one, that it is unfair to balance the budget the easy way, and that is to use these huge Social Security surpluses that we have had in the past and that we will have in the near future to offset the deficit. It is not fair.

Mr. DORGAN. I ask the Senator from Nevada one additional question. Why Social Security? I suppose some would say, well, there other areas that ought to be excluded. The Social Security area is one of the largest areas of public spending and has had accrued surpluses now available, needed to be available for meeting the time when the baby boom generation will retire. So are there other programs like it? Or is this the major issue that will have a distorted impact if this constitutional amendment as currently worded would be enacted by Congress?

Mr. REID. While my friend was coming to the floor, I made an analogy. Willie Sutton, probably the most famous bank robber of all time, after he was apprehended and in jail, was interviewed, and they said—I do not know if they called him "Willie" or "Mr. Sutton," but they said, "Why did you rob banks?" He was very succinct and to the point. "Because that's where the money was."

And that is why they are doing what they are doing here, I say to my friend. They are going after Social Security because that is where the money is. There are huge surpluses in the Social Security trust fund. There are other trust funds but they are dribbles and drabs compared with the \$80 billion this year alone. So they are going after this money because that is where it is.

Mr. DORGAN. Mr. President, I appreciate the answer the Senator from Nevada has provided. He and I have worked on this issue for some long while, and I want to try to frame this a little differently.

This debate is not about whether the budget is balanced. This debate is about whether the Constitution is altered. This is a question of shall we change the Constitution of the United States? I am prepared to change the Constitution of the United States under certain conditions.

We have had a lot of goofy proposals over time in this country to change the Constitution. We have had proposals in which there would be a President from the North followed by a President from the South. That was one proposal. Let us make sure that the Presidency goes from the northern part of the country to the southern part of the country on a rotating basis. That is one. Sound a little strange today? Yes, I think so. There have been thousands of proposals to amend the Constitution.

We have a bunch of folks around here who think that somehow they are better than Madison, Mason, Franklin, George Washington, and, yes, even Thomas Jefferson, although Jefferson was not in Philadelphia at the writing of the Constitution. He was in Europe at the time but contributed mightily to the Bill of Rights, and especially the first amendment. But we have folks who think the Constitution is a rough draft and that they ought to get a pencil and eraser and every day make little changes in the Constitution.

In the last session of Congress in 1 month we had three proposals which came driving through here to change the Constitution of the United States by in some cases or in most cases people who call themselves conservatives. It is strange to me that those who call themselves conservatives would be so quick to alter the Constitution of the United States but nonetheless there are plenty of proposals to do so. This is one.

Is there merit in altering the Constitution to require a balanced budget? I think so. I think the demonstration of the lack of fiscal discipline is sufficient over the last especially decade and a half that there is merit in doing so. If there is merit in doing so, why should we not support any proposals that come to the floor of the Senate to change the Constitution? The answer is because if we are going to alter the Constitution let's do it in the right way. Let's solve problems—not create problems.

This constitutional amendment to balance the budget is enormously flawed especially in one area as described by the Senator from Nevada, and that is the area of Social Security. One of the largest programs in the Federal Government is Social Security. It is not contributing one penny to the Federal deficit. In fact, this year it will have \$70 to \$80 billion more collected in the program than is necessary to be spent. Why? Because one of the few sober things which was done in Washington in the 1980's, in my judgment, was the creation of a Social Security commission which created recommendations which the Congress enacted which resulted in the accrual of substantial savings year by year to be used when the baby boomers retire after the turn of the century.

If this constitutional amendment is enacted by Congress and ratified by the

States, what will the impact be of that on the Social Security savings that we now have that are necessary to meet the needs of the baby boomers after the turn of the century? The impact will be that they will be used as offsets against other revenues, and you will not have the savings. And in any event, the Congressional Research Service says that after the turn of the century if you have the savings you couldn't use them unless you raised other taxes, or cut other spending in a commensurate amount.

The noise on the floor of the Senate is interesting. We have folks who rush to the floor to hold up this piece of paper, or that piece of paper. On the floor of the Senate, because we have a doctrine of free speech and unlimited speech, and recognition here that when someone is recognized, even the newest Member, they can be recognized and stand and hold the floor until they are mentally and physically exhausted. No one can take it from them. The Senate has worked that way since its inception for a couple of hundred years. It is a wonderful institution but allows anybody to come and say anything—anything on the floor of the Senate. You can hold up this piece of paper and say, "I have in my hand a purple piece of paper. Notice this green piece of paper. Notice this 8,000-page document." It doesn't matter. You can say whatever you like. And that is part of the problem that we face with a stack of books sitting on a desk over here being used to demonstrate budgets that have been out of balance.

People say, "Well, everyone else has to balance their budgets. So should the Government." The Government should balance its budget. But it is not true that everybody else balances their budgets. We have \$21 trillion in debt in this country. We have nearly as much corporate debt as we have Federal Government debt. We have a substantial amount of consumer debt. We have a substantial amount, and it is growing at an alarming rate with credit card debt. We have debt all around this country. And it is a problem. It is a problem with the Federal Government, and it is a problem for the entire country.

We ought to have, in my judgment, a different kind of budget in our country. We certainly ought to have a capital budget. But I have not hinged my vote on a constitutional amendment to balance the budget on that point. But it is interesting. Most of the State Governors who come here pull out their suspenders and trumpet to anyone who will listen within a reasonable distance that they have to balance their constitutional budgets. They have a constitutional amendment to balance their budgets, and their States have a constitutional amendment requiring that they balance their budget. Those States are worried about their credit

ratings. Why? Because they are borrowing more? Why, if they are balancing their budgets? Because they have capital budgets. And they amortize over a longer period of time the amount of money they are spending on roads and other things instead of as in the Federal Government expensing it in the very year in which you do anything. If you build an aircraft carrier that is going to last 30 years, expense it all in 1 year. Roads, the same way.

So we ought to have a capital budget. But I have not leveraged my support for a constitutional amendment on that basis.

The question, however, today is: Shall we put in the Constitution this proposal, or shall we put in the Constitution a proposal that is modified in this case by the suggestion of the Senator from Nevada, which I support? And, if a constitutional amendment is modified with that provision, I intend to vote for and support the constitutional amendment. If it is not, I will not vote for it, and will not support it. I will offer a substitute following this vote, if this vote is defeated. I will offer a substitute constitutional amendment to balance the budget that is identical to the one on the floor that includes the provision offered by the Senator from Nevada as a substitute constitutional amendment to balance the budget. I will vote for that. If that passes—and I would say to those on the other side of the aisle that support that, they would have sufficient votes on this side of the aisle to perhaps pass it with 75 votes—then we would be done with this question. Are we going to alter the Constitution of the United States? Then we would be on to something that is important. I am not suggesting altering the Constitution isn't important. I am saying that the issue here is balancing the budget. And you could alter the Constitution at 10 minutes to 10 in the morning. Two minutes from now you can alter the Constitution to require a balanced budget, and at 10 o'clock—2 minutes from now—you will not have made 1 penny of difference in balancing the budget. The only way we will balance the budget is if men and women in the Senate on a budget document that describes the specific spending and taxing issues are willing to cast hard votes to do that.

I found it interesting that the people who stand the highest and seem to speak the loudest on this issue about altering the Constitution were not around on the floor of the Senate in 1993 except to predict that if we pass the Deficit Reduction Act of 1993—something I voted for—if we pass that we would throw the country into a recession; that, if we pass that, there would be cataclysmic results in impacts on the country, and the country will be going down the wrong road.

So a group of us by one vote in 1993 passed a bill called the Deficit Reduc-

tion Act, and the deficit has been reduced by 60 percent; 60 percent. Was it a smart thing to do to vote for that? No, not at all. Was it a smart political thing to do? No, not at all. The smart and the easy political thing to do was to go out that door and say to anybody who would listen about how they are doing dumb things in there. But they are actually casting tough votes to reduce the budget deficit. If enough of us did that, it would pass by one vote.

That is dealing with the budget deficit. This is altering the Constitution. And after you alter the Constitution, someone here still has to decide how we are going to spend the money, where we are going to cut spending, how are we going to raise the revenue, and how we balance the budget. And that is the tough part. The easy part is braying, trumpeting, shouting, and doing all the things that make a lot of noise that doesn't do anything about reducing the budget deficit. The tough thing is the quiet negotiations and the quiet agreements that are necessary to agree on budget cuts, spending cuts, and revenue needs to balance the Federal budget.

We have had a number of people here on the floor of the Senate who say that the Social Security issue that has been raised is specious; it is an irrelevant issue. Those who ought to be concerned about the Social Security trust fund and the Social Security fund itself would be better off supporting a balanced budget because the only way to really guarantee Social Security benefits will be to balance the budget. Let me respond to that for just a moment.

If we pass this constitutional amendment to balance the budget as it is currently written the savings that are now accrued in the Social Security trust fund to be available after the turn of the century will not be able to be used unless somebody comes along and raises taxes, or cuts other spending in order to use them. And I do not understand when folks say, "Well, the best way to assure the long-term health of the Social Security system is to pass this amendment." I do not understand that in passing this amendment we are creating a circumstance where it will prevent the very use of the Social Security funds we are now collecting to be used after the turn of the century when it is needed. I mean, that just stands logic on its head. I guess, again, in a debate forum like this, when you are able to say whatever you want to say at any time about anything, you can say that. But I am wondering how many people are willing to believe that. If you tell taxpayers we are going to take money out of your paychecks, we are going to put it in a trust fund, and we promise you we will save it and use it for Social Security, but then use it for something else—I wonder how many people out there in the country think that is an honest way to behave.

I would like—and I am still waiting, incidentally—I would like one Member of the U.S. Senate, just one, to stand up, and maybe this week we can find one who will, stand up and say this: "I support telling those who are going to work and working every day that we want to take your money from your paycheck, we want to have a little box there on your paycheck that says we have taken \$1,000 out of your paycheck and we have called it taxing for Social Security, and we promise you we are going to put it in a trust fund, and then we are going to take the trust fund and move it over here and use that as other revenue so we can now say we have balanced the budget." I want one Member of the Senate to stand up and tell me that is a proposal he or she makes to their constituents. There is not one Member of the Senate, I think, that would vote for that, yet that is exactly what we have. It is exactly what we have in this country in our fiscal policy.

And this proposal wants to enshrine it in the Constitution of the United States. This proposal wants to enshrine it forever in the Constitution of the United States, and it makes no sense at all. As an affirmative proposition to misuse these trust funds makes no sense at all. I do not know of anybody who will say, "That is my position. Let me go ahead and push this. That is what I believe in." Yet, that is exactly what will be written in the Constitution of the United States.

This is the Constitution of the United States, in the rules and the manual of the U.S. Senate. That has the Constitution in it. The Constitution is actually not a very lengthy document, as most folks know. The 18th amendment to the Constitution was passed:

After one year from the ratification of this article the manufacture, sale or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territories subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

That is prohibition. The 18th amendment to the Constitution, prohibition. Just to demonstrate that in this country we have a right to make a mistake, the 21st amendment, three amendments later, says the following:

The 18th article of amendment to the Constitution of the United States is hereby repealed.

It is a wonderful thing about democracy, we have a right to be wrong. We have a right to make mistakes. We can even do it in the Constitution. But we ought to be enormously careful about what we do with the Constitution because it is very hard to correct. We corrected the 18th by passing the 21st amendment to the Constitution. Let us not create a circumstance where we amend the Constitution and are required to correct it again. That is not,

in my judgment, the sort of thing we ought to do with the Constitution of the United States.

Let me emphasize this one more time. The Senator from South Carolina has now come to the floor, Senator HOLLINGS, who has been involved in this discussion for some while on Social Security. Those who come to this floor to say this is a specious argument were not in the room in 1983 when we passed the Social Security Reform Act. I was part of the originating committee that did it, the Ways and Means Committee of the U.S. House of Representatives. I was part of those, that group of people who originally debated this in the Ways and Means Committee in the House of Representatives. And the day it was marked up, I was the one person in the committee who offered the amendment. That is 14 years ago. I offered an amendment, on the very day this was considered, to say if you do not take this money, this Social Security money that we are going to accrue to be used after the turn of the century, and set it aside so it is not part of a budget that somebody else can use, if you do not do it, it is going to be misused. I was defeated that day with the amendment I offered.

So, when people write to the Washington Post, as someone did last week, or people come to the floor of the Senate and pop up here and talk about what they know and what they do not know, I was part of the group in 1983 that decided to create a surplus in Social Security to be used when the baby boomers retire and they need it. This constitutional amendment will enshrine in the Constitution the practice of misusing that Social Security trust fund, and there is no question about it.

As I said, people can come and protest and hold up purple sheets or green sheets all day long and it will not alter the facts. If we are going to amend this Constitution, and I am willing to do that, if we are deciding to say there is merit in requiring a balanced budget, and I think there is, then we ought to do it right, not do it wrong. We ought to do it even if it is hard to do. We ought to do it the right way, rather than to do it the easy way and misuse \$1 trillion in 10 years of Social Security trust funds. That is what this debate is about. That is what the perfecting amendment by the Senator from Nevada is about.

I would say to the majority side, if you accept this perfecting amendment, you will pass this with 75 votes. You want a balanced budget amendment to the Constitution? You will get it. Accept this perfecting amendment and you will have it. If you do not get it, it is your fault because you have decided that you want to do something that, in my judgment, would not be allowed anywhere in the private sector. But you want to get away with it in the public sector.

The Senator from North Dakota, Senator CONRAD, has said before—and I will say it before he says it again this morning—if you tried this in the private sector as an employer, and say to the folks in your business, “You know I have been losing money, so what I decided to do, even though I have been losing money in my business, I will take your pension funds and bring them into the business, claim I have not lost money, and use your pension funds to do it,” you would be on your way to 2 years in a minimum security prison somewhere in this country, because it is against the law to do that. You cannot do that.

That is exactly the budget practice of the Government of the United States. It is wrong, and it ought to be stopped. The last thing that ought to happen is that we enshrine it in the Constitution of the United States.

If you accept this proposal, this perfecting amendment by the Senator from Nevada, then you will pass this amendment; don't, and you may not. But if you don't, the failure of passing the constitutional amendment is on the shoulders of those who failed to perfect the amendment in a way that means something to the American people.

One final point, and I will take 30 seconds. The demonstration of the naked truth of the bankruptcy of this proposed use of the Social Security trust funds is this. When the majority party has claimed to have balanced its budget, the Federal debt will have to be increased by \$130 billion the very year in which they have claimed to balance the budget. Ask anybody—a fifth grader, seventh grader, high school sophomore—why, if you balanced the budget, would you have to increase the Federal defendant limit? The answer: Because it is a scam. The budget is not balanced. Plain and simple. That is the naked truth, and that is what exposes this balanced budget amendment for what it is.

Amend it with the perfecting amendment offered by the Senator from Nevada, and you will have my vote. It is not a bluff. You will have my vote. Do not amend it with that and you will not have my vote, because it is the wrong way to alter the Constitution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I wish to commend the Senator from North Dakota, and I see the other Senator from North Dakota here about to speak. I will yield immediately to him.

You know what this debate has shown? The two Senators from North Dakota have been in the forefront in discussing this, as was the senior Senator from West Virginia, in describing his own amendment yesterday, and will be in his discussion in the week coming up. It describes what would seem to be

a very simple concept: have a constitutional amendment to balance the budget. If you do a poll on this, “Are you in favor of a balanced budget,” everybody says, “Sure, of course we are.”

Then comes the question: Do we amend the Constitution? It has only been amended 17 times since the Bill of Rights—only 17 times. Now, we have another issue. If we are going to do that, do we do it for something that looks good on a bumper sticker for a slogan, or do we do it thinking about what we are doing?

Just remember, this Senate has only been involved in successful amending of the Constitution 17 times since the Bill of Rights. That means a lot of our predecessors had to think long and hard about thousands of proposals to amend the Constitution, about what would they do. The Senators from North Dakota, the Senator from West Virginia, the Senator from Nevada, and others who have spoken do us service by saying, “Just what is it we are buying with this? Is it a balanced budget?” No, it is a very, very dangerous monkey wrench in the Constitution that will cost our children and our children's children a great deal. It will cost our Social Security recipients, and it will not do what the President said in the State of the Union Message what can be done: Do you want to balance the budget? All we have to do is vote to do that, and he signs it. It is as simple as that. We don't need to amend the Constitution.

I am delighted to yield to my good friend and colleague, the senior Senator from North Dakota.

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

Mr. CONRAD. Mr. President, I thank the Senator from Vermont, and I thank him for his devotion on this issue, spending hours and hours on the floor to try to make certain people have heard both sides of the story before a vote is cast in this Chamber.

Mr. President, I come to this issue with a deficiency, and that deficiency is I have a financial background. My education is in finance and business. My career was as a tax administrator, somebody who dealt with finances and budgets on a routine basis. And I must say, when I hear talk about the need to balance the budget, nobody could agree more than I do with that concept. I am absolutely in support of balancing the budget of the United States.

It is imperative that we do that, because we are in a special circumstance. We are on the eve of the baby-boom generation starting to retire, and that will put enormous stress on the budget of the United States if we fail to get our fiscal house in order.

In fact, I think I can say, without fear of contradiction, no Senator has offered more specific plans to balance the budget than I have. So I don't take a back seat to anyone with respect to a

desire and a commitment to balance the budget. But when I see the balanced budget amendment to the Constitution that is before us now, I have to say what I believe to be the absolute truth. This is a giant hoax. To call this a balanced budget wouldn't pass the laugh test in any corporation in America.

If anybody told a corporate board of directors that they were going to balance the budget by taking the retirement funds of the employees and throwing those into the pot, they would be in violation of Federal law, because that is fraudulent. It is fraudulent to take retirement funds of employees and use those to balance the operating budget of a corporation. That is not permitted under Federal law. And yet that is precisely what this so-called balanced budget amendment to the Constitution contemplates. They are going to take every penny of the Social Security trust fund surplus and throw those into the pot to claim that they have balanced the budget.

(Ms. SNOWE assumed the chair.)

Mr. CONRAD, Madam President, they don't just take every penny of the Social Security trust fund, they take every penny of every trust fund and throw it into the pot and say they have balanced the budget.

It is like the story of the emperor who has no clothes and everybody is afraid to stand up and say it. But that is precisely what is going on here. When our colleagues come home and say to you, "We are for a balanced budget amendment to the Constitution," I urge you to ask them this simple question: What budget is being balanced?

Boy, that sounds awfully elementary, doesn't it? You would think this is a question that could be easily answered. Unfortunately, when you examine what is going on here, what you find out is that it is at great variance from the claims that are being made. Those who beat their chest and say they are for balancing the budget and that this balanced budget amendment to the Constitution will do that are engaged in an enormous hoax.

Let's look at the language. It comes from section 7, and it says:

Total receipts shall include all of the receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

Very simple concepts. What they are saying is they are going to put all of the revenue of the Federal Government in the pot, and they are going to look at all of the expenditures of the Federal Government, and that will be a balanced budget. What is wrong with that concept is that they are including all of the receipts from the trust funds and using those, every penny of them, to claim that they have balanced the budget.

Let me just show it in a different way. When I was growing up in our State, people would keep money in a pot. A farm wife would keep cash in a pot. I have this teapot to kind of show what is going on here, because into the teapot goes all of the taxes, all of the corporate taxes, all of the other taxes, but in this balanced budget amendment, they are also including all of the Social Security taxes—all of them, every penny goes into the pot. And then they are going to balance with what is being spent. All of the items that the money goes for in the Federal budget: Social Security is about 22 percent of the money; interest on the debt, 16 percent; defense, 16 percent; Medicare, 14 percent; Medicaid, 7 percent; all other Federal spending, 25 percent.

Can you imagine that they are trying to claim that this is a balanced budget, and what they are doing is they are taking trust fund income, trust funds that are in surplus now, designed to be built up to be used when the baby boomers retire, and they are using the trust fund surpluses to claim they have balanced the operating budget. What a hoax; what a fraud. That is not a balanced budget.

A balanced budget would be if you were saving your trust fund surpluses for the purposes intended and you are balancing your operating budget. That would be a balanced budget. This is not a balanced budget.

Let me demonstrate how massive this hoax is, because it is really quite stunning in its breathtaking willingness to loot every trust fund of the United States of every penny. That is what is going on here, make no mistake, because if this thing is passed and is implemented, we are going to wake up and find there is no money in any trust fund; every surplus nickel has been taken.

Look at what is happening. Some will say, "Senator, that is what is going on now, that is precisely what is being done." That is true, that is what is happening, and it ought to be stopped, and it ought to be stopped now, because we are entering the period when those surpluses explode—they explode—because the baby boomers are getting closer to retirement, and so the surpluses are being built up for the purpose of being ready for them when they retire.

Look at how massive these surpluses are. In 1998, \$81 billion in that year alone. By 1999, in just those 2 years, it is up to \$169 billion, and between now and the year 2002, when they are going to claim they have balanced the budget, they will have used \$465 billion of Social Security trust fund surpluses and claim they have balanced the budget. Again, if any private company tried to do this, tried to take the retirement funds of their employees to balance the operating budget of the company, they

would be in violation of Federal law. They would be headed for a Federal facility, and it would not be Congress. They would be headed for a prison.

Yet this is what we are talking about putting in the Constitution of the United States. We are going to put in the organic law of our country the definition of a balanced budget, that if a private company were doing it, would be a violation of Federal law. I do not think so. Not with this Senator's vote. I would not vote, ever, to put that in the Constitution of the United States, the basic law of our country that has made this the greatest Nation in human history, the definition of a balanced budget that is so fraudulent that if any private company tried to do it, it would be a violation of Federal law.

Now, that is a fact of the balanced budget amendment that is before the Senate. When I say that is breathtaking, breathtaking in what they are trying to put in the Constitution of the United States, I meant just that. The Social Security surpluses I indicated are increasing dramatically. Indeed, they are. From 1998 to 2013, we will have surpluses in Social Security, surpluses over and above what the expenditures are during that period, of \$1.8 trillion. The folks who are advocating this balanced budget—I call it a so-called balanced budget amendment because this is not a balanced budget, no way. There is no serious definition of balance that would include this so-called balanced budget amendment because the fact is if you passed it, you implement it, the debt would continue to increase. They claim they have balanced the budget. What a fraud. They are going to take \$1.8 trillion of Social Security surpluses, throw those into the pot, and claim they have balanced the budget.

It is very interesting if you look at this in another way and try to determine who is telling it straight here, who is telling it straight, just looking at the growth of the Federal debt of the United States. If they are being straight with the American people and they are really balancing the budget, would that not tell you that in the year 2002, the year in which we will have claimed balance because that will be an amendment to the Constitution of the United States, that the debt would stop increasing? Would that not be a logical conclusion? If we are going to balance the budget in the year 2002, would you not expect, then, that the debt of the United States would no longer increase? You would no longer be running deficits because you would have balanced the budget.

Well, testing that proposition, this chart shows the gross Federal debt of the United States. It shows what would happen if this so-called balanced budget amendment to the Constitution were passed and became effective by 2002. You can see this is the year 2002, the

year in which it claims balance; this line shows what happens to the Federal debt. It keeps right on going up. The Federal debt keeps right on increasing. If we look at it another way, we can see just what a fraud and a hoax this really is. They call it a balanced budget amendment to the Constitution. They put this definition into the Constitution of the United States and let's see what would happen in the year 2002. They are claiming the deficit would be zero. But look what happens to the budget deficit in that year. When you look at Social Security and the postal service funds, the so-called on-budget deficit, what you see is not a zero. The budget is not balanced. The deficit is increasing \$103 billion. If you look at the broadest measure of debt and deficit, you include all of the trust funds. What you find is that the debt and the deficit will increase in that year by \$110 billion.

Yet they are calling it a balanced budget, and they are putting it in the Constitution of the United States that this is a balanced budget. Who are they kidding? There is nobody that has had fifth grade arithmetic that cannot figure this out. There is nobody. My daughter, when she was 7 years old, and she was very good at math, I admit that, she would have been able to figure this out. Just because you are calling something a balanced budget does not make it one. That is like the old story in North Dakota, you call the pig a cow, it does not make it a cow. This is a balanced budget, they claim it is a balanced budget, but it is not one. The deficit keeps going up, debt keeps going up, they have looted every penny of every trust fund in sight and claimed they balanced the budget and put that definition in the Constitution of the United States. It does not belong there.

If we want to do this as an amendment to the Constitution we ought to do it right. This amendment does not pass the laugh test. This amendment is not a balanced budget, No. 1. No. 2, it is fatally flawed in other ways, as well, because it does not provide enough protection in the case of a national economic emergency. In addition to that, it would put us in a circumstance in which the courts could write the budget of the United States. That was never contemplated by our forefathers, to have the members of the Supreme Court—and I can look through the doors there and almost see the Supreme Court of the United States—I tell you, our Founding Fathers did not have in mind that the Justices of the Supreme Court would sit around a table and write the budget for the United States. That is what would happen under the amendment that is before the Senate.

Let me just say the amendment by the Senator from Nevada, Senator REID, addresses the first problem with

the balanced budget amendment that is before the Senate. He would not permit the looting of \$450 billion of Social Security surplus between now and the year 2002, to claim they balanced the budget. He would not permit the raiding of \$1.8 trillion of Social Security surpluses between now and about the year 2019 and take all those moneys and throw them in the pot and claim they have balanced the budget. It is a substantial improvement over the so-called balanced budget amendment that is before the Senate now. On that basis, Senator REID's amendment deserves support, because it would begin to address the fatal flaws in this amendment.

I just end where I began. I really wonder what our forefathers who wrote the Constitution would be thinking about a Congress meeting in 1997 that has so little regard for the organic law of our country that they would put an amendment into that document that defines a balanced budget in a way that raids every trust fund surplus in the Federal budget, to claim that they had balanced the budget. America is a better country than that. We are a greater country than that, to put in our Constitution a definition of a balanced budget that is totally without merit, it is fraudulent, it is fake, it is false, it is not honest.

We should not be putting that in the Constitution of the United States. When I took the oath of office, I swore to uphold and defend the Constitution of the United States. I took that pledge very seriously. I think it is the most serious thing we do as a Member of this body—swear to uphold and defend the Constitution of the United States. Well, I believe one responsibility in meeting that affirmative pledge is to protect the Constitution from amendments that are unworthy of that great document.

I will ask any of my colleagues to read the amendment before us in the context of the Constitution. Get out your Constitution and then put this amendment down and read the two together and see how it fits, see how it reads, see if it makes any sense to you to have this constitutional amendment that is before us grafted onto the Constitution of the United States. It doesn't fit. It sticks out like a sore thumb. And it is, at its base, utterly fraudulent. It is wrong to put that amendment into our Constitution.

I thank the Chair and yield the floor. Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, this is an important amendment, but it is not as important as the proponents think. The fact of the matter is that Social Security is much better protected within the purview of the unified budget than it will be out there standing all by itself where they can

add anything to it, or take anything away from it that they want to, and where it will become a spending loophole device that I think will be to the detriment of the senior citizens.

To say that the trust funds are raided is the biggest charade I have heard in all my time in the Senate. First of all, when the FICA funds come in, they are immediately invested into U.S. Government bonds, the best securities anywhere in the world. Those bonds are kept. There is no great big trust fund or a big place where they keep all this money. They are bonds due and owing by the American people some time in the future. The only way we are going to be able to pay back those bonds is if we get spending under control and get our economy under control. The only way we are going to do that, after looking at 28 straight years of unbalanced budgets—those 28 straight years of unbalanced budgets are represented by these actual unbalanced budgets, since 1969—the only way we are going to do that is to pass a balanced budget constitutional amendment.

Some say, well, we want another type of an amendment. The fact is that this is a bipartisan amendment that has been put together over 21 years. I know because I have participated in every word of it with my bipartisan colleagues in the House and Senate, on the Democratic side as well as the Republican side. This is the only amendment that has a chance of passage, the only thing that actually will give a real sense of protection and actual protection to those people who are on Social Security now.

For people to come on this floor and say, They are raiding the trust funds, because literally they are exchanging bonds for the funds and helping to balance the budget with whatever surplus exists now, is not only a charade; it is absolutely false. I get a little tired of people saying they are raiding the trust funds, not treating the trust funds right. The fact is, if you take Social Security out of the purview of the balanced budget amendment—if this amendment passed and we take it outside the purview of the balanced budget amendment, first of all, this amendment won't do what they say it will do. It is very poorly drafted. Even if it does do what they say it would do—and I will, just for the sake of discussion this morning, argue within that context, that it will do what they say it will—and you take Social Security out of the budget, the surpluses that will occur between now and 2008 will be invested in Federal Government bonds, which is exactly what they are doing now. The only difference is that the moneys they have then may be used for social spending programs other than Social Security, and that means another ability to spend more without making the reforms that have to be made in programs like Medicaid, Medicare, and so

many others in our society, which are running out of control today. And the people who are going to be hurt the most are going to be those people who are counting on the Social Security funds being there some day, because we will not get Federal spending under control without this balanced budget amendment. We will continue to have these tremendous stacks of unbalanced budgets that will go all the way to the ceiling.

When people come to the floor and say, "Let's just have the will to do it"—and I have heard it from opponents of the balanced budget amendment now for 21 years of unbalanced budgets—they ought to look at this stack and realize it is going up every year, and there is no will to do it. It is too easy to spend, too easy to spend the taxpayers' money. It is too easy to just act irresponsibly. Putting Social Security outside of the purview of the unified budget and outside the purview of this balanced budget amendment would be one of the most reckless things we could do. It would be the most risky gimmick you could have. I think it is not only a risky gimmick, it would be a riverboat gamble, where you are almost guaranteed to lose. Social Security would become a football to be kicked back and forth by those who want to play games with the budget, because there would be no fiscal discipline involved in that particular issue. They want to take the largest item in the budget out of the unified budget.

Now, to show how ridiculous it is to take that riverboat gamble, put it out there where it is all by itself, where it could be attacked by anybody, instead of keeping it within the budget, I ask this one thing. Why do that when Social Security is the one item in the whole budget that everybody, every person sitting in the Congress today, be they Republican or Democrat, would support, would help, would keep viable? It is the largest item in the budget. I have to tell you that it can compete better than any other single budgetary issue. So where is the issue? Where is the meat here?

The fact is that those who are bringing these amendments to the floor, by and large—and I am not talking about the distinguished Senator from Nevada; he is very sincere in this amendment, and he believes this. I don't know why he believes this, if you look at the facts of the 28 years, and at what all of us have done throughout the years. But most of the others who are bringing this to the floor and arguing for this are people who would not want a balanced budget constitutional amendment in the Constitution for any reason, or for a variety of reasons, some very sincere and some because they want to spend and tax more with ease, and they want to do it with voice votes so they don't have to come here

and stand up and let people know how they voted. I have to tell you, they want to defeat the balanced budget amendment. Now, that might be all right to have this out there if it were a better system, but it would not be. You would be exposing Social Security to direct attack and to direct manipulation over and over.

Madam President, I will have more to say in a few minutes on this. I notice the distinguished Senator from Michigan is here. He came to speak.

I yield such time as he needs.

The PRESIDING OFFICER. Senator from Michigan is recognized.

Mr. ABRAHAM. Madam President, I expect to speak more than once on this issue today. I would like to begin, however, by reiterating some of the points I made in previous speeches on the amendment, because I think as we immerse ourselves in the debates on these various subtopics, we often lose sight of why we are here.

The reason we are here is because of what that pile of unbalanced budgets reflects—that this country has gone a full generation without once balancing the budget. It has not balanced it using Social Security or excluding it. It has not been balanced at all. Therefore, we have been piling up more and more debt and responsibility, not just on ourselves but, more importantly, on our children.

Last week, I was looking at what we call the national debt clock. Some people have questioned the rate at which the clock grows. They ask, "Whose calculation are you using?" It doesn't matter. Even the slowest calculation of that debt clock suggests that the deficit is going up to the tune of about \$6,374 per second. That is an awful lot of spending beyond our means. What it has done is—and I think most Americans understand, even if not most of us in Washington—it has placed enormous burdens on families of this country, enormous burdens on enterprise in this country, and, most importantly, enormous burdens on the children and future children of America.

In terms of its effect on families, this ever rising deficit and the need of a Federal Government to borrow money to meet its payments has forced interest rates up dramatically in this country. Interest rates are estimated to be 2 percent higher because of the deficit. That means the average price of a new home is \$37,000 more because we can't balance the budget. A student loan is estimated to be some \$2,000 more expensive because we can't balance the budget. A new car, an average-priced new car, is estimated to be \$1,000 more expensive because we can't balance the budget. For all of the talk that this could be done if we only had the will and if the White House and the Congress would only get together, the fact is for 28 years we have not reached the finish line.

But it is not just families who are paying more. People are paying more in other ways as well. To the extent the Federal Government borrows money, it means there is less capital available to create new businesses, to expand existing businesses, to pay better wages. So our workers are hurt. Our free enterprise system is hurt. Our chronic budget deficits mean lower economic growth, fewer jobs, and lower wages.

Finally, at the top of the list of victims of our budget deficits are the children of this country. My family was blessed 5 months ago with a new child. When our son was born, at the very moment that he was born, he automatically inherited responsibility to support the debt previous generations have imposed upon him. Over his lifetime, he will be forced to pay \$187,000 in tax payments just to cover the interest on this debt. If we do not try to bring this under control and do it soon rather than later, this burden will only get worse for future generations.

So that is why we are here. We should not lose sight of why we are here. Our goal is to come to the finish line on an amendment that has the opportunity and the ability to bring this kind of deficit spending under control.

At the moment we are discussing a proposal with respect to Social Security. The distinguished Senator from Utah has referred to this proposal as a risky gimmick, because it has many consequences that have not, to my knowledge, been fleshed out in any debate either in the Judiciary Committee when it was first brought up here or here on the floor. Most importantly, in terms of the risk involved, is the fact that as I read this proposal, the Reid amendment, and I have read it several times, I do not see that additional protection for the benefits of Social Security are provided. After all, that is really what this comes down to. Are the beneficiaries going to be protected. The Reid amendment, in my judgment, doesn't do that at all. It does something else, though, which I think every Member of this Chamber should be aware of and have a responsibility to address. That is, it requires a substantially increased amount of Federal spending to be either reduced or Federal revenues to be generated in order to meet the terms of this amendment.

According to calculations of the Congressional Budget Office, during the years 2002 to 2007, if the Reid amendment were adopted and ratified, we would have to come up with an additional \$706 billion in either new taxes or spending cuts over and above everything else we will have to do to keep the budget in balance during those years.

In addition, the Senate Budget Committee has estimated that we will have to come up with \$181 billion more on top of the first \$706 billion in order to

reach balance in the year 2002. Those \$181 billion would have to be found during the years between now and 2002. That is a total of \$887 billion beyond all of the other things that we are trying to do to bring spending under control that would have to be saved if this amendment went into effect. I think it is important for people who are advocating this amendment to come to this floor and explain where those dollars are going to come from, because \$800 billion on top of all of the other things required here, to me at least, does not seem plausible.

Let me put it in perspective. We would be talking about in addition to all of the other reductions in spending, in addition to all of the other taxes the Federal Government currently collects, coming up with a sum of \$800 billion. This sum is more than the 1993 tax hike, the largest tax hike in history, plus the reductions in Medicare proposed in last year's budget that was passed by the Congress, plus the reduction in discretionary spending that was in last year's budget passed by the Congress.

When the tax increase in 1993 was passed, many of us on the Republican side said that was too much of a tax burden to place on the American people. We argued that it was far too great. It was the largest in history. When Republicans brought to the floor a budget with a discretionary spending cuts and reforms in Medicare last year, we were told by the other side that those were reductions that were too great, that those savings were unacceptable, and that is why the President refused to go along and sign the various bills that would have effectuated that budget. Now we are talking about doing all of the things required to bring the budget into balance in 2002, and then on top of that, if this amendment went into effect, replicating the process one more time—in fact, more than what we have done—in order to meet the terms of this amendment.

I do not believe there is anybody in the Senate who is capable of, or prepared to produce any sort of plan that would even remotely accomplish those objectives. For that reason, Madam President, I cannot support this amendment. I have no idea how it could be effectuated, and I have not heard one Member on either side come forward and explain that to me.

Moreover, even if we went through an exercise to accomplish it, why we would be doing it? The terms of the amendment would not in any way protect the benefits of Social Security even if we did raise taxes \$800 billion more dollars, or cut spending on programs like education, law enforcement, or infrastructure by \$800 billion more.

In short, the amendment doesn't accomplish the goals for which it is being proposed, but the pain complying with its requirements would be enormous.

So, for those reasons, Madam President, I cannot support this amendment. I would be happy, and will watch the debate today, to see if someone comes to the floor with a proposal of how to bring about these reductions that could give some assurance that they could be accomplished. I hope someone will. But during the debate in committee and in the discussions since—and certainly this has been something discussed very publicly in the last few weeks—no one has offered a plan, or even anything close to a plan, that could accomplish this. While I think and I am confident that advocates of the amendment are sincere in their advocacy, I just do not believe this is an amendment that could ever be effectuated by this Congress, or any future Congress. I do not believe it would be feasible to do it because I do not think, as I say, anyone has brought forth any solution or plan or proposal that would live up to the terms of the amendment.

For those reasons, I certainly have no intention of supporting it. But maybe before the end of the day we will hear a response that explains where the spending cuts are going to come from or how the taxes are going to be increased or provide some insight into how this really would protect Social Security benefits later on when the trust fund begins to run a deficit, because as I read the terms of this, it in no way does that, either.

So, Madam President, at this time, I yield the floor. I expect later, as the day goes on, that I will be back to speak a little bit more on this. But I thank the Presiding Officer and yield the floor.

Mr. HATCH. I suggest the absence of a quorum, with the time equally charged.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Madam President, I know the distinguished Senator from South Carolina [Mr. HOLLINGS] will be here soon, as will the distinguished Senator from Nevada [Mr. REID]. They are involved in another discussion of the issue that is pending in the Chamber.

Again, I will say, as I said over and over again, we have to separate the difference between a balanced budget amendment to the Constitution and a balanced budget. There is nothing to stop us today, this moment, right now, from bringing about a balanced budget. It could be done. It could be done very easily. We could vote for it. The President could sign it.

A balanced budget amendment to the Constitution means that we amend the Constitution for only 18 times since the Bill of Rights. Now, thousands of amendments have been proposed to the Constitution during that time. The Senate and the House and the States have been wise enough to reject them. Otherwise, had they not, we would have a Constitution about 5 or 6 or 7 or 8 times bigger than it is today. We would not have the bulwark of the most powerful Nation known in history. But we also would not have just reflected the passing fancy of the moment, and that is what this is. Not a balanced budget. We can do that. All we need is the courage for it.

After watching the Reagan administration and the Bush administration and the nearly quadrupling of our national debt as they spoke of having a balanced budget, two administrations that took all the debt of this Nation for 200 years and tripled, quadrupled it in a matter of 12 years, all the time talking about the need for a balanced budget, that was the easy way. Talk about it and increase the deficit.

What has happened under President Clinton for the first time in my lifetime is that the deficit has come down 4 years in a row. It has meant some very tough votes. Members of the House and Senate have lost their seats in these bodies because of these tough votes. But what they did was the right thing. They left a legacy for their children and their children's children.

Let us stop the sloganeering. Let us talk about the tough votes. As I recall, in the first two efforts, first two successful efforts to bring down the deficit, most of the people now talking about the need for a balanced budget amendment did not even cast a vote to bring it down. Let us go for reality, not rhetoric.

I see the distinguished Senator from Nevada and the distinguished Senator from South Carolina in the Chamber, and I will yield the floor, Madam President.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I yield whatever time the Senator from South Carolina consumes.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, this crowd on the other side of the aisle has no shame. Let me make it absolutely clear. They come here and use the floor of the Senate for these demonstrations. What that pile of books over there on the other side of the aisle says is any time that you can flash on C-SPAN, that side of the aisle is for cutting spending, reducing deficits, and balancing the budget, and this side of the aisle is for spending—you know, tax and spend, liberal Democrats.

Let us find out what the record is. I believe it is too much, but let us just

say my pile of books is about one-tenth of that pile over there. If you take the average real deficit—and I put a table on everyone's desk so you can verify the CBO figures, Madam President—in the 36 years from Harry Truman up until President Reagan—ah, those were a tough 36 years; we had to pay for World War II; we had to pay for Korea; we had to pay for Vietnam; and we had to pay for the Great Society that Lyndon Johnson started. During that 36 years, the actual average of real deficits is \$20.41 billion.

Now, in the last 16 years, from 1982 to 1997, without the cost of a single war or the Great Society, the average deficit is \$277.58 billion. We have gone from \$20 billion deficits with the cost of all the wars to the Republican initiative of growth, growth, growth. My friend, Steve Forbes, is running around again saying, "Hope, growth and opportunity."

What a charade. What a farce. They ought to be ashamed of themselves—the unmitigated gall to put those books up there and try to demonstrate that they are for cutting spending, that those are the deficits that we piled up casually. The truth is we balanced the budget under President Lyndon Baines Johnson, and the reason this growth started was that silly Reaganomics, which Howard Baker, who sat in that chair as the Republican leader, called a riverboat gamble, and which then Vice President George Herbert Walker Bush

called voodoo. But there is no historical memory under these youngsters who come here to the Senate floor and try to demonstrate, with a pictorial thing here, with a pile of books: Now, we are concerned about these deficits, and the other side does not have any regard for them. They are the ones who caused it.

That is the Reagan-Bush memorial deficit pile right there. That is what it is. In fact, Madam President, you can go back to 1776 and take 38 Presidents, 205 years of history, the cost of the Revolution and all the other wars, and we never got to a \$1 trillion debt. When President Reagan took over, it was \$909 billion, still not a \$1 trillion debt. Now, under Reagan-Bush, President Reagan and President Bush, they have gone to \$5.3 trillion. And do not blame President Clinton. Gosh knows, he did not know how to take credit. He went down there to Texas. I guess we all make mistakes running for office, but I think he overspoke. He said he raised taxes too much. But that did not take away from my vote.

In 1993, we had a budget plan, and the budget plan was to reduce the deficit by \$500 billion. It was to raise taxes on gasoline, and, yes, Social Security. And over on that side they said, pointing at us, you raise taxes on Social Security, they will be hunting you down like dogs in the street and shooting you. They said, "We are going to have a recession." Ah, not even a recession, but a depression. Instead, the stock market

is going through the roof. Inflation is down, jobs are up, and now they want to manufacture a problem.

I say that is their problem. We did not get a single Republican vote in the Senate, we did not get a single Republican vote in the House of Representatives to do anything. We passed it by ourselves. And President William Jefferson Clinton is the only President since Lyndon Johnson to reduce the deficit. He spent 10 years as Governor down in Arkansas, each with a balanced budget. Then he comes to Washington and he changes the direction of increased deficits. You can see the real deficit under the last year of President Bush exceeded \$400 billion. Madam President, \$400 billion. The exact CBO figure for 1992 was \$403.6 billion. That is where the spending comes from. And they get up here and put on these silly shows of piling up books and everything else to appear on C-SPAN and make the most extravagant statements you have ever heard, really totally out of whole cloth.

Where is the spending? Interestingly, Madam President—and I wish someone would give my table of spending in real and unified deficits to our distinguished Presiding Officer so this can be followed. Madam President, I ask unanimous consent that this table be printed in the RECORD at this point.

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

BUDGET REALITIES
(In trillions of dollars)

President and year	U.S. Budget	Unified deficit	Trust funds	Real deficit	Gross Federal debt	Gross interest
Truman:						
1945	92.7	-47.6	5.4	-10.9	260.1	
1946	55.2	-15.9	-5.0	-9.9	271.0	
1947	34.5	4.0	6.7	+13.9	257.1	
1948	29.8	11.8	1.2	+5.1	252.0	
1949	38.8	0.6	1.2	-0.6	252.6	
1950	42.6	-3.1	1.2	-4.3	256.9	
1951	45.5	6.1	4.5	+1.6	255.3	
1952	67.7	-1.5	2.3	-3.8	259.1	
1953	76.1	-6.5	0.4	-6.9	266.0	
Eisenhower:						
1954	70.9	-1.2	3.6	-4.8	270.8	
1955	68.4	-3.0	0.6	-3.6	274.4	
1956	70.6	3.9	2.2	+1.7	272.7	
1957	76.6	3.4	3.0	+0.4	272.3	
1958	82.4	-2.8	4.6	-7.4	279.7	
1959	92.1	-12.8	-5.0	-7.8	287.5	
1960	92.2	0.3	3.3	-3.0	290.5	
1961	97.7	-3.3	-1.2	-2.1	292.6	
Kennedy:						
1962	106.8	-7.1	3.2	-10.3	302.9	9.1
1963	111.3	-4.8	2.6	-7.4	310.3	9.9
Johnson:						
1964	118.5	-5.9	-0.1	-5.8	316.1	10.7
1965	118.2	-1.4	4.8	-6.2	322.3	11.3
1966	134.5	-3.7	2.5	-6.2	328.5	12.0
1967	157.5	-8.6	3.3	-11.9	340.4	13.4
1968	178.1	-25.2	3.1	-28.3	368.7	14.6
1969	183.6	3.2	0.3	+2.9	365.8	16.6
Nixon:						
1970	195.6	-2.8	12.3	-15.1	380.9	19.3
1971	210.2	-23.0	4.3	-27.3	408.2	21.0
1972	230.7	-23.4	4.3	-27.7	435.9	21.8
1973	245.7	-14.9	15.5	-30.4	466.3	24.2
Ford:						
1974	269.4	-6.1	11.5	-17.6	483.9	29.3
1975	332.3	-53.2	4.8	-58.0	541.9	32.7
1976	371.8	-73.7	13.4	-87.1	629.0	37.1
Carter:						
1977	409.2	-53.7	23.7	-77.4	706.4	41.9
1978	458.7	-59.2	11.0	-70.2	776.6	48.7
1979	503.5	-40.7	12.2	-52.9	829.5	59.9
1980	590.9	-73.8	5.8	-79.6	909.1	74.8
Reagan:						
1981	678.2	-79.0	6.7	-85.7	994.8	95.5
1982	745.8	-128.0	14.5	-142.5	1,137.3	117.2
1983	808.4	-207.8	26.6	-234.4	1,371.7	128.7

BUDGET REALITIES—Continued
[In trillions of dollars]

President and year	U.S. Budget	Unified deficit	Trust funds	Real deficit	Gross Federal debt	Gross interest
1984	851.8	-185.4	7.6	-193.0	1,564.7	153.9
1985	946.4	-212.3	40.5	-252.8	1,817.5	178.9
1986	990.3	-221.2	81.9	-303.1	2,120.6	190.3
1987	1,003.9	-149.8	75.7	-225.5	2,346.1	195.3
1988	1,064.1	-155.2	100.0	-255.2	2,601.3	214.1
Bush:						
1989	1,143.2	-152.5	114.2	-266.7	2,868.0	240.9
1990	1,252.7	-221.2	117.4	-338.6	3,206.6	264.7
1991	1,323.8	-269.4	122.5	-391.9	3,598.5	285.5
1992	1,380.9	-290.4	113.2	-403.6	4,002.1	292.3
Clinton:						
1993	1,408.2	-255.0	94.3	-349.3	4,351.4	292.5
1994	1,460.6	-203.1	89.2	-292.3	4,643.7	296.3
1995	1,514.4	-163.9	113.4	-277.3	4,921.0	332.4
1996	1,560.0	-107.0	154.0	-261.0	5,182.0	344.0
1997	1,632.0	-124.0	130.0	-254.0	5,436.0	360.0

Source: Historical tables, "Budget of the U.S. Government, FY 1998;" Beginning in 1962 CBO's "1997 Economic and Budget Outlook."

Mr. HOLLINGS. Madam President, if you look back to 1968-69, back when we used to have budgets from July 1 around the clock to June 30. We have changed now the fiscal year, so October 1 is the beginning of the fiscal year.

But under that last year of President Johnson, let us credit him, you can see going right straight across the board we had a surplus of \$2.9 billion. Trust funds were only \$300 million—but dispel from your mind that President Johnson used trust funds because even using trust funds he would have had a surplus. So, here comes President Lyndon Baines Johnson with a surplus that year, and all he had to spend was \$16.6 billion on interest costs.

Now, Madam President, do you see today's interest costs of \$360 billion at the bottom of the page—\$360 billion? This is how we have increased spending. The Grace Commission, upon which I served, came to town to do away with waste, fraud, and abuse. The biggest waste is spending money for nothing, just for extravagance. The biggest waste is the past profligacy of not paying the bills and actually increasing spending on interest payments by some \$344 billion during that period of time for absolutely nothing.

President Clinton is working on it. He has slowed it down. But they are the ones who increased it with Reaganomics, "hope, growth and opportunity," and television buzz words they can buy up. But let us get to the truth. That is why I put this table here, so we can look at the unified deficit, the real deficit, and gross interest, Madam President, which is forced spending, just like taxes.

It is an insidious way to raise taxes. We have \$360 billion to be expended this year on interest costs. Because these interest costs continue to grow, the debt goes up, up and away. This year, it is estimated that the debt will go from \$5.182 trillion to \$5.436 trillion, an increase of \$254 billion. So, while we are increasing the debt, we are spending \$1 billion a day in interest. In essence, we are increasing taxes \$1 billion a day. Because, like taxes, it has to be paid. It has to be paid. So the crowd against taxes is insidiously increasing taxes \$1

billion a day. That is where the spending is.

Let me get back up here where my file is, Madam President, and get to the proposition and join issue, if you please, with the statements made by the distinguished chairman of the Budget Committee, the Senator from New Mexico, Senator DOMENICI. Again yesterday, and he continues this wherever he goes, he referred to the Concord Coalition report as evidence that the matter of Social Security, again, was a gimmick, that is was just all nonsense.

I had hoped we could really avoid that, because I have tried my best to counsel the Concord Coalition. To justify the sincerity of my remarks, let me go back and show that I am not just saying so today. I will read into the RECORD part of my letter of August 16, 1996 to the Concord Coalition.

(Mr. SMITH of Oregon assumed the Chair.)

Mr. HOLLINGS. Mr. President, this is addressed to the Honorable Warren B. Rudman and the Honorable late Paul Tsongas. We lost Paul. I have the greatest respect for these gentlemen. They are the best of the best. I say here in this letter:

DEAR WARREN AND PAUL: You two friends should be ashamed of yourselves. I have just received the Concord Coalition Social Security mailout, and in four pages and in a 13-item questionnaire, there is no mention of the willful bankrupting of the Social Security trust fund in violation of section 13301 of the Budget Act. Mind you me, I support such coalition initiatives as the age increase for retirement to help strengthen the trust fund, and I have voted three times, now, for the Danforth-Kerrey recommendations. But back in 1983, the Greenspan Commission recommended that Social Security be put off budget so that we could take care of the baby boomers through the fiscal year 2056. President Bush signed this provision, making it illegal to borrow from the fund or use Social Security moneys to obscure the size of the deficit. Now we know both the President and the Congress violated this. We know both parties violated this. But if we cannot get the truth out of esteemed colleagues like you two, instead of being fiscally in balance until the year 2029 we will be fiscally bankrupt by the year 2002.

Mr. President, I ask that my letter be printed in the RECORD.

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

U.S. SENATE,
WASHINGTON, DC,
August 2, 1996.

HON. WARREN B. RUDMAN,
HON. PAUL TSONGAS,
The Concord Coalition, Washington, DC.

DEAR WARREN AND PAUL: You two friends should be ashamed of yourselves. I have just received The Concord Coalition Social Security mail-out and in four pages and a 13-item questionnaire, there is no mention of the willful bankrupting of the Social Security trust fund in violation of Section 13301 of the Budget Act. Mind you me, I support such Coalition initiatives as the age increase for retirement to help strengthen the trust fund and I have voted three times now for the Danforth-Kerrey recommendations. But back in 1983, the Greenspan Commission recommended that Social Security be put off-budget so that we could take care of the baby boomers through FY 2056. Responding in interim steps, the Congress did this in 1990 when President Bush signed the provision making it illegal to borrow from the fund or use Social Security moneys to obscure the size of the deficit. Now we know both the President and the Congress violated this, we know both parties violated this but if we can't get the truth out of esteemed colleagues like you two, instead of being fiscally in balance until the year 2029, we will have it fiscally bankrupt by the year 2002.

At the moment, Social Security is paid for and has a surplus of \$531 billion. What is not paid for, what is causing the deficit and debt are the general functions of government such as defense, housing, law enforcement, education, etc. Working against the deficit and debt, the Coalition would better gain the public's attention and support on this immediate problem rather than worrying about the next century. In "Breaking the News," James Fallows outlines how the people in a democracy will do the right thing if properly engaged. The reason this cancerous nonsense continues in Washington is that the responsible Rudmans and Tsongases are afraid to tell the people the truth.

Sincerely,
ERNEST F. HOLLINGS.

Mr. HOLLINGS. I have the greatest respect for our friends there in the Concord Coalition, the former Secretary of Commerce, Secretary Pete Peterson—I worked with him way back under the initial days of President Reagan when I opposed Reaganomics. We got Senator Mathias, the distinguished Republican Senator from

Maryland, to go along with us. But there were only 11 of us here that were fighting at that particular time against this. What you do is you cut all your revenues and the money because, "The people back home will know better than the politicians in Washington and they will have so much money, there will be so much spending, there will be so much income tax and sales tax that, my heavens, we will have growth and we will grow out of this."

Go ask the mayor of a city to cut his revenues 25 percent. Go ask a Governor to cut his revenues some 25 percent. They work with common sense because they cannot print money like us up here in Washington. They have to have a credit rating. They have to be able to keep interest rates down and get the investments in their communities and in their States. But we come to Washington and lose all common sense. We engage in a tremendous charade up here about piling up books, and how sincere we are, when we disregard the Greenspan Commission and we disregard the law.

I have here the report of the National Commission on Social Security Reform dated January 1983. From that report I read, "A majority of the members of the national commission recommends that the operation of these"—these are fancy words, but "Social Security trust funds"—they use the word "trust funds,"—this is a study commission—"should be removed from the unified budget."

They go right on down, "The national commission believes the changes in the Social Security Program should be made only for programmatic reasons and not for the purposes of balancing the budget."

So, pursuant to taking it out of the unified budget and building up the surplus funds, that is how we got the votes. If we had said at that particular time, "Look, we are going to use this money for foreign aid, we are going to use this money for welfare, food stamps, anything else of that kind," you could not have gotten the votes.

We had a horrendous tax increase in 1983, in a conscientious fashion, to build up surpluses to the year 2056. I can show you that right here in the 75-year period. But don't depend on just what the Senator from South Carolina says. Let's get back to the vote and the actions at that time of my distinguished colleague, the now chairman of the Budget Committee.

At that particular time, the Senator from New Mexico—and I refer now to the committee report, Calendar No. 781, Committee on the Budget, U.S. Senate, dated July 10, 1990, on page 29. I ask unanimous consent to have printed in the RECORD the additional views of Mr. DOMENICI.

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

ADDITIONAL VIEWS OF MR. DOMENICI

It is somewhat ironic that the first legislative mark-up in the 16 year history of the Senate Budget Committee produced a bill that does not do what its authors suggest and, more importantly, weakens the fiscal discipline inherent in the Gramm-Rudman-Hollings budget law.

I voted for Senator Hollings' proposal because I support the concept of taking Social Security out of the budget deficit calculation. But I cast this vote with reservations.

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 (by lowering our national debt) 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 twenty years now.

Changes in our accounting rules without real deficit reduction will not make Social Security more sound. In fact, we could make matters worse by opening up the trust funds to unrestrained spending. Under current law, the trust funds are protected by the budget process. Congress cannot spend the trust fund reserves without new spending cuts or revenue increases in the rest of the budget to meet Gramm-Rudman-Hollings deficit reduction requirements. If we take Social Security out of GRH without any new protection for the trust funds, Congress could spend the reserves without facing new spending cuts or revenue increases in other programs. And if we spend the trust fund reserves today, we will threaten the solvency of the Social Security program, putting at risk the benefits we have promised to today's workers.

Of course, I also understand that we might be able to restore some public trust by taking Social Security out of the deficit calculation. Trust that we in Congress are not "masking the budget deficit" with Social Security. That is why I believe we should take Social Security out of the deficit, but only if we provide strong protection against spending the trust fund reserves. We need a "firewall" around those trust funds to make sure the reserves are there to pay Social Security 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.

Unfortunately, the Hollings bill does not protect Social Security, which is why Senator Nickles and I offered our "firewall" amendment, defeated by a vote of 8 to 13. The amendment, drafted over the last six months by myself and Senators Heinz, Rudman, Gramm, and DeConcini, included: a 60 vote point of order against legislation which would reduce the 75 year actuarial balance of the Social Security trust funds; additional Gramm-Rudman-Hollings deficit reduction requirements in all years in which legislation lowered the Social Security surpluses; and notification to Social Security taxpayer on the Personal Earnings and Benefit Estimate Statements (PEBES) each time Congress lowered the reserves available to pay benefits to future retirees.

With just one exception, the other side of the aisle voted against this protection for Social Security beneficiaries.

Furthermore, the Hollings bill says nothing about how or when we will achieve balance in the non-Social Security budget. The bill simply takes Social Security out of the deficit calculation. If enacted, the Hollings bill would require \$173 billion in deficit re-

duction in 1991 to meet the statutory GRH target (see attached table). Obviously, that is not going to happen.

I believe we need to extend Gramm-Rudman-Hollings to ensure we have the discipline to achieve balance in the non-Social Security portion of the budget. The Budget Summit negotiators are discussing a goal of \$450 to \$500 billion in deficit reduction over the next five years. Once we reach an agreement, that plan should be the framework for extending the GRH law.

I offered a Sense of the Congress amendment during the mark-up expressing this view. I offered this to put the Hollings bill in some context.

But the Democratic members of the Committee refused to consider even an amendment acknowledging the facts about our budget situation, rejecting my proposal by another 8 to 13 vote. In fact, the Chairman indicated that there was some concern on his side of the aisle about extending the Gramm-Rudman-Hollings discipline. One might infer that, for some, this mark-up was really an effort to kill Gramm-Rudman-Hollings.

I am not sure what we accomplished in reporting out a bill with no protection for Social Security and with no suggestion of what we think should happen regarding the deficit targets. I, for one, do not want to do anything which could endanger Social Security or Gramm-Rudman-Hollings budget discipline. At a minimum, I will offer the "firewall" amendment to protect Social Security should the reported bill be considered by the full Senate.

PETE V. DOMENICI.

Mr. HOLLINGS. Mr. President, I moved at that particular time that we comply with the Greenspan commission and we put Social Security off budget, out of the unified deficit, so we could build up these surpluses so that the baby boomers and the next generation could be sure of receiving their money. We have lost trust in Government with the present activity. But here is what the distinguished chairman of the Budget Committee, Senator DOMENICI, stated at that time:

I voted for Senator Hollings' proposal because I support the concept of taking Social Security out of the budget deficit calculation.

I am going to read that again. Here is what the gentleman calls gimmick, here is what the gentleman called nonsense when referring to the Concord coalition's report yesterday.

Senator DOMENICI:

I voted for Senator Hollings' proposal because I support the concept of taking Social Security out of the budget deficit calculation.

Then reading further:

But I cast this vote with reservations.

He says about my particular amendment:

Unfortunately, the Hollings bill does not protect Social Security sufficiently.

He says further:

That's why Senator Nickles and I offered our firewall amendment. This amendment, drafted over the last 6 months by myself, Senator Heinz, Senator Rudman, Senator Gramm and Senator DeConcini, included a 60-vote point of order against legislation which would reduce the 75-year actuarial balance of the Social Security trust fund.

There is the Concord coalition, the president, the former Senator Warren Rudman, the best of the best, saying, "Fine, I'm voting for the Hollings amendment to put Social Security off budget, make it a trust fund, build up the surpluses so that the younger generation, who is working and paying their taxes, knows the money is not being frittered away by an irresponsible Congress." And we are going to go even further. We are going to say you have to get a 60-vote majority in order to reduce the 75-year actuarial balance.

Now, they knew at that particular time it was going to be for 75 years, and here is the committee vote on July 10, 20 to 1. The one Senator voting against it at that time was our distinguished colleague from Texas, Senator GRAMM.

I ask unanimous consent to have printed in the RECORD the vote record.

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

HOLLINGS MOTION TO REPORT THE SOCIAL SECURITY PRESERVATION ACT

The Committee agreed to the Hollings motion to report the Social Security Preservation Act by a vote of 20 yeas to 1 nay.

Yeas: Mr. Sasser, Mr. Hollings, Mr. Johnston, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Simon, Mr. Sanford, Mr. Wirth, Mr. Fowler, Mr. Conrad, Mr. Dodd, Mr. Robb, Mr. Domenici, Mr. Boschwitz, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Nickles, Mr. Bond.
Nays: Mr. Gramm.

Mr. HOLLINGS. Mr. President, that was before the Budget Committee. Again, on the Hollings-Heinz amendment, I got together with my good friend, the late Senator John Heinz, and we worked in a bipartisan fashion, and we got an overwhelming bipartisan vote—98 Senators out of the 100. We missed two of them, Senator Armstrong and Senator Wallop. But we got 98 Senators, and any Senator, Republican or Democrat, who was a Member of this body back in 1990 who votes for the proposed Senate Joint Resolution 1 that would eviscerate the Social Security trust fund, that would turn the trust fund into a slush fund, constitutionally, is breaching the trust that he voted for on October 18, 1990 at 4:41.

I ask unanimous consent to have printed in the RECORD that vote record.

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

HOLLINGS—HEINZ, ET AL., AMENDMENT WHICH EXCLUDES THE SOCIAL SECURITY TRUST FUNDS FROM THE BUDGET DEFICIT CALCULATION, BEGINNING IN FISCAL YEAR 1991.

YEAS (98)

Democrats: Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Conrad, Cranston, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Harkin, Heflin, Hollings, Inouye, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan,

Nunn, Pell, Pryor, Reid, Riegle, Robb, Rockefeller, Sanford, Sarbanes, Sasser, Shelby, Simon, Wirth.

Republicans: Bond, Boschwitz, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Hatfield, Heinz, Helms, Humphrey, Jeffords, Kassebaum, Kasten, Lott, Lugar, Mack, McCain, McClure, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Rudman, Simpson, Specter, Stevens, Symms, Thurmond, Warner, Wilson.

NAYS (2)

Democrats: None.

Republicans: Armstrong, Wallop.

Mr. HOLLINGS. Mr. President, here is the former law, section 13301, off-budget status of the Social Security trust fund. I ask unanimous consent to have that statute printed in the RECORD.

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

SUBTITLE C—SOCIAL SECURITY

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

- (1) the budget of the United States Government as submitted by the President,
- (2) the congressional budget, or
- (3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title."

Mr. HOLLINGS. Mr. President, now we have a complete picture. They are running around here with demonstrations, with piles of books and their pile of books is the quintupling of the national debt under their particular leadership and trust, the 12 years really of Reagan-Bush, because we have reduced the deficit since then under President Clinton. Here is one-tenth that amount for the 205 years of our history, and they have the unmitigated gall to come here and continue with that demonstration. It is the Reagan-Bush memorial deficit pile. They are the ones who ran up the national debt. They are the ones who quintupled the national debt, and we are fighting in order to protect the Social Security trust fund.

I could go into other reports, but I have received a note from my distinguished leader, HARRY REID, of Searchlight, NV. What we are going to do is have a vote for the balanced budget

amendment. I have cosponsored one. I have been working in the vineyards for years. I balanced the budget back in the fifties in the State of South Carolina and got for the first time in its history a triple A credit rating. I was the first State from Texas up to Maryland to ever receive that from Moody's and Standard & Poor's.

I voted for a balanced budget. I worked with George Mahon in 1968. I worked in a bipartisan fashion with Senators GRAMM and Rudman in the mideighties to cut deficits, and I am willing to work with them anytime anywhere. This is not a partisan fight. This is a bipartisan fight to keep the trust. The distinguished Senator from Nevada will have a balanced budget amendment to the Constitution that we can support that will protect Social Security, and I intend to vote for it. But I am not voting, Mr. President, to breach the trust to vote against my own bill that I worked so hard for that we got President Bush to sign into law.

Mr. President, here is what really happens. Here is the President's budget, and on page 2—literally on page 2—you will find that in the year 2002, we have a surplus of \$17 billion. But if you turn—this is the gamesmanship on both sides, both in the White House and the Congress—but if you turn to page 331, you find a deficit in 2002 of \$167.3 billion. Why do we have to borrow \$167.3 billion? That is because we increase the debt that amount, and we are going to have to go out and borrow to pay the interest costs. That is the real deficit. It is not a \$17 billion surplus.

If you don't protect Social Security, then I come as a budgeteer and say, "Now, wait a minute, the other side is going to have \$543 billion," which is how much they will have borrowed from Social Security under this particular budget that we are discussing. If they are going to use \$543 billion, some will want to use it on defense, some will want to use it on education, and some will want to use it on highways. If they are going to use and spend the money, I might as well get my projects in there. That is wherein the discipline breaks. If you are going to use Social Security and turn it from a trust fund into a slush fund, you do not have the discipline.

Again, Mr. President, I thank my distinguished colleague for yielding the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ABRAHAM. 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. ABRAHAM. Mr. President, could I inquire as to how much time is left?

The PRESIDING OFFICER. The Senator from Michigan has 65 minutes, and the Senator from Nevada has 8 minutes and 34 seconds.

Mr. ABRAHAM. It is my understanding, Mr. President, the Senator from Nevada has one additional speaker who will not be coming for a bit. I think what we will do is the following: I will speak briefly in response to the last comments that were made, and I believe the Senator from Maine wishes to speak, and then we have some additional speakers who will be here, I am told, around 11:30. We will proceed and try to reduce the discrepancies in time between the two sides.

I want to focus this discussion on the amendment before the Senate, but I cannot ignore some of the comments that were made by the previous speaker, the Senator from South Carolina, who was pointing to these budgets and somehow reaching a conclusion based on his experience, that these budgets that are not in balance somehow are primarily the responsibility of Republican Presidents.

Mr. President, I was not here during all these Congresses. In fact, the last budget is the only one where I was present. The Senator from South Carolina was here during all these Congresses when these deficits were accumulated, and I think he knows, as we all know, that the Congress of the United States, specifically the House of Representatives, during this period of time was controlled by the Democratic Party. And, as we all know, all spending bills are required, by the Constitution, to originate in the House.

This is not a case of trying to blame each side. We are here today trying to solve a problem. Indeed, it may be that a lot of the spending that took place was during the 1980's, but the problems were created during the 1960's. The spending kept escalating because the programs were established in a way so that there was no choice but to see the spending programs increased. I do not believe there were a lot of calls for pulling in that spending from either side, but particularly from the Democratic side.

The other thing I wish to comment on is the issue of what took place in the 1980's, and the implication has been frequently made here on the floor that somehow the deficits were created because tax revenues to the Federal Government were starved because we let more people keep more of what they earned during the 1980's. It is true, Mr. President, that tax rates were reduced in the early 1980's. It is also true that after those tax cuts, the economy soared in ways that we could only hope to see continue into the future. It is also the case, Mr. President, that revenues to the Federal Government from the income taxes and other taxes increased dramatically during the 1980's, as well, increased substantially beyond

what had been the case in the beginning of that decade.

What increased faster than tax revenues to Washington and what resulted in the deficits that we saw was Federal spending. Federal spending increased, I believe, something in the vicinity of 69 percent. It was not one party's fault. It was not one part of the Government. It was across the board. Whether it was defense spending, discretionary domestic spending, or spending on mandatory entitlement programs, spending went up faster than tax revenues to Washington went up.

So the problem in the 1980's wasn't that we let people keep more of what they earned and somehow punished Washington; it is that we could not tighten the belt at the Federal level, reduce the growth of Federal spending in order to keep the deficits under control. We all are suffering today, as I said in my initial comments. The people suffering the most are families who are paying higher interest rates because of this deficit—2 percent higher rates—which produces higher prices, higher costs to finance the purchase of a new home or a new car, to finance student loans. Wage earners and those who create jobs suffer because of the higher interest rates and crowding out of markets. The Federal Government needs to borrow more. The children suffer because, to the extent that this debt falls on the responsibility of children in America and will continue to fall on them, much more of their working lives will be committed to paying taxes to finance just the interest on this deficit.

So, Mr. President, we have to address the problem now. We can't, today, get into exclusively a question of who is in charge of the Congress and who was the President during all these deficits. The visual we have today for the American people to see is the fact that, without a constitutional amendment, for nearly 30 years we have not been able to balance the budget. In fact, you can go all the way back to 1960 before you find a budget that was balanced without using the Social Security surplus. That is what we ought to address, and that is what I hope to see us accomplish today.

So, as I said earlier, there are a lot of issues involved in the amendment before us. I have raised questions as to how it could possibly be financed because, as I said, without, to my knowledge, any specific additional protections of the benefits of Social Security from the amendment, we will add a burden of some \$706 billion between 2002 and 2007, a burden of either additional taxes or reductions in spending on programs like education and law enforcement, which will have to be met to effectuate this amendment. I have not heard from any side a proposal to deal with that \$706 billion. I don't believe it is going to be feasible because

I don't think we are going to see an alternative proposal today. And because of the absence of that alternative, I cannot support this amendment. I know other Senators here wish to speak. So, at this time, I yield to the Senator from Maine such time as she may need.

The PRESIDING OFFICER. The Senator from Maine [Ms. SNOWE], is recognized.

Ms. SNOWE. Mr. President, I think that it is interesting to hear the debate that has been underway this morning with respect to the constitutional amendment to balance the budget. Frankly, this is probably—and is in many instances—the same debate we have had over and over and over again on this issue. I served 16 years in the House of Representatives, and we debated this issue. We debated this issue 2 years ago here in the U.S. Senate and lost by one vote, regrettably. But we hear the same arguments over and over again. I have been in Congress now for a total of 19 years, in both the House and Senate. We have debated this issue approximately eight times. What we have heard time and time again is, if we only had the will, or the courage, we would not need a constitutional amendment to balance the budget, that we should, as an institution, collectively be able to balance the budget without a constitutional requirement. Even the President stated that fact in his State of the Union Address to the Congress on February 4. He said, "Rewriting the Constitution isn't necessary to balance the budget. All we need is your vote and my signature."

Well, the fact of the matter is, he got our vote in the bill, which was a balanced budget submitted to the President, but we didn't get the President's signature. That's the problem. We don't have a constitutional requirement because there will always be a reason or an excuse as to why we can't balance the budget. Governors can't evade that constitutional requirement. Most Governors in this country today are required by their own constitutions, and they don't avoid that responsibility. The problem here is, there is a significant amount of avoidance because there is not an institutional will, or discipline, to balance the budget because it's difficult to make choices.

So no one is willing to set any priorities. If we don't have a constitutional amendment, we are not required to establish these priorities and we are not willing to exhibit leadership on our own initiative. So Congress has had decades and decades of good intentions. History is replete with good intentions on imposing fiscal discipline. But we have failed in achieving a balanced budget.

Now, we have heard a lot of discussion today about the past. We heard about the last 15 years. They talked about the Reagan Presidency and the

Bush Presidency. But what was omitted from that discussion was the fact that we also had a Congress, and it happened to be a Democratic Congress. Now, does anyone happen to believe that these budgets that are down here, which are unbalanced, didn't have the support of the Democratic Congress? I think we all know the answer to that question. Congress played a very significant role in the adoption of the budget. There is blame to go around on both sides. I think we all recognize that. But to sit here and say that blame for the last 15 years of budget deficits can be placed on the Reagan and Bush Presidencies clearly is ignoring reality, because that is not what happened.

In fact, I can recall back in the early eighties—in fact, I think it was 1983—there was an agreement between President Reagan and the Congress that for every dollar increase in taxes, there would be a \$3 reduction in spending. Guess what? We got the dollar increase in taxes, but we didn't get the \$3 reduction in spending.

I should also say that there was a budget agreement in 1990 that certainly contributed to the declining deficits that we are experiencing right now, and everybody is referring to the Clinton administration and declining deficits. But what's ironic about those declining deficits—and we know there are serious problems beyond the turn of the century, but for now the deficits are declining compared to previous years—in talking about those declining deficits, the other side fails to mention that they also include the Social Security trust fund surpluses. So they want to sort of have it both ways. Look, the deficits are coming down. Yet, they do include the Social Security trust fund. If we are going to talk about honesty in budgeting, they ought to exclude them to show what the real deficit is.

Every President has used the Social Security trust fund surpluses. There is no question that we have a serious problem beyond the turn of the century when we have the beginning of the baby boomers retiring. We have had an obligation, as we have always shown, since the inception of the Social Security trust funds, to pay those benefits to beneficiaries. That has been and will always be a sacred trust between the Government and the American people.

We want to preserve and protect the Social Security trust fund. What is the best way to do it? It is to balance the budget so that we can rein in spending, so that we will be in a position to pay out the baby boomers' retirement. And that is the issue that is confronting us. If we rein in the debt, we have a better ability to preserve and protect the Social Security trust fund.

I find it interesting that the debate today has centered around the constitutional amendment to balance the budget, not passing the straight face

test, because it includes the trust funds of Social Security. What I find interesting about the amendment that has been offered by the Senator from Nevada is that it doesn't take off budget all the other trust funds—the highway trust fund, the aviation trust fund, and the numerous other trust funds that represent billions of dollars. If we are going to talk about honesty in budgeting, they don't include that. In fact, here we have an enormous list of trust funds. If we are talking about truth in budgeting, then we are talking about many other trust funds as well.

The point is that the best way to preserve the Social Security trust fund is to balance the budget. The best way to protect the Social Security beneficiary payment checks is to keep it on budget, because that is the system that we have known. We have known how that system has worked. We have paid the benefits, and when there has been a problem with Social Security, we have addressed it, as was the case in 1983 with the bipartisan commission. But no one has told us on the other side exactly how this trust fund off budget is going to work. We have had no indication of what exactly is going to happen with those surpluses. Will they continue to be invested in Government bonds as they are today to pay off the debt and to write off the deficit, or are they going to be invested in private securities? Because that is also an issue.

It raises a concern for me because I am now asking the question: If you place the Social Security trust fund off budget, what exactly is going to happen to those surpluses? In what way are they going to be used? Are they going to be privatized? I think that is an issue and a consequence that should be addressed, because that does raise some significant concerns. Will they be placed in noninterest-bearing accounts because we cannot buy Government bonds? If the other side says, "Yes, we are going to buy Government bonds with it," that is exactly what we are doing right now. That is precisely the point.

So, then, the amendment really isn't changing what we are doing right now. So essentially the amendment places us full circle in terms of what we are doing with the Social Security trust fund surplus. Because I have not heard how the surpluses are going to be used off budget. How are they going to be invested? That is a significant question.

Two years ago when we had this debate on the constitutional amendment, there was a right-to-know amendment that was offered by the Democratic leader that would have required that Congress provide a detailed budget plan with binding reconciliation instructions before the amendment could even be sent to the States for ratification. And the intent of that amendment was essentially to say that Congress has a right to know how the budget is going

to be balanced if this constitutional amendment were to pass and were to be ratified by the States. I think it is an interesting concept.

We did present a balanced budget to the President, as I mentioned earlier. But it was vetoed. The fact is, we have a right to know, as was mentioned earlier by the Senator from Michigan, about exactly how we would accommodate the \$295 billion in cuts that would be required in addition to the cuts that would be required in the balanced budget amendment. But \$295 billion would have to be cut if we didn't take into account the surpluses in the Social Security trust fund just between now and the year 2002. But no one on the other side has identified exactly how we achieve that goal. That is double the amount of cuts that President Clinton submitted in his plan to the Congress that he declared to be balanced. So there would be \$295 billion in cuts over and above the cuts that will be required as well to balance the budget if we could not use the surpluses.

Then the period between the year 2002 and 2007 would require the Congress to come up with an additional \$706 billion. And, again, we have not heard from the other side exactly how that would be achieved because that would be over and above what we would be required to do in order to balance the budget without the surpluses.

So we are talking close to \$1 trillion—more than \$1 trillion—in additional cuts that will be required by Congress over and above what we have presented. These are difficult choices and difficult times. So we have to account for \$1 trillion more. And we have yet to hear how that will be accomplished. We have not seen a detailed plan, and we have a right to know, as the other side declared 2 years ago in suggesting that they had the right to know what would be the detailed balanced budget plan to balance the budget if we were to pass a constitutional amendment. They demanded a right to know. We demand a right to know because many have said on the other side that if we pass the Reid amendment, we can vote for the constitutional amendment to balance the budget. But we need to know. What is their plan for coming up with \$1 trillion in additional cuts? One trillion dollars is a significant amount over and above what we have already proposed to do. But we have yet to hear the details.

I think, frankly, since they insisted 2 years ago that we apply the standard of right to know, that we should apply the same standard to the Reid amendment today that we have a right to know, because to do otherwise, I think, is failing to meet their responsibility in meeting the standard of honesty in budgeting. The American people have a right to know exactly how that will be accommodated.

We have known that when the Social Security trust fund has been on budget

that we have met our obligations, and we will continue to meet our obligations. We also know that by balancing the budget, it will constantly make us aware of our obligation to the Social Security trust fund in what we can anticipate beyond the turn of the century in more people beginning to retire and with the onset of the baby-boomer retirements. We think that it is important to stay with the system that has worked since the inception of the Social Security system. But with the Reid amendment, we are being asked to act in blind faith.

The Social Security trust fund, as we know it, has had proven success. But they have failed to answer the question of what occurs when this trust fund is off budget. What happens to the trust fund? What happens to the surpluses? We have not heard those questions answered. And how will those trust funds be used?

So I think that these are some serious questions that need to be addressed and have certainly broad implications because we certainly should worry that these questions remain unanswered. We understand the trust fund within the context of the budget that we know. We have always met our obligations under the trust fund, and we will continue to meet our obligations under the trust fund. But we need to hear from the proponents of the Reid amendment exactly what is going to happen with this trust fund off budget. Will the surpluses be diverted for other purposes? That is a possibility. The amendment is poorly drafted. Will the surpluses be invested in private securities? It is a major problem. It may have major consequences. That has yet to be thoroughly explored. Will they be invested in Government bonds? That is exactly what is happening here today.

So then I think one could conclude that really this is not necessarily changing what we do today but just making a political point because, unfortunately, there are those who are not committed to a constitutional amendment and do not want to see the reality of such an amendment because of what it would require of this Congress and a President to make certain decisions in reaching a balanced budget.

So I hope that in the course of this debate we will hear some of the answers to these questions because I certainly am troubled by the prospects of some of the issues that this amendment raises.

I am a strong supporter of the Social Security system. I want a strong system. We have known how it has worked on budget, but we have not heard the questions answered about how it is going to work off budget, and I repeat that because that in the final analysis I think underscores the issues before us today. I think it unfortunate that the Social Security issue has been used so

many times in the past as a political issue. And from this debate at times we would know there are strong supporters of the Social Security trust fund on this side. I have been a very strong supporter over the years, and I just want to assure senior citizens in America that we will continue to preserve and protect them, and the best way to do it is to contain Federal spending and reduce the interest rates in America so that we can prepare ourselves for the commitments we must make in the 21st century to the younger generations as well as to retirees.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. I would like to yield 15 minutes to my friend from California, but I do not have 15 minutes. I am wondering if my friend, the manager of the bill, could spare me 7 minutes out of their time?

Mr. ABRAHAM. Mr. President, let me, if I could, consult in terms of other speakers coming down here.

Mr. REID. In the meantime, I will have her go ahead.

Mr. ABRAHAM. Yes. I have been told we have some other people who have indicated they are coming, and I would like to find out if that is true before I relinquish any other time.

Mr. REID. Mr. President, I yield such time as I have remaining to the Senator from California.

Mrs. FEINSTEIN. I thank the distinguished Senator from Nevada.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, I rise in support of the Reid amendment to the majority resolution to provide a balanced budget constitutional amendment.

As everyone in this body knows, the Reid amendment would exclude Social Security trust funds from the balancing requirement of the proposed constitutional amendment. This exclusion is the only matter in which the Reid amendment differs from the majority's balanced budget amendment. I think the amendment addresses a fundamental question to all of us who are in this body: Will we accept the responsibility to bring the Federal budget in balance without placing at risk the funds our constituents depend on for their retirement?

It must be remembered that every American worker pays 6.2 percent of their paycheck, matched by 6.2 percent from the employer, for a total 12.4 percent, which is paid into Social Security for their retirement.

What has happened is that the Social Security trust fund has been incorporated as part of the unified budget. Therefore, those moneys actually go into balancing the budget, and the majority amendment would freeze this practice into the Constitution for all

time—for all time—so that forever Social Security trust funds are used to pay the salary of a clerk or a lawyer or build a highway or buy a battleship or do any number of the myriad of things the Federal Government does through its operating budget. I believe that this is the soft underbelly of this constitutional amendment. This is the Achilles heel. Even if this amendment passes both of these bodies, I do not for a minute believe that three-quarters of the people of each legislature in our 50 States will ratify this amendment.

This morning we had signatures from 890,000 Social Security recipients, urging our opposition to any balanced budget amendment which does not protect Social Security. Those signatures represent just the current recipients today. People like my daughter, who is in her thirties, is working and providing that money said to me, "Mother, you know that isn't going to be there when I retire. Why don't you just let me have the money now. There are better things I can do with it. I could use it right now."

Social Security is a sacred trust with the public.

If I may, let me make the picture for not enshrining it into the Constitution with this chart.

What this chart does is show the amount of Social Security surplus—that is all of this—that goes into balancing the budget. Up to 2002 it is in the vicinity of \$500 billion.

By 2013, it is \$2 trillion that is utilized cumulatively to balance the budget. From 2002 to 2019, the amount that Senate Joint Resolution 1 takes from the trust fund to balance the budget is \$1.8 trillion.

Now, what happens after the year around 2019 when the surplus begins to fall? When Social Security revenue drops below Social Security outlays to beneficiaries, according to the Congressional Research Service report, that is when this body will have to raise taxes or cut Social Security payments or cut some other Federal programs and find some way to balance the budget.

Under the majority's proposed constitutional amendment, outlays must match revenue in the fiscal year. If Social Security revenue falls, the revenue needs to be made up through higher taxes or we have to cut spending through reduced Social Security payments or spending reductions elsewhere in the budget.

The majority's amendment is unfair because it enshrines in the Constitution, the principle that Social Security receipts and Social Security payments to beneficiaries are at risk. Because, at some point along the way, push is going to come to shove, expenditures are going to exceed outlays, and then there is going to be a problem.

There are some in this body who will say, "Well, that forces us to reform Social Security." That may be and it may

not be, I don't know. But it is not the right thing to do.

In 1990, adopting the Hollings amendment, which Senator HOLLINGS has so eloquently described, this body said we are not going to include Social Security as part of the unified budget anymore. The votes were virtually unanimous. Yet, voila, the Federal Government continues to include Social Security as part of the unified budget. I think that is wrong. That is the soft underbelly, that is the Achilles heel. It is just plain wrong.

I support the Reid amendment. The Reid amendment's only difference from the majority resolution is the exclusion of Social Security from the balancing requirement.

In the event that the Reid amendment is not successful, tomorrow morning I will propose another version, along with Senators CLELAND, TORRICELLI, and DURBIN. This amendment would say: All right, we lost in our effort to take Social Security out of the balancing requirement for the very reason that it is too difficult to achieve balance. We all admit that, that there needs to be some time to adjust to the removal of Social Security from the unified budget. So I will propose an amendment which essentially would do the following. It would say that Social Security will be used up to the year 2002. After the year 2002, when balance is achieved, Social Security will be withdrawn from the unified budget and, therefore, \$1.8 trillion will be preserved for retirees. The integrity will be saved. It will not be an IOU. It will be saved. Additionally, my amendment would change extending the debt limit from the three-fifths requirement of the majority balanced budget amendment to a constitutional majority of both bodies. It would also provide an exception for an economic emergency, and that way the stabilizers can function, and it would also clarify that the amendment will not prohibit the enactment of a capital budget as well.

So, I believe that, in the year 2002, Congress would have the opportunity to develop a capital budget. At 2 percent of GDP, that capital budget would be around \$160 billion a year. We utilize about \$140 billion a year now, so it would make some sense and it would fill the gap.

If there is an interest in having a balanced budget amendment, this might be a way of going about it and correcting some of the problems. The Reid amendment, which I have voted for in past years, indicates that the enshrinement of Social Security into the Constitution of the United States is not something that this body is going to do. We are not going to take those trust funds and use them to buy battleships or provide park services or pay the salaries of 96,000 workers at the Department of Justice, or to provide

anything else. It will be invested as trust funds, as it should be, separate and discrete and held for the retirement of every person who pays that FICA tax every year.

I yield the remainder of my time.

Mr. President, may I ask to spend a few minutes in morning business to introduce a matter?

Mr. ABRAHAM. Mr. President, I think we would be in a position, until the hour of 12 noon, to grant that request.

Mr. REID. Mr. President, the manager of the bill for the majority very graciously extended additional time, if Senator FEINSTEIN needed that time. It was not necessary that she use that time. So, if she goes into morning business that will be charged not against either one of us, is that right?

Mr. ABRAHAM. What I propose is that Senator FEINSTEIN have up to 12 noon to finish her statement or add whatever she would like. I believe we will have another speaker or speakers here by then, and I have additional comments to fill the remainder of our time between what would then be 12 and 12:30. As I understand it, we have 30 minutes, approximately, left then?

The PRESIDING OFFICER. At 12 noon the Senator would have 30 minutes, yes.

Mr. REID. I will say, Mr. President, I would not be in debt to the majority for any time, 2:30, 2:40, whatever it is?

The PRESIDING OFFICER. The Senator is correct.

The Chair recognizes the Senator from California.

DENY CERTIFICATION TO MEXICO

Mrs. FEINSTEIN. Mr. President, I rise to read into the RECORD a letter that I have just sent to the President of the United States, urging decertification of Mexico:

DEAR MR. PRESIDENT: I am writing to urge you to deny certification that Mexico has taken sufficient actions to combat international narcotics trafficking when you report to Congress on the anti-narcotics efforts of major drug producing and drug-transit countries. I believe a reasonable examination of the facts leads to no other decision.

Last year at this time, Senator D'Amato and I compiled a list of actions we considered it necessary for the Mexican government to take to beef up their anti-narcotics efforts. This list is attached. Regrettably, I have concluded that there has been insufficient progress, or no progress, on nearly all of the items on this list. Some of these failures are due to inability; others are due to a lack of political will. But all have set back the urgent effort to end the plague of drugs on our streets.

I want to bring to your attention a number of the most significant examples of Mexico's inability and unwillingness to deal with the drug trafficking problem effectively:

Cartels: There has been little or no effective action taken against the major drug cartels. The two most powerful—the Juarez Cartel run by Amado Carrillo Fuentes, and the Tijuana Cartel, run by the Arellano Felix

brothers—have hardly been touched by Mexican law enforcement. Those who have been arrested, such as Hector Palma, are given light sentences and allowed to continue to conduct business from jail. As DEA Administrator Constantine says, "The Mexicans are now the single most powerful trafficking groups"—worse than the Colombian cartels.

Money Laundering: Last year, the Mexican parliament passed criminal money laundering laws for the first time, but the new laws are incomplete and have not yet been properly implemented. These laws do not require banks to report large and suspicious currency transactions, or threaten the banks with sanctions if they fail to comply. Promises to enact such regulations—which prosecutors need to identify money-launderers—have so far gone unfulfilled. Mexican officials said that such regulations would be developed by January, but they were not produced. To my knowledge, not a single Mexican bank or exchange house has been forced to change its operations.

Law Enforcement: While there have been increases in the amounts of heroin and marijuana seized by Mexican authorities, cocaine seizures remain low. Although slightly higher than last year's figures, the 23.6 metric tons seized in 1996 is barely half of what was seized in 1993. A modest increase in drug-related arrests brought the total to 11,245 in 1996—less than half of the 1992 figure.

Cooperation with U.S. Law Enforcement: Our own drug enforcement agents report that the situation on the border has never been worse. Last month, the Mexican government forbade U.S. agents to carry weapons on the Mexican side of the border, putting their lives in grave danger. Recent news reports indicate that death threats against U.S. narcotics agents on the border have quadrupled in the past three months. Some U.S. agents believe that all their cooperative efforts are undone almost instantly by the corrupt Mexican agents with whom they work.

Extraditions: Despite the fact that the United States has 52 outstanding extradition request on drug-related charges, not a single Mexican national has ever been extradited to the United States on such charges.

Corruption: Mexico's counternarcotics effort is plagued by corruption in the government and the national police. Among the evidence are the eight Mexican prosecutors and law enforcement officials who have been murdered in Tijuana in recent months. There has been considerable hope that the Mexican armed forces would be able to take a more active role in the counternarcotics effort without the taint of corruption. But the revelation that Gen. Jesus Gutierrez Rebollo, Mexico's top counternarcotics official and a 42-year veteran of the armed forces, had accepted bribes from the Carrillo Fuentes cartel, casts grave doubts upon that hope.

Recent news reports indicate that U.S. law enforcement officials suspect judges, prosecutors, Transportation Ministry officials, and Naval officers of corruption, and there is persuasive evidence that two Mexican Governors—Manlio Fabio Beltrones Rivera of Sonora and Jorge Carrillo Olea—are actively facilitating the work of drug traffickers in their respective states. The National Autonomous University of Mexico estimates that the drug lords spend \$500 million each year to bribe Mexican officials at all levels, and many consider that figure to be a gross under-estimation.

Mr. President, I believe the evidence is overwhelming and can lead to no decision other than the decertification of Mexico. It

would send a strong signal to Mexico and the world that the United States will not tolerate lack of cooperation in the fight against narcotics, even from our close friends and allies. Accordingly, I urge you to establish a clear set of benchmarks by which you will judge if and when to recertify Mexico for counternarcotics cooperation. These benchmarks must include, but not be limited to: effective action to dismantle the major drug cartels and arrest their leaders; full and ongoing implementation of effective money-laundering legislation; compliance with all outstanding extradition requests by the United States; increased interdiction of narcotics and other controlled substances flowing across the border by land and sea routes; improved cooperation with U.S. law enforcement officials, including allowing U.S. agents to resume carrying weapons on the Mexican side of the border; and a comprehensive program to identify, weed out, and prosecute corrupt officials at all levels of the Mexican government, police, and military.

You may feel that U.S. interests in Mexico, economic and otherwise, are too extensive to risk the fall-out that would result from decertification. That is why Congress included a vital national interest waiver provision in Section 490 of the Foreign Assistance Act. But other vital interests are not a valid reason to certify when certification has not been earned. If you feel that our interests warrant it, I urge you to use this waiver. But an honest assessment of Mexico's cooperation on counternarcotics must fall on the side of decertification.

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mrs. FEINSTEIN. If I might be allowed 30 seconds to conclude?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I can only say I believe a strong case can be made to the President to decertify Mexico, to provide a list of specific accomplishments that country should meet to waive decertification, and at any time during this next year that they meet that list of requirements, the President has the ability to certify them. I thank the President. I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

AMENDMENT NO. 8

Mr. ABRAHAM. Mr. President, I want to comment briefly on the amendment before us. We are expecting two more speakers for the remainder of our time. What we may do is yield some time to Senator CHAFEE to speak on another topic until those speakers arrive.

I just want to make a final point with respect to the amendment before us, that I do believe, as I have said twice now in speaking on this amendment, that there are still many unan-

swered questions, ones which at least I would need to hear answers to before I could feel comfortable voting in support of it. I have raised some of these questions already.

How would we address the \$706 billion shortfall that this would produce in 2002 to 2007? This \$706 billion is more than the total amount of dollars that were involved in the 1993 tax hike and in the budget proposals passed last year by this Congress in terms of reducing the growth of Medicare and discretionary spending. \$706 billion is more than all of that put together. No one has come forward and explained where those dollars would come from to effectuate this amendment.

The second issue I have asked questions about is why is it just this trust fund? There are others in the Federal Government. We are told the trust fund should be taken off budget, yet the amendment only addresses one of them. If, in fact, we are debating the definition of a balanced budget, we can't have some trust funds qualifying and some trust funds not qualifying.

In addition, we haven't had any explanation of what happens if Social Security is cut loose in the process through this amendment, and if it were cut loose and runs out of money, what would be the consequences and how would we address such shortfall if it was not part of a unified budget?

There are all of these questions and others before us, Mr. President. As I say, I have listened this morning and have not heard answers to them. There are others I will be raising later in the day. In the absence of those answers, it is clear to me that trying to effectuate this amendment would be a very high-risk proposal, as I said from the outset, with no evidence in the amendment of protecting the benefits of Social Security any more than they are protected if they are part of the unified budget.

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. ABRAHAM. 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. ABRAHAM. Mr. President, I yield up to 10 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, over the next few days, we have an opportunity that we want to take advantage of to correct the course of years of unrestrained Government spending. Just like a consumer who has too many credit cards, barely keeping his head above water, particularly because he is paying big interest on his balance, so, too, is the Federal Government sinking

under an ocean of debt. This deplorable state of affairs will force the Federal Government to make an annual payment of \$248 billion this year alone.

We have already tried to instill fiscal discipline through a lot of other measures that we passed in the last 10 years, including spending caps and deficit control mechanisms. They simply are not working efficiently enough to sustain the level of economic growth that we are now experiencing. If we had the deficit under control and interest rates down, we would be creating many, many more jobs than what have been created by this economy. Without the discipline of a constitutional amendment, we will see our interest payments further drag down the economy. By 2007, interest payments on the national debt will increase to \$340 billion.

Just imagine, if we were not paying the interest right now, we would have no budget deficit whatsoever. In fact, we would be running a surplus until the year 2004.

When talking about the balanced budget amendment, one of the first things to do is set the record straight on the issue we have been talking about since last night: the issue of Social Security.

Some of my colleagues, well-meaning but wrong, have signaled that they would be willing to support the balanced budget amendment if Social Security was exempt from the amendment. I say wrong. Why? Because exempting Social Security would create more problems for the program. They argue that a balanced budget amendment threatens the viability of Social Security and would harm vulnerable seniors in the process. If that were true, I would not be supporting this resolution. But that is not true, and unless we get the deficit of the Federal Government under control, this Government and our economy will never be strong enough to ever meet the needs of the baby boomers when they go into retirement just 13 years from now.

Proponents of the Reid amendment apparently still believe that by passing Senate Joint Resolution 1, there would be some sudden groundswell of support for cutting Social Security benefits to reduce outlays. They are wrong. Given the popularity and the need of Social Security for our seniors, because it is part of the social fabric of American society, this Congress would not let that happen. Even if this Congress were inclined to let that happen, the American people would not let that happen. That just isn't going to happen.

I am committed to the idea that balancing the budget is not about cutting Social Security. I voted for a resolution last year which promoted that view, but opponents of the amendment are not satisfied by words—I suppose everybody is cynical about words from Members of Congress—but past experience dictates otherwise. Even though

we have submitted budget resolutions which achieve balance in the year 2002 without harming Social Security, the opponents of the balanced budget amendment continue to try to derail this amendment by claiming that those of us who have always fought to protect Social Security will turn around and try to harm Social Security. How could that ever happen, when the experience of the last 60 years to protect Social Security has been just the opposite, the experience of this Congress, the track record of this Congress, has been just the opposite?

Our budget proposal does take into account the Social Security surplus, projected to be about \$465 billion cumulative by the year 2002. Requiring a consolidated or unified budget in this constitutional amendment is the right thing to do. First, we must set our policy in accordance with the long-term health of this Nation's economy and the people of this country.

By chance, there is a Social Security surplus today. If we had tried to pass a balanced budget amendment like this in the early 1980's, we would not have to worry about this argument because Social Security had no surplus.

If we waited until the year 2029 to balance the budget, we would not be hearing this argument because there would be no surplus in Social Security at that time. It would be bankrupt. Social Security will be running a very real deficit by the year 2029. Whether Social Security is off or on budget, the decisions made about borrowing will have to take this deficit into account, even though it will look as if we are in full compliance with the Constitution. How can we expect the people to have confidence in Government if this kind of ghost accounting continues to go on?

But this message does not seem to be getting through. Listen to comments of the Federal Reserve Chairman Alan Greenspan. His comments seem to be ignored on the issue of the unified budget. At a hearing of the Senate Budget Committee held 3 weeks ago, Chairman Greenspan testified that "for the purposes of fiscal evaluation of the budget of the United States, the unified budget is the appropriate one * * *

Chairman Greenspan is right—financial markets take into account all Government activity. It is not segmented out into various trust funds as the sponsors of this amendment on Social Security would want us to believe. If we exempt Social Security we will make our job harder. That could have serious ramifications for the economy, and for other programs in the budget. If we are forced to make up the \$295 billion lost from the Social Security surplus, we will have to find places to make further, unnecessary reductions.

I see no compelling reason to exempt Social Security. It is beyond dispute

that should Congress scrap the unified budget and exempt Social Security, truly draconian cuts in important social programs would be absolutely necessary to balance the budget.

So, in the spirit of truth in budgeting, I challenge the supporters of scrapping the unified budget to identify what programs will be cut and how large those cuts will be. Prior to the 104th Congress, those who supported the balanced budget were repeatedly asked to provide details of how a balanced budget would be achieved. I believe the same standard should apply to those who propose exempting Social Security. Where is the beef in their proposal?

One final reason I do not support exempting Social Security from the resolution is the possibility that the exemption will turn into a magnet for new spending that is not offset with cuts—all with a simple majority vote. This does not seem too farfetched, Mr. President, at a time when President Clinton is proposing to shift home health care spending from one Medicare trust fund to a second trust fund which is largely funded by the general Treasury.

I believe it is clear that the best way to protect Social Security now as well as in the future is to reject ill-advised efforts to exempt Social Security from the balanced budget amendment. In fact, the respected Robert Myers, a former chief actuary of the Social Security Administration who continues to be a strong supporter of the program of Social Security, is a strong supporter, as well, of this balanced budget amendment as it is written.

Mr. Myers recognizes that continued fiscal irresponsibility on the part of the Federal Government is the greatest threat to Social Security, a program that is part of the social fabric of America, protecting America's seniors in retirement. If we continue to run up the deficit, interest payments will continue to rise. When the time comes for Social Security to start cashing in its bonds, possibly as soon as the year 2012, the Federal Government may find it very difficult to find a creditor when the debt we carry exceeds \$8 trillion.

We have another opportunity to rid ourselves of this unsustainable spending. I hope that we can, once and for all, keep our promise to balance the budget without hanging the Social Security noose around the necks of those of us supporting the balanced budget amendment. Contrary to the hue and cry that we hear from the other side, the balanced budget amendment is the best way to continue ensuring a good quality of life for seniors while preserving the American dream for all Americans.

Also Mr. President, I want to correct an incorrect characterization of a memorandum by Congress Daily.

The Congress Daily refers to a CRS analysis which supposedly says that

the balanced budget amendment will hurt the Government's ability to pay Social Security benefits.

Let me read from the report: "Now, of course, this does not mean that Social Security benefits could not be paid." I don't know how much clearer you can be on this subject. The balanced budget amendment will not prevent Congress from honoring its commitments to seniors.

Better yet, the same CRS researcher who produced the report which some have mischaracterized has produced yet another clarifying memo. Let me quote from that newest report: "We are not concluding that the trust fund surpluses could not be drawn down to pay beneficiaries." That seems perfectly clear to me. Social Security will not be harmed by the balanced budget amendment.

I think that it's unfortunate that those who oppose the balanced budget amendment are using such deceptive arguments and tactics. We are making important decisions for the future of this great Nation. I wish we could have an honest debate about the balanced budget and not resort to trickery.

The Congress Daily article also quotes several of my Democratic colleagues referring to a report from the Center on Budget and Policy Priorities. As everyone knows, this group is a liberal interest group that opposes the balanced budget amendment. That's what they testified to earlier this year before the Judiciary Committee.

So, in conclusion, this page and a half CRS analysis actually reaffirms what the supporters of the balanced budget amendment have always been saying: the balanced budget amendment will not harm Social Security.

Mr. REID. Mr. President, I ask unanimous consent at the hour of 12:30 Senators JOHN CHAFEE be allowed 12 minutes to speak as in morning business and Senator JOHN KERRY be allowed 10 minutes as in morning business.

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

Mr. CRAIG. Mr. President, let me thank my colleague from Iowa for the tremendously important statement he has made. I am amazed at what I think many of us would call gimmickry when it comes to the legitimate and responsible debate over the balanced budget amendment to our Constitution. There is not a Senator on this floor who is not committed to upholding the fiscal integrity and the solvency of the Social Security system of our country. Many of us have voted to do that time and time again, and those votes have produced, in fact, a strong, stable, and secure system to ensure supplemental income for the senior community of our country. But that does not deny us the responsibility of being fiscally responsible.

The amendment of my colleague from Nevada, while I believe he is sincere, is frustrating to me and at times

angry, that it appears at this moment, by press conferences recently held, that there is an effort to game this issue, much like the administration attempted to game Medicare in the last election, when this Congress was legitimately and responsibly involved in trying to save and secure our Medicare system, a system that provides a critical need for the senior community of our country.

There is absolutely nothing, in my opinion, in the years I have studied the balanced budget amendment to our Constitution, and I find myself reasonably knowledgeable as it relates to the budget itself, that you should separate any portion of the budget from its responsibility of being balanced under a unified budget.

The week before last, prior to the recess, we saw many of our colleagues on the other side of this issue rush to the floor, claiming that the Congressional Research Service memo confirmed their argument and confirmed their logic that somehow Social Security had to be removed from this amendment, or this proposed amendment. The Congressional Research Service came back with these words: "We have been and are being misrepresented in what we believe to be our findings of the facts and our interpretation."

If this is so, then there is reason to be frustrated and there is reason to be a little angry that some would game the system, actually attempting, in my opinion, to distort what is, in fact, the representation of the Congressional Research Service. While I at times have taken legitimate criticism directed toward the Congressional Research Service, I have not tried to say what they said is not what they said that somebody else said. That, of course, is part of the argument that some are using now with the issue of Social Security.

Oh, it is a way out and it is a way to hide. It is a way to hide from the legitimate vote, up or down, on a constitutional amendment for a balanced budget. Why should you be frightened of it? If you are not for a balanced budget amendment to our Constitution, vote no. If you really do not believe in it, vote no.

If you believe in deficit spending, vote no. But don't try the gimmickry that we have seen. I will repeat the use of that word. We have seen a multitude of amendments come to the floor, and if each one of them had been attached to the constitutional amendment, three-quarters of the Federal budget would be off-budget again, outside of a balanced budget amendment, and able to run free and in deficit for any length of time the Congress so chose. I don't believe that is the intent of the Congress itself.

I do believe we are listening to the American people at this moment. And, again, the President eloquently, and I believe 12 or 13 times, in his State of

the Union Address, said he was sending up a balanced budget. We all, quietly, appropriately, and respectfully, waited for his budget to come to the Hill. We got it, but I must say that it is not in balance. It is a \$120 billion deficit across the board. Yet, he calls that balanced.

Mr. President, get a new set of glasses. I know you are getting to be middle-aged. You better get bifocals because the fine print says that isn't what you are saying. Of course, after he leaves office, then the tough cuts are made to argue his point of a balanced budget, or the tax relief he has proposed would simply be taken away.

Social Security deserves to be a legitimate and responsible part of the total budget. This job I hold, to which I have sworn an oath of office, also makes me a member of the board of directors of the Social Security system, in essence. The Senator from Nevada and I are dedicated to the long-term stability of the Social Security system. Taking it off budget, allowing it to run deficits, disallowing its responsible and reasonable management through the budget process, does not make a lot of sense. I don't argue separate accounting, I don't argue the legitimate approach that shows or demonstrates to the Social Security recipients what is legitimately his or hers. That is all right and responsible, and we can agree on that. But I suggest that the amendment before us is subterfuge, that it does not resolve the problem.

Social Security officials have continually said, "How do you save Social Security?" You balance the budget. A bankrupt Government is not going to write a check to anybody in any way. It is a Government who is fiscally responsible, a Government whose budgets are balanced, that can write Social Security checks. It is not independent of any portion of the Federal Government, and it must be taken in the whole of the context of that Government.

I am disappointed to have to address what are blatant scare tactics that some groups are using on the balanced budget amendment and Social Security.

Recently, we were hit with a press item that claimed the Congressional Research Service had issued a memo confirming a so-called study by an outside advocacy group—the Center on Budget and Policy Priorities—concerning Social Security and the balanced budget amendment.

This group has always opposed the balanced budget amendment and consistently opposed reducing the deficit with meaningful domestic spending restraint.

I say I am disappointed, but I am also angry. I hate to say it, but what CRS actually said has been misrepresented. I have not read everyone's press releases, so I simply assume it was that outside group that was overreaching.

CRS did not endorse any study or paper by the Center on Budget and Policy Priorities. CRS did not reach the same conclusion that the balanced budget amendment would in any way impair drawing down the Social Security trust fund surpluses to pay promised benefits when the time came.

We've all heard the term "G-I-G-O—garbage in, garbage out." CRS apparently was handed a narrowly written request. They responded, appropriately, with a technically precise memo on February 5. Others released that memo to the press on February 12.

Part of what CFR said was misrepresented and part was left out.

The CRS memo was about accounting. It was about what would and would not be included in the calculations of a budget deficit, surplus, or balance under Senate Joint Resolution 1, the balanced budget amendment to the Constitution.

But the spin from opponents of the balanced budget amendment was that the amendment might cause some Social Security checks to be held up.

The two things have absolutely nothing to do with each other. But the original CRS memo was written in technical language. That made it easy for someone to fabricate a scare story about what it meant.

On February 12, CRS issued a clarifying memo, also technically precise. They told my staff that, clearly, there was what they charitably called "a misunderstanding."

First of all, let's be clear: The first CRS memo talks about the year 2019 and after. Curiously, I have not seen much about that date, 22 years from now, in press reports. We might be tempted to think the intent was to scare today's senior citizens about their Social Security.

Now, what happens in the year 2019? Social Security outlays are projected to start exceeding receipts. Under the balanced budget amendment, the rest of the Government would have to run a surplus to make sure the overall budget is balanced.

That is good—it means that, in the long run, assuming for the moment no other reforms are made in the meantime, the balanced budget amendment would make sure we do not abandon our commitment to Social Security beneficiaries.

The real balanced budget amendment, Senate Joint Resolution 1, requires us to make sure that a non-Social Security surplus covers any Social Security deficit in the future. That is good for seniors, good for Social Security, and good for the economy.

So, it all sounds like scare tactics to me. When you are losing on substance, terrorize the senior citizens.

Let us look at what CRS really said: In its original February 5 memo, CRS said, "(T)his does not mean that Social Security benefits could not be paid, if

the rest of receipts into the Treasury for a particular year exceed outlays, this amount could be used to offset the Social Security deficit."

Well, this is exactly what our balanced budget amendment requires—that those other, non-Social Security accounts run a surplus. That would protect seniors.

The February 5, CRS memo continues, "And of course, tax or expenditure provisions, or both, could be altered to create a new balance." Well, that's exactly what the President's Advisory Council, and the minority leader, and others have talked about.

Those are the parts of the original CRS memo that get left out when balanced budget amendment opponents quote that memo.

Now, let us look at the February 12, CRS memo:

We are not (CRS emphasizes "not") concluding that the Trust Funds surpluses could not be drawn down to pay beneficiaries. The BBA would not require that result. . . .

Only if no other receipts in any particular year could be found would the possibility of a limitation on drawing down the Trust Funds arise.

In other words, if the Federal Government was otherwise totally broke would this possibility arise.

And of course, we know the way to prevent the Government from going totally broke: Pass the balanced budget amendment.

It has been said here on the floor that CRS did not change its original position. That is right. Its original position has been misunderstood and misrepresented.

I see my colleague from Texas has arrived, and I believe he has the time until 12:30 under a unanimous-consent request. My guess is if his comments extend beyond that, he can find the cooperation of some of our colleagues here on the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. How much time do I have left?

The PRESIDING OFFICER. The Senator has 6 minutes, 10 seconds.

Mr. GRAMM. Mr. President, I want to make a very, very simple point, and I think I can do it in 6 minutes. If not, I will come back this afternoon. First of all, everybody knows what is happening to the national debt. It is exploding under both Democrats and Republicans. Nobody tries to argue otherwise. They suggest that we wait until another day to deal with it. But nobody can refute the fact that debt is going up.

Now, the second thing that we have seen throughout this whole debate is that we have had an effort by our Democratic colleagues to exempt the budget from the balanced budget requirement. In fact, if you add up every amendment that has been offered by our Democratic colleagues to the balanced budget amendment to the Con-

stitution, they have now proposed, in terms of amendments offered and submitted on the floor and dealt with in committee, to exempt Social Security, college education, veterans, education, nutrition, health, housing, justice, capital projects, and emergencies, which is 77 percent of the domestic budget, if we are going to require a balanced budget.

I want to talk about the exemption that is before the Senate now. That is exempting Social Security. Now, it is interesting that our colleagues say that if you want to protect Social Security, don't balance the budget. Well, let me first note that it is interesting because in committee, the Democrats propose that we count the Social Security surplus for the next 5 years and, then, thereafter, we exempt Social Security from the budget.

Now, I have a chart here that shows what is happening to Social Security. What it shows, very briefly, is that for the next 20 years, it has a modest surplus, and then when baby boomers turn 65 and retire, it falls off the end of the Earth.

Now, it is interesting to note that our Democratic colleagues say, while you have this surplus, let's count that for 5 years to try to balance the budget, but don't count any of this deficit. I ask you, how can you balance the budget and not count the largest program of the Federal budget, which is Social Security? How can it be anything but a fraud to talk about balancing the budget and exempt the largest program in the budget? But there is a more important point I want to make, and that point has to do with the ability to fund Social Security.

If you get to the heart of this amendment, what our Democratic colleagues are saying is, if you don't balance the budget, you are in a stronger position to fund Social Security. Let me look at this very briefly. We last balanced the budget in 1969—28 years ago. The last day we had a balanced budget, the Federal debt was \$366 billion. Today, the debt is \$5.2 trillion, which is the gross level of Federal debt. We cheat a little sometimes by talking about debt held externally as if we don't have a debt to the Social Security trust fund.

What has happened since the last day we had a balanced budget is the Federal debt has risen by \$4.8 trillion. Since the last day we had a balanced budget, we have indebted every child in America to a debt, at birth, of \$20,000. Every baby born in America, every day since 1969, is \$20,000 more in debt than they were the last day we balanced the Federal budget. The interest on the debt that we have incurred since 1969 is \$320 billion a year, to date. The interest we are paying on the debt we have incurred since the last day we balanced the Federal budget is \$320 billion a year.

The Social Security benefits to the elderly are only \$304 billion a year. So,

by the deficits we have run every day since 1969, we have piled up an interest payment, per year, that is bigger than what we are spending on Social Security benefits for the retired every year.

Now, does anybody believe that, by incurring \$4.8 trillion of debt since the last day we balanced the budget, Social Security is more secure today than it was in 1969? Does anybody believe that, because we are paying \$320 billion of interest on the debt that we have incurred since the last day we balanced the budget, Social Security is more secure because we are piling up this debt? A baby born in America, if spending continues at the current rate, will, in their working lifetime, if they are born today, pay \$187,000 of income taxes in their working lifetime just to pay interest on the public debt. Are they going to be in a better position to provide Social Security benefits for their parents by paying \$187,000 in their lifetime on interest? Would they be in a stronger position to provide Social Security if they weren't paying that interest? I think the answer is, clearly, yes.

To end with a simple analogy with what our Democratic colleagues are saying, which could be converted into advice to a family, say that you have a family and they have one child 3 years old. They have one 2 years old. They have one which is 1 year old. They have three children. Our Democratic colleagues are giving them advice about funding the college education of their children. Our Democratic colleagues say, "Look. Don't balance your budget. If you balance your budget, you may not be able to send your children to college." Does anybody believe, if for the next 17 years they run up big debts, that they are going to be in a better position to send those children to college than they would be if they were saving the money now to do it? If you care about your momma, if you care about Social Security, and if you want to balance the Federal budget to stop this debt and this interest from eating up every penny you earn, only then can Social Security be saved. That is why this amendment, if adopted, would be a nail in the coffin of Social Security. If you want to save Social Security, stop the growth in the debt. Stop the growth in interest payments.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that all amendments in order to the pending balanced budget constitutional amendment be limited to the following, and that they be first-degree amendments:

Senator BUMPERS' amendment with regard to statutory alternative;

Senator BOXER'S amendment with regard to disaster exemption;

Two relevant amendments for Senator BYRD;

Senator CONRAD, a substitute;

Senator DASCHLE, relevant;
 Senator DORGAN substitute, and sense of the Senate;
 Senator DURBIN, tax cuts and shut-downs; two different amendments;
 Senator FEINGOLD, one amendment on ratification time period, one with regard to surplus, one with regard to enforcement, and one relevant;
 Senator FEINSTEIN, substitute;
 Senator GRAHAM, public debt;
 Senator HOLLINGS, one on campaign finance and one relevant;
 Senator KENNEDY, one on judicial review and one on impoundment;
 Senator KOHL, capital budget;
 Senator LAUTENBERG, implementation language, and one relevant;
 Senator LEAHY, debt limit, and one identified as relevant;
 Senator LEVIN, implementing legislation;
 Senator MOYNIHAN, debt limit;
 Senator REID, Social Security;
 Senator ROCKEFELLER, Medicare;
 Senator TORRICELLI, capital budget;
 Senator WELLSTONE, proportionality, children, and sense of the Senate, all identified as one amendment;
 Senator LOTT, two relevant amendments;
 Senator HATCH, two relevant amendments; and
 Senator KEMPTHORNE, Social Security, sense of the Senate.

I further ask that all amendments must be offered no later than 5 p.m. on Wednesday, February 26, and that any amendment not offered by 5 p.m. no longer be in order to the balanced budget constitutional amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, let me say first of all that I appreciate the cooperation of all Senators. This does not mean necessarily that every one of these amendments are going to be offered. In fact, I hope to the contrary that they will not.

I would also like to add, if I could, a clause that no motion to recommit be in order to the unanimous-consent request, if that would be in keeping with the majority leader's intent.

Mr. LOTT. That would not be my intent. I did intend to reserve the right to have that motion to recommit.

The PRESIDING OFFICER. Is there objection?

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

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

Mr. DASCHLE. Mr. President, based upon the conversations I have had with the majority leader, I have no objection to the unanimous-consent request.

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

Mr. LOTT. Mr. President, I thank the Democratic leader for that cooperation. We will continue to have discussions and deal honestly and fairly with each other. This is a long list. But as he suggests, I hope they will not all be offered and that we can begin then to identify a time for those amendments to be considered in a regular order and move toward completing action on this debate on this amendment by next Tuesday.

In that regard, Mr. President, for the information of all Senators, having had several discussions with the Democratic leader as to how to bring to a close this important constitutional amendment, it appears that it is the first step toward reaching final passage time by having this list offered now, which I hope would be in the late afternoon of Tuesday, March 4.

All Senators who intend to offer amendments to this constitutional amendment must be included in the list just submitted. Also, the Senator on the list must then offer his or her amendment for consideration prior to 5 p.m. on Wednesday. Following the 5 p.m. deadline on Wednesday, the managers will then be able to determine how much work remains leading up to the final passage vote.

We will be able to identify the amount of time and get some time agreements on the amendments that will be offered. And, of course, we will have adequate closing time for leaders. We should be able to come up with some time late Tuesday afternoon. But we will work through that, and we will keep the Senators informed as to how that will work through.

At this point, until we see these amendments that are offered, we still can't say exactly what will be the situation on Friday or on Monday. It is anticipated that we will, as we have been doing, have a vote or votes on Monday afternoon. But we will work through that very carefully and will keep the Senators informed once we get the list and get some time agreements entered into.

So I thank all of my colleagues for their cooperation. I think we are making some progress by obtaining this list.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 12 minutes.

Mr. CHAFEE. Mr. President, I thank the Chair.

APPROVING THE PRESIDENTIAL FINDING REGARDING THE POPULATION PLANNING PROGRAM

Mr. CHAFEE. Mr. President, I am pleased to speak in favor of the resolution which will be before the Senate which would provide for early release

of critical international population funds.

Mr. President, I am deeply distressed by the erosion in the U.S. commitment to international family planning programs. Despite the fact that the United States played a lead role in the U.N. Population Conference in Cairo in 1994, and, indeed, we convinced other nations to increase their contributions to international family planning efforts, in the United States in the past year family planning funds were cut below 35 percent below the previous year, and then additional restrictions were added to that.

So the net effect was the budget, which previously was \$547 billion, has now shrunk to \$72 billion this year. These cuts are devastating families around the world.

According to a recent report released by the Rockefeller Foundation, in 1 year 7 million couples in developing countries will lose access to modern contraceptives, resulting in 4 million unplanned pregnancies. But here is the important part, Mr. President. As a result of lack of family planning and information in these countries around the world, 1.6 million of those unwanted pregnancies will end in abortion. That is the last thing we want.

Tragically, the international family planning program which we are going to vote on at 2:30 has become bogged down over the debate about abortion. I am perplexed about this, Mr. President. Why should those who oppose family planning also oppose abortion? Or, to put it the other way around, why should those who oppose abortion oppose family planning? Study after study has shown that lack of family planning leads to more unintended pregnancies, which leads to more abortions. If we want to end abortions, reduce the number of abortions, it is clear that we should have greater family planning than we currently have.

Let me illustrate this with an example in two countries. Russia. Russia has very little contraception available and abortion is the primary method of birth control. The average Russian woman has at least four abortions in her lifetime. I am absolutely shocked by that.

Now let us look at Hungary. Hungary has made family planning services widely available and the abortion rate in that country has dropped dramatically.

The impact these programs, that is, our family planning programs, have on the health and well-being of women and children around the world just cannot be denied. But there is another issue here that should not be overlooked, and that is the important role that population programs play in improving global environment or sustaining the environment of this globe which we are all traveling around on.

Listen to these statistics. The Earth now supports 5.7 billion human beings.

In 30 years, it is estimated that the world population will grow from 5.7 billion to 8.3 billion, a 46-percent growth in 30 years—a 46-percent growth in the population of this world. We are growing by 86 million people a year; 90 percent of this increase will be in the so-called developing world.

India, let us take India as an example. India has to feed an additional 16 million people a year, and so many of these additional people that we have in the world are children. And 40 percent of the population of the average less developed nation is under the age of 15.

To say that this population explosion has put pressure on our natural resources is, of course, a terrific understatement. Over the past 50 years, the Earth is estimated to have lost one-fifth of its topsoil and one-fifth of its tropical rain forests, plus tens of thousands of plant and animal species so important to biodiversity. Overfishing in our oceans combined with pollution has resulted in the plundering of two-thirds of the fisheries of the world. Fifty years ago we had these fisheries. Two-thirds of them are now gone.

Let us just take a look at Bangladesh. There are 120 million people in Bangladesh, crammed into a country the size of Wisconsin, and that number is expected to rise in this little country the size of Wisconsin, rise from the current 120 million people to 200 million in the next 30 years—200 million people in a country the size of Wisconsin. Overpopulation in that country of Bangladesh and upstream in the Himalayas has led to severe deforestation. The poor people there have cut down every tree in sight. They have used them for firewood. They have used them for building materials. They have tried to clear for farmland. With no trees to hold the topsoil in place, it simply washes away. Overcrowding has forced thousands of people in Bangladesh to settle on land that is nothing more than washed away topsoil deposits from the Ganges and Bramaputra Rivers. That sorry land of Bangladesh is horribly vulnerable to flooding and storm surges. One flood, in 1988, inundated three-quarters of the country, killing tens of thousands of people.

Now, what can we do about all of this? First, we must focus on education in the developing nations, particularly female literacy. The statistics show absolutely that if we teach young women to read, everything else follows: Greater marriage, greater use of contraception, fewer and healthier children, better maternal health and a smaller likelihood of living in poverty. That is the first thing. Educate these folks, particularly the young women.

Second, the developed nations should do everything they can to influence population growth because that leads to better maternal and child health. Poor health keeps a nation poor and undeveloped. Ironically, poor health

even contributes to overpopulation. If parents can be certain that their children will survive, they will invest more in them emotionally and materially and feel less pressure to have additional children.

So that is the second thing. Do everything we can to improve maternal and child health.

Third, and most relevant to the matter before us today, the Cairo Conference stressed the importance of redoubling our efforts to increase access to family planning. In the 28 countries that have received the largest amount of family planning funds, the average family size has decreased 40 percent over the past 30 years—a 40 percent decrease in the average population size because of the family planning funds that have been distributed in those nations.

Mr. President, the United States plays a critical role in providing family planning services abroad. I feel strongly we should continue our leadership role in this area. It is both humane and environmentally sound. I urge my colleagues to support the early release of these family planning funds. In other words, vote for the release of these funds, which we will do shortly after the noon break.

Mr. President, I also hope that we can in future years increase the funding for these critical programs in our appropriations measures.

I thank the Chair.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

AMENDMENT NO. 9

(Purpose: To add a provision proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections)

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator from Massachusetts yielding just momentarily. According to the unanimous-consent agreement, I would just call up the amendment at the desk on behalf of myself and Senator BRYAN and ask that the clerk report and then have the amendment set aside.

The PRESIDING OFFICER. If there is no objection, the resolution is set aside. The clerk will report.

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. SPECTER, and Mr. BRYAN, proposes an amendment No. 9.

Mr. HOLLINGS. 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 1, beginning on line 3, strike "That the" and all that follows through page 2, line 5, and insert the following: "That the following articles are proposed as amendments to the Constitution, either or both of which articles shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within 7 years after the date of its submission for ratification:"

On page 3, after line 16, add the following:

"ARTICLE—

"SECTION 1. Congress shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, Federal office.

"SECTION 2. A State shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, State or local office.

"SECTION 3. Congress shall have power to implement and enforce this article by appropriate legislation."

Mr. HOLLINGS. This is the amendment on the Constitution with respect to campaign finance that was just listed by the majority leader. I thank the distinguished Chair, and I thank the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. If there is no objection, the Hollings amendment is now set aside.

APPROVING THE PRESIDENTIAL FINDING REGARDING THE POPULATION PLANNING PROGRAM

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is now recognized.

Mr. KERRY. I thank the Chair.

Mr. President, as my colleague from Rhode Island has mentioned, this afternoon, when we come out of the caucuses, we will vote on the vitally important issue of the release of funding for international population programs.

I strongly support the President's finding which states that the funding restriction placed on the previously appropriated population funds "is having a negative impact on the proper functioning of the population planning program." I strongly agree with that finding. The delayed funding, combined with the massive cuts are not only doing significant damage to international family planning programs, but quite literally is threatening the lives of thousands of women and children worldwide.

I hope no one here will underestimate the importance of this vote. It is about values—the values we place on the importance of women's health, child survival, and population assistance. The vote is not about increasing or decreasing funds. The damage of large funding cuts unfortunately already has occurred. We will vote now simply on

whether we will release previously appropriated funds for population assistance 5 months late into the fiscal year, or 9 months late into the fiscal year. Let me remind my colleagues that these delays have been going on now for a year and a half, and the cumulative effect is extremely enormously negative.

These programs are on the brink of bankruptcy and are close to shutting down because they have already sustained a 35-percent cut since 1995. In dollar figures, this means a cut from \$547 million in 1995 to \$385 million in 1997, compounded by a year and a half of unprecedented delays in metering out that which has been appropriated at the trickling rate of 8 percent per month.

This should not be a partisan issue. The health and survival of women and children and efforts to reduce infant mortality are not, or should not be, partisan issues. I joined then-Senator Alan Simpson in representing the United States at the 1994 International Conference on Population and Development in Cairo, where the United States was a major leader in galvanizing the international community to action. U.S. leadership was based on bipartisan values about international family planning. The conference brought together people from around the world—of all religious, nationality, and ethnic groups—working together toward responsible methods of family planning, and education, and to establish a platform from which to build toward the availability of these crucial social services in all corners of the globe. However, since the conference in Cairo, some Members of the United States Congress have made it their mission to erode the bipartisan base from which the U.S. pledged to lead by slashing funds and delaying the release of those funds. I think this is punitive, it is indefensible, and it is wrong.

Today we have the opportunity to right at least a small part of this wrong by releasing the previously appropriated funds for population assistance March 1 instead of July 1. In my judgement it is a matter of fundamental responsibility that we approve the Presidential finding that confirms the harm these delays are causing families worldwide, and prevent further delay is making the funds available.

Mr. President, if we do not do this, it means shutting the door to thousands of women and families worldwide who have asked for the opportunity to simply, take control of their lives and their health, and responsibly plan their families. We have succeeded in the difficult task of raising public awareness of the benefits of family planning. As one program coordinator in Nigeria said, "It is one thing to raise public awareness but if there is no access to birth control for poor women, what use is awareness?" We cannot turn our

backs now. We must follow through. Let me stress: This vote is not about abortion, as some Senators have tried to argue. Opponents of family planning programs mistakenly believe that funds for these programs enable women to have abortions. That is erroneous emotionalism, Mr. President. We should look at the facts. The fact is that, by law, no U.S. assistance can be used to pay for abortions anywhere in the world. The irony is that the anti-abortion advocates who oppose these programs are actually increasing the incidence of abortions they decry by denying women the means to responsibly space their children. As our former colleague, Senator Mark Hatfield, a well respected prolife leader in support for population funding, articulated in a letter to Representative CHRIS SMITH, * * * "you are contributing to an increase of abortions worldwide because of the funding restrictions on which you insisted * * *. It is a proven fact that when contraceptive services are not available to women throughout the world, abortion rates increase."

I ask my colleagues, whether you are in favor of abortion or not, to approve the Presidential finding and the earlier release of family planning funds. This is assuredly a vote for women's health, because it will determine whether we give or deny women in impoverished countries a critical ingredient they need to lead healthy lives and raise healthy children.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until the hour of 10 minutes past 2.

Thereupon, at 12:54 p.m., the Senate recessed until 2:10 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

APPROVING THE PRESIDENTIAL FINDING REGARDING THE POPULATION PLANNING PROGRAM

The PRESIDING OFFICER. Under the previous order, the hour of 2:10 having arrived, the Senate will now resume consideration of House Joint Resolution 36, which the clerk will report.

The bill 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 resumed consideration of the joint resolution.

The PRESIDING OFFICER. There will now be 5 minutes for debate equally divided in the usual form with the

vote on the joint resolution to occur at 2:15.

Mr. MCCONNELL. Mr. President, very briefly, I urge my colleagues to vote against the President's request for early release of population funds. Significant concessions have already been made by those of us who support the pro-life position. We agreed to raise the overall level of funding from \$356 million in 1996 to \$385 million, and the disbursement rate from 6 percent to 8 percent a month. Now the President wants to move up the date when disbursement begins. This would make \$123 million more available for organizations that either support or lobby for the legalization of abortion.

The administration claims that 17 projects will be forced to close down if we delay funding until July. Yet, virtually every one of these programs could be funded because they are willing to abide by Mexico City conditions not to support abortion or lobby to legalize it. To protect a few groups who support abortion, the administration is withholding support from many organizations willing to provide family planning services consistent with the Mexico City guidelines. They complain about a lack of funds, yet are willing to forgo an increase if it is linked to Mexico City.

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 hope the resolution will be opposed.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, we should understand what we are voting on. We are about to vote on a resolution to decide when, not whether we release funds, but when.

Somebody said yesterday that this vote is about an additional \$123 million for groups that fund abortion. That is absolutely false. We have appropriated this money. There is no additional money. In fact, we are voting to spend and release \$160 million less than we appropriated 2 years ago. So whether or not this resolution passes this afternoon, the funds are going to be spent anyway. It is just a question of when.

We should also understand that U.S. law, which all of us have supported, says that none of this money can be used to pay for abortions anywhere, and very careful audits have been made of this money, and nobody has shown that a cent of it has ever been used to promote abortion.

Some say we will have another population funding vote maybe later this week. That is not going to happen. This is the only vote on family planning. Do we vote to release the money now, that is March 1, or July 1? That is all it is. But if we delay, we are using the ultimate arrogance. We are saying we know better than you; you cannot have family planning money.

Let me tell you what happens when we spend it. In Russia, abortion was routinely used as a method for family planning. In the 4 years since we started family planning programs there, just by increasing the number of contraceptives by 5 percent, the number of abortions fell 800,000. So when we put family planning money into Russia, abortions came down by 800,000. When we withhold family planning money, abortions then go up. We ought to ask ourselves about that.

The Senator from Maine, Senator SNOWE, spoke so eloquently on this. Senator GORDON SMITH, who is very much a right-to-life Senator, spoke of his opposition to abortion but of his support of family planning.

We should listen to what is really here. We are just saying, let us stop abortions by voting for family planning.

Mr. DASCHLE. Mr. President, today the Senate will consider House Joint Resolution 36, the administration's request to begin releasing voluntary fiscal year 1997 international family planning funds on March 1 rather than July 1 this year. This resolution simply reduces the delay in the funds' release from 9 months to 5 since the fiscal year began October 1, 1996. Although some want to characterize this as an abortion vote, it simply is not. The funds to be released could be used only for voluntary family planning—not for abortion. In fact, today's vote is about whether the Senate will help prevent unintended pregnancies in the first place.

Furthermore, the resolution the Senate is considering does not call for any additional funding for international family planning. Whether these funds are released in March or July, the entire amount of funding appropriated for international family planning in fiscal year 1997 will ultimately be spent.

Passage of this resolution merits the support of all Members of Congress who wish to see improvements in the quality of life for women and families around the world. U.S. contributions to international family planning programs have improved the lives of women in developing countries immeasurably. The ability to plan the size of one's family is essential if women and children are to live longer and healthier lives, and if women are to make the educational and economic gains they and we wish to see.

A majority of our colleagues in the House of Representatives endorsed the President's plan to release funds for voluntary family planning when it passed House Joint Resolution 36 on February 13. Now the Senate must decide. The fiscal year 1997 Foreign Operations Appropriations bill, which Congress passed as part of the Omnibus Appropriations bill last year, includes a provision that prohibits the U.S. Agency for International Development

[USAID] from obligating funds for international family planning until July 1, 1997. The provision also states that if the President determines the delay is having a negative impact on USAID's population program, funds may be made available beginning March 1, 1997, if Congress approves the finding.

On January 31, the President certified that the restrictions imposed by Congress are, in fact, having a negative impact on USAID's population planning program. The President argues that family planning service delivery and their supporting activities would be disrupted, costs at all levels for the program would increase, and, most importantly, the health and well-being of women, men, and children who are beneficiaries of U.S. assistance would be severely threatened. As a consequence, increases in unintended pregnancies, infants and maternal deaths and abortions would be inevitable.

The President also suggests that at least 17 bilateral and worldwide programs will have urgent funding needs in the March-June period. By delaying the release of U.S. funds until July these organizations would be forced to suspend, defer, or terminate family planning activities. One program that would be adversely impacted by the delay is the Institute for Reproductive Health at Georgetown University. The institute does research on natural family planning and provides couples with access to family planning methods. In a letter to Congressman DAVID BONIOR earlier this month, the president of Georgetown University, Father Leo J. O'Donovan, stated that if funding for international family planning is delayed until July, the institute would be forced to terminate work that provides services to more than one million families throughout the world.

Delaying U.S. contributions to international family planning programs will also inhibit the progress that many countries have made toward reducing abortions. The Russian Department of Health reports that the use of contraceptives grew from 19 to 24 percent between 1990 and 1994 with the establishment of 50 International Planned Parenthood Federation affiliates across Russia. During that time period, the number of abortions performed dropped from 3.6 million to 2.8 million. According to the administration, if funding for international family planning is delayed until July, two of the largest organizations that receive USAID funds in Russia would be unable to provide 1.7 million couples with access to modern family planning methods as an alternative to abortion.

In Bolivia, USAID provides funding for both government and non-governmental organizations. Since the delivery of family planning services was expanded in the country between 1989 and 1994, the use of family planning in Bo-

livia increased by 50 percent. The administration argues that if funds for international family planning are delayed until July, USAID would be forced to defer ongoing population assistance in that country. This would jeopardize services for 20 percent of Bolivia's population and reduce support to local organizations providing family planning services to an additional 30 percent of Bolivia's rural population.

Many other developing countries experiencing rapid population growth would face similar setbacks if U.S. contributions were delayed. USAID currently assists more than 60 countries through 95 bilateral and worldwide programs. For more than 30 years, this organization has had a remarkable impact on the daily lives of people around the world. It has helped millions of families determine the number and spacing of their children through voluntary family planning programs. It has reduced high-risk pregnancies and helped save the lives of hundreds of thousands of women. And, again, it has reduced the number of unintended pregnancies and abortions.

USAID has also made a significant contribution to slowing down the world population growth. Due in large part to U.S. leadership and bipartisan support for USAID, global population is now growing at a slower rate. Nonetheless, the world's population could double to over 11 billion by the year 2050 unless further progress is made. Delaying U.S. contributions to family planning an additional 4 months will only exacerbate the numerous social and environmental problems associated with rapid population growth. We simply cannot afford to delay U.S. contributions to family planning programs any longer.

The President has determined that a continued delay in funding for international family planning will cause serious, irreversible and avoidable harm. Just as our colleagues in the House of Representatives did, it is time for the Senate to lend its support to the President's request. I urge my colleagues to support House Joint Resolution 36 and permit the President to begin releasing funds for international family planning on March 1.

Mr. McCAIN. Mr. President, I recognize the important contribution that voluntary family planning programs can make to the effectiveness of U.S. foreign aid programs. Clearly, high rates of population growth are an immense barrier to economic and social change in developing countries.

I also recognize that increased access to population planning programs can help reduce the number of abortions, as I understand has been happening in Russia, for example.

However, we must also recognize why the Congress imposed the funding limitations contained in the fiscal year 1997 foreign operations appropriations bill. It was because of a serious difference of

views, within the Congress and between the Congress and the administration, over whether U.S. population planning funds should go to organizations that also provide abortion services.

Like many of my colleagues, I have long supported the Mexico City policy of the Reagan and Bush administrations, which restricted funds for any non-governmental organizations that were involved in any way in abortion activities. Although there is a broad consensus that no U.S. aid funds should be used to fund abortions themselves, it is intellectually dishonest to ignore the fact that dollars are fungible.

Providing funds to an organization for purposes other than abortions can free up funds from other sources that can then be used for abortions. That organization can say, with a straight face, that the U.S. funds did not pay for the abortions, but the practical effect is the same, which is contrary to the intent of the law and the desires of the American people.

I have no desire to hold up the release of funds for population planning programs. And if the administration agrees to return to the Mexico City policy, there will be no future delays in the release of such funds. Funding for population programs may even increase. But if we vote to release the fiscal year 1997 funds early, it will be viewed by the administration as an endorsement of its current policy regarding funding for organizations that provide abortion services.

For this reason, I will vote against the early release of the funds.

Ms. MIKULSKI. Mr. President, I support the release of funds for international family planning. This program is essential to enabling the world's poorest women to improve their lives—and the lives of their families.

Over the past 2 years, Congress has drastically cut funds for international family planning—and has put barriers in the way of implementing the program. We have tied our international family planning program in knots—and are denying health care to the world's poorest women.

Today we will vote to right part of this wrong. We are not voting to increase international family planning. We are simply voting to release the funds—so that our family planning program will no longer be held hostage.

What do the cuts and delays in funding mean for poor women? The Alan Guttmacher Institute estimates that it means that 7 million couples in developing countries will no longer have access to contraceptives. There could be almost 2 million unplanned births. And there could be up to 1.6 million additional abortions.

When we deny a woman the right to choose whether or not to have children, we deny her the right to control and improve her life. We deny her the right to help herself and her family.

Those who oppose international family planning assistance claim to want to reduce the number of abortions. But the effect of our policies is just the opposite. Family planning prevents unwanted pregnancies and abortions. You would think this basic fact would not need to be restated on the floor of the U.S. Senate.

America's international family planning funds are not spent on abortion. So now, some insist on going after basic health care services that prevent pregnancy.

Over 100 million women throughout the world cannot obtain family planning because they are poor, uneducated, or lack access to health care. Twenty million of these women will seek unsafe abortions. Some women will die, some will be disabled. We could prevent some of this needless suffering.

This issue won't go away. I will join my colleagues on both sides of the aisle in fighting against the irrational and cruel effort to end U.S. assistance for international family planning. We will continue the fight to enable the world's poorest women to control and improve their lives.

Mr. HAGEL. Mr. President, I would like to join with so many of my colleagues in opposing this resolution requested by President Clinton. There are several reasons why I believe it would be wrong for the Congress to accelerate funding for international population control programs. It is the wrong thing to do fiscally, and it is the wrong thing to do on its own merits.

For the past 3 weeks, the U.S. Senate has been debating the need for a balanced budget amendment. And now, as one of the Congress' first acts, we are considering spending an additional \$123 million in fiscal year 1997 for international population control?

Second, does it make sense for us to be accelerating spending on this extraordinarily controversial program without the kind of sensible protections that existed during the Reagan and Bush administrations?

Mr. President, despite the claims to the contrary by the other side, this is a vote that involves the issue of abortion. That is because this vote involves U.S. taxpayers funding of organizations that perform and promote abortions overseas. During the Reagan and Bush administrations, our international family planning programs were administered under the Mexico City policy, so-named after the 1984 U.N. population conference in Mexico City where this U.S. policy was formulated. Under the Mexico City policy, this program was kept entirely separate from the issue of abortion. This was accomplished by requiring that U.S. family planning programs overseas could only be administered by private groups that do not conduct abortions, or promote abortion as a method of family planning.

Because we all know that money is fungible, funding abortion-promoting groups to conduct family planning programs overseas permitted these groups to extend their international presence, increase their abortion activities, and lobby more aggressively to weaken laws restricting abortion overseas. The Reagan/Bush policies helped protect our international family planning programs from the controversy that inevitably arose through their association with private pro-abortion groups. With the protection of the Mexico City policy, funding for our international family planning programs increased from \$251 million in 1987 to \$434 million in 1993.

One of President Clinton's first actions after his inauguration in 1993, however, was to rescind the Executive order that put the Mexico City policy in place. Because of the President's action, suddenly this once again became one of our most controversial foreign aid programs.

This Congress has an opportunity to reinstate the sensible family planning policies of Mexico City. I commend my colleague from Arkansas, Senator HUTCHINSON, for his leadership in introducing legislation that would return family-planning funding to the principles set forth by Presidents Reagan and Bush. I am proud to be an original co-sponsor of this important legislation.

There is a reason why last fall's Omnibus Appropriations Act delayed expenditures for this program so that some of the expenditures of the money would not actually be spent until next year. This was the result of a delicate compromise between the Congress and the administration. The administration was offered the choice. The Congress was willing to lift all restrictions on the rate of spending for overseas family planning funds, but only if the administration would refrain from funneling those funds through abortion advocacy groups like the International Planned Parenthood Federation. I would note that the Clinton administration preferred to keep funding restrictions in place so that it could continue administering the program through pro-abortion groups.

Now the administration wants to undo this compromise. The administration wants all funding restrictions lifted. At the same time, they refuse to accept the sensible Reagan/Bush policies that protected this program from the contentious abortion debate.

Groups supporting this resolution have argued that a more rapid expenditure of these funds by groups that perform abortions and lobby aggressively for abortion-on-demand laws would, in the long term, reduce the rate of abortions around the world. This Senator, however, fails to understand the logic of funding pro-abortion groups to advance this pro-life objective. It is a

simple fact that the rate of abortions increases dramatically whenever a country legalizes abortion. I do not believe sending more U.S. taxpayer dollars to an international network of clinics run by groups that conduct abortions is likely to reduce the number of abortions worldwide.

Mr. President, the answer to ensuring the long-term health and welfare of women across the world and stabilizing the world's population is not to promote abortion overseas as a population control alternative with U.S. taxpayers' hard-earned dollars. The answer is to promote free markets and individual liberties in underdeveloped countries. Over two-thirds of the world's recent fertility decline can be accounted for by the expansion of economic opportunity and personal freedoms, as women across the world are given access to greater educational and lifetime opportunities. Freer markets, more education and information and more opportunities for the world's women—that's the answer.

Mr. President, I would gladly vote to remove spending restrictions on this program if the administration would agree to protect it from abuse by pro-abortion advocates. But under the legislative procedures we have before us today, that sensible option is not available. Therefore, I cannot support this resolution, and urge its defeat.

Mr. KYL. Mr. President, this week, the Senate will have the opportunity to vote on two measures related to international family planning. One, House Joint Resolution 36, which is supported by the Clinton administration, would release population control funds on March 1, instead of July 1. The funding could not be meted out any faster than 8 percent of the total appropriated for fiscal year 1997 per month—a limitation recommended by the President's Chief of Staff last year. But the funds could be made available to groups that provide abortions or lobby in support of more liberal abortion policies abroad.

The alternative measure—the so-called Smith-Oberstar bill, H.R. 581—would provide for the immediate release of all fiscal year 1997 population control funds, subject to conditions that would preclude their use for abortion-related activities. In other words, Smith-Oberstar would ensure that the funds are used for what we all say is intended here—family planning, not abortion.

I would point out that both measures passed the House of Representatives on February 13. But the Smith-Oberstar bill, which passed that Chamber with more votes than the President's proposal, would make about \$170 million more available for the population control program than would President Clinton's plan. And, as I just noted, it would guarantee that the funds are used for their intended purpose—family

planning—not for abortion or lobbying in support of more liberal abortion policies abroad. It would reinstate the Mexico City policy, a policy initiated by the Reagan administration at the 1984 U.N. conference in Mexico City, attaching certain conditions to the way foreign organizations can use the American people's hard-earned tax money.

Mr. President, there were two main conditions associated with the Mexico City policy. First, an Agency for International Development [AID] grantee, getting U.S. tax money for family planning overseas, could not be involved in abortion, even with its own resources.

Second, that grantee could not lobby or pressure foreign governments on the abortion issue.

At the crux of this debate is a simple question: Why did President Reagan establish those conditions for receipt of American tax dollars? Once we understand the answer to that question, we can get this debate into its proper focus.

Let us start with this fundamental principle: Any nongovernmental grantee of the United States abroad—which includes, of course, all the organizations that receive U.S. population assistance funds—is, in effect, an agent of the United States.

It does not matter how the group puts its own money to use. What matters is that, when we give them American dollars, we give them our seal of approval, too. An AID grant confers more than just funds. It bestows respectability, standing, and clout. It is, in effect, an official endorsement.

And that is why, for decades, we have always imposed all sorts of restrictions and requirements upon AID grantees. We do so in recognition of the fact that money is fungible. Give a million dollars to an organization, and you free up a million dollars of its own money for other activities.

Far more important though, we all understand that an AID grant marks an organization as acceptable, ideologically and ethically, to the United States.

Back in 1984, President Reagan saw that AID grants to groups involved in abortion overseas presented an ethical dilemma. Yes, it was their own money they were using to perform or promote abortion. But every dollar they got from American taxpayers freed up another dollar for their abortion-related work.

President Reagan understood that the international community viewed those abortion groups as quasi-official agents of the U.S. Government. And for good reason. Private organizations, having the imprimatur of taxpayer funding, could well be viewed by foreign leaders as speaking on behalf of the U.S. Government about abortion-related policies.

In fact, some AID grantees openly ran pro-abortion lobbying campaigns,

with their own resources of course, in countries where abortion was not legal.

Their money, freed up by AID grants, gave them access to local media and local officials. In country after country, they ran sophisticated—and effective—campaigns in favor of abortion.

And they are still doing it. The tiny island nation of Mauritius is an example of the worldwide effort being waged by the International Planned Parenthood Federation. This is what IPPF said in its own report on activities in Mauritius:

As a direct result of the advocacy campaign, the policy climate in Mauritius has changed favourably . . . The MFPA (Mauritius Family Planning Association, a member of the IPPF) is determined to maintain the momentum, and sees its role more stimulating as it contributes to the wave of change.

There is a fundamental issue here: Should funds be earmarked for family planning as intended, or should taxpayers be required to fund lobbying activities with which they might disagree? While there is general consensus in favor of family planning, most people do not believe tax dollars should be used for lobbying activities.

Back in 1984, President Reagan did not like the idea of our grantees pressuring foreign governments—particularly with the appearance of an official endorsement by the government of the United States.

That is why he made a distinction, in his Mexico City white paper, between what foreign governments do with their money, and what our grantees do with their money.

Foreign governments that might be involved in abortion would not be seen as agents of the United States, but AID grantees would be seen in that light.

So in his Mexico City policy, President Reagan gave AID's population grantees a choice. If they wanted to remain eligible for future grants, they would have to promise not to get involved with abortion or abortion lobbying overseas, even with their own money.

And the program worked very effectively with that kind of policy in place. While the Mexico City policy was in effect, the program provided funds to about 400 organizations worldwide, accounting for nearly half of the combined pool of family planning funds made available by donor nations. And as I recall, the amount of money appropriated for international family planning rose considerably during the Reagan-Bush years.

Only two grantees—albeit two very powerful grantees—chose to put abortion advocacy ahead of their commitment to family planning. Their involvement in abortion was apparently so deep that they were willing to cripple the family planning work of even some of their own affiliates that were willing to accept the Mexico City conditions during those years.

So when we are told today that the Mexico City policy—like the provisions of the House-passed Smith-Oberstar bill—would wreck international family planning, we need only look back on past experience to see what effect it really had.

Mr. President, past experience tells us that almost every AID population grantee would put its commitment to family planning head of its involvement in, and lobbying for, abortion. Only one or two would not.

This country's approach to international family planning is seen around the world as part of our foreign policy. And those few grantees that are zealous in their support for abortion should not be allowed to call the shots for what is really an arm of American foreign policy.

So the question the Senate faces this week is not how much money the AID population account will get in March or in July. The question is whether, as a matter of American foreign policy, the prestige of the American Government and the resources of the American people should support family planning on the one hand, or a worldwide campaign for abortion on demand on the other.

If that issue had been better understood when the House of Representatives voted on this matter earlier this month, the President's resolution might not have been approved.

Mr. President, I want to conclude by quoting President Reagan, when he first enunciated the Mexico City policy in the early 1980's. He said:

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 resources—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.

That goal should not be held hostage to the Clinton administration's demand that we fund groups involved in abortion and in abortion lobbying. Fortunately, we do have an alternative, as embodied in the Smith-Oberstar bill. That is the legislation the Senate should vote to send to the President this week.

Mr. President, it is a shame that some people seem to care more about promoting abortions and related policy than providing family planning services abroad. I ask unanimous consent that a column by Robert Novak about that be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KYL. If we are going to get back to the old policy—a successful policy that ensured funds were made available promptly and used for population as-

sistance as intended—we need to reinstate limitations similar to the Mexico City policy. When we can be sure that the funds are to be used for their intended purpose—that is, for family planning—I believe we will find a large consensus that will support the program. I, for one, will do so under those circumstances.

EXHIBIT 1

[From the Washington Post, Feb. 13, 1997]

FAMILY PLANNING SHOWDOWN

(By Robert Novak)

President Clinton's strategy for keeping U.S. funding of global population control free of restrictions on abortion was exposed in a remarkable speech delivered by the first lady two months ago in La Paz, Bolivia.

Hillary Rodham Clinton, addressing the Sixth Conference of Wives of Heads of State and Governments of the Americans on Dec. 3, declared: "Some members of the U.S. Congress have voted to limit American support for family planning initiatives. My husband's administration remains committed to encouraging a continuation of these investments."

That left pro-life members of Congress open-mouthed in outrage. The "limit" on contraceptive help to poor countries that Mrs. Clinton deplored was proposed last year not by them but by her husband's chief of staff at the time, Leon Panetta. The Clinton administration's position: better take less birth control money than accept anti-abortion restrictions. The House itself will choose which course in a showdown vote today.

President Clinton, who as governor of Arkansas espoused a moderate pro-life position, is now joined at the hip with extreme abortion rights advocates. From his veto of the partial-birth abortion bill to his current stance on world population control, he will not risk alienating the feminist support that is critical to Democratic success.

The current dispute began in August 1984, when the International Conference on Population held in Mexico City adopted language urged by Reagan-appointed U.S. officials. The nations of the world signed a report urging all governments to "take appropriate steps to help women avoid abortion, which in no case should be promoted as a method of family planning." President Ronald Reagan then issued an executive order applying the Mexico City language to U.S. foreign aid. No longer would Uncle Sam be violating local religious and cultural norms that oppose abortion.

Some 350 foreign organizations complied, but the London-based International Planned Parenthood Federation (IPPF) refused to certify that it would not promote abortion for family planning. Indeed, IPPF's current "Vision 2000" is a battle plan for fighting abortion prohibitions worldwide. Secretary of State Madeleine Albright, who along with other administration officials denies that the United States funds abortions abroad, in House testimony Tuesday said she had never heard of "Vision 2000."

On Jan. 22, 1993, two days after taking office, Clinton signed an executive order repealing the Mexico City language. With Undersecretary of State Timothy Wirth pushing hard, population control money increased dramatically amid overall fiscal restraint. In two years, funding increased by 79 percent to \$582.7 million.

Republicans took control of Congress in January 1995 and sought to restore anti-

abortion restrictions. To break a deadlock last September, the Republican leadership offered this compromise: Organizations that followed the Mexico City language would receive full funding; those that refused—such as IPPF—would get 50 percent.

No soap, said Panetta. Instead, he made a counter-offer at 6:30 in the morning on Saturday, Sept. 28, after an all-night negotiating session in the Capitol seeking an omnibus spending agreement. Panetta proposed a 35 percent reduction of family planning spending (the same as the rest of the foreign aid budget). In other words, accept less money for population control rather than accept antiabortion restrictions. Abortion has precedence over contraception. Facing another politically ruinous government shutdown, the Republicans had no alternative other than to say yes.

The agreement also mandated a vote in the House (to be held today) on full funding without the Mexico City language. But pro-lifers will also offer an alternative co-sponsored by Republican Rep. Christopher Smith of New Jersey and Democratic Rep. James Oberstar of Minnesota for even fuller funding—\$713 million compared with \$543.6 million—but including the Mexico City language.

Vice President Al Gore has met privately in a strategy session with abortion-rights advocates, and White House aides have been whipping up public support. They have spread propaganda that the Smith-Oberstar amendment represents a double cross that undercuts support of family planning. All of this is incorrect.

Even if Smith-Oberstar passes both houses of Congress, a presidential veto is likely. That would cause spending to revert to the present \$420.4 million level, with no restrictions on IPPF or other abortion advocates. Here is not a fight about contraception but about abortion.

Ms. MOSELEY-BRAUN. Mr. President, today, the issue before the Senate is whether or not to approve the release of desperately needed international family planning funds 5 months after the start of the fiscal year or 9 months after the start of the fiscal year. This is not a tough decision, we should have released the money months ago; our failure to release the family planning funds has caused unnecessary harm to women, children, and families around the globe. However, since we do not have the ability to go back in time and release the funds at the beginning of the fiscal year, I urge my colleagues to prevent future harm and to support the President's request and release the family planning funds on March 1.

In this increasingly global economy, it is in the United States' best interest to provide international family planning assistance to developing countries around the world. As the Rockefeller Foundation reports, " * * * resource scarcities, often exacerbated by population growth, undermine the quality of life, confidence in government, and threaten to destabilize many parts of the globe * * *. Thus in a world made smaller by global commerce and communication, such scarcities affect us in the United States. Civil unrest can alter the balance of power in key regions, destabilize nations with large

populations and extensive resources, or contribute to humanitarian disasters that call for assistance and peace-keeping services." The rate of population growth is often inversely related to the rate of economic growth.

In addition, developing countries provide a significant expanding market for U.S. goods. Unrest and instability can lead to a decrease in exports and thus a decrease in the number jobs here at home. The lack of jobs in a developing country, resulting from the ever expanding work force, can also drive down wages and lead to job loss in this country by forcing U.S. workers to compete with low-wage workers overseas.

Developing nations with increasingly desperate needs for resources have also been known to over use their natural resources to the detriment of the long-term environmental stability of the nation and of the world.

International family planning funds allow women to choose to have fewer and thus healthier children. In turn, studies show that when families can count on healthier children, they are likely to have fewer children. This limits population growth around the globe.

Clearly, there are many other reasons to support international family planning, including the documented decrease in abortions that results from access to family planning assistance and the decrease in infant and maternal mortality. The people of the United States have been outspoken in their support for programs that improve the health and safety of women and their babies and that provide alternatives to abortion as a method of family planning.

Despite the great importance of family planning, not only for individuals and families, but also for the economic well being of many nations including the United States, the last Congress sustained a 35-percent cut in international family planning funds, a cut that was first enacted in fiscal year 1996. This cut was enacted despite the fact that there are still 230 million women worldwide, one out of every six women of childbearing age, that do not have sufficient access to modern contraceptive methods and despite the fact that we will soon have the largest population of women of child bearing age ever.

A study conducted by family planning and population organizations in early 1996 predicted that the 35-percent cut in funding would result in an estimated additional 1.9 million births, 1.6 million abortions, 8,000 maternal deaths in pregnancy and 134,000 infant deaths.

This study did not even consider the effect of the delay in the release of funding that was part of both the fiscal year 1996 and fiscal year 1997 budgets. The fiscal year 1997 budget prevents

funds from being released until 9 months into the fiscal year, and even then only a percentage of the funds can be released every month.

An additional 4 month delay in the release of funds would result in a further reduction in international family planning funds in fiscal year 1997 of \$123 million, or one-third of the money appropriated. In addition, because the agencies and organizations can only receive the funds in small increments, there is no economy of scale in the purchase of contraceptives, and there is no consistency in the ability to provide needed services.

As part of the agreement that allows these funds to be released at all, there is a provision that allows the President to determine that the funding limitations are having "a negative impact on the proper functioning" of the international family planning program and request early release of the funds. The Congress is required to vote by the end of February on whether or not to release the funds in March. Supporting the early release of funds cannot undo the damage caused by the current delay or by the significant cuts already incurred. It can, however, ensure that 17 bilateral and international organizations are not left in urgent need of funds, that women have access to safe, effective contraceptives in the next few months, and that unintended, unsafe pregnancies are prevented.

The United States has a 30-year commitment to working with organizations and governments around the world to provide women and their families with the ability to decide freely and responsibly the number and spacing of their children, improving maternal and infant health, and improving the security and independence of women's lives.

Some in Congress question the success of these efforts. The U.S. commitment, however, has been a success by every measure. In countries in which the United States has joined in family planning efforts, the average number of children a woman bears has decreased from six to three. The number of women utilizing modern contraceptives has grown from 10 to 50 percent. The U.S. provides people around the world with the opportunity to plan for the safest births and the healthiest children possible.

Unfortunately, international family planning has become tangled up in the debate over the ability of a woman to choose to terminate a pregnancy. There are those who believe that fully funding the international family planning program would lead to increased abortions. In fact, no U.S. international family planning funds are used for abortion or abortion related services. It is already against the law and that law is rigorously enforced. In addition, if women are not able to access safe, modern contraceptives, there

will certainly be an increase in abortion, along with maternal and infant deaths.

Part of the appeal of linking international family planning and abortion is that many in the United States are concerned with the amount that we spend overseas and do not want funds to pay for activities that are not funded in the United States, like abortions, or to fund programs that coerce women into not having children. No international family planning money is spent on abortions or related services, or on programs that coerce women into making certain family planning decisions. In addition, just about 1 percent of our entire budget is spent on foreign aid of any sort, and only a fraction of that funding is spent on humanitarian aid, such as family planning.

Last year, Congress agreed to provide family planning funds to communities around the world because the need is there and support for the program exists. Congress should not prevent the funds from being spent by delaying the release for months beyond the start of the fiscal year.

By voting for the immediate release of funds, we will be voting against maternal and infant ill health and death, and against increased abortions worldwide. We will be voting to strengthen the global economy and preserve our environment. We will keep faith with our duty to provide constructive leadership in the world. I urge my colleagues to vote to release the funds now so that women and children around the globe can be safe and healthy.

Mrs. MURRAY. Mr. President, the Senate will soon vote to affirm or reject President Clinton's decision to seek the prompt release of international family planning moneys already appropriated for fiscal year 1997. Let me be crystal clear on this point, the question before the Senate is the release of moneys already agreed to by this body. Virtually every Senator who served in the last Congress has already voted to support international family planning. And it is worth noting that the fiscal year 1997 appropriation for international family planning is significantly reduced from previous years' funding levels; a 35 percent cut from the fiscal year 1996 figure.

Mr. President, I strongly support and I do urge all of my colleagues to support President Clinton's decision to seek the early release of the \$385 million appropriated by the 104th Congress for fiscal year 1997. Traditionally, the Senate in bipartisan fashion has supported the President's position on this issue. And I want to commend the House of Representatives for earlier agreeing to the President's request to release the monies for international family planning.

The politics of extremism and misinformation have turned this into a

much larger vote than it should be. The American people should watch closely the results of the vote on this issue. They will get an early glimpse of whether the popular rhetoric about working together is real or simply a political ploy to mask the politics of division and confrontation that most agree was denounced in last fall's election by the American people.

Today the world's population has swelled to more than 5 billion people, with nearly 100 million more added each year. Without strong leadership in support of voluntary family planning programs, experts predict that in just over 30 years the world's population is likely to double to more than 10 and possibly as many as 13 billion people. Since the mid-1960's, our country has led the global effort to combat population growth. Currently, the Agency for International Development provides assistance in more than 60 countries through nearly 100 programs.

Importantly, USAID is prohibited by U.S. law from using taxpayer dollars to pay for abortions as a method of family planning or to motivate an individual to seek an abortion. USAID contracts contain legally binding provisions forbidding abortion as family planning and strict procedures including staff monitoring and regular audits are in place to ensure that no U.S. taxpayer moneys go to pay for abortions abroad. Those who argue this issue is about abortion are engaging in a campaign of misinformation and deceit.

Current U.S. international family planning moneys are actually reducing the frequency of abortions abroad. Thus it makes no sense to me that the opponents of abortion have decided to grade legislators on this vote. Rather, they should be supporting these programs with the same vigor they now display in opposition. Consider the recent program example of Russia. Between 1990 and 1994, the use of contraception increased from 19 percent to 24 percent of the population. As a result, the number of abortions in Russia over that period decreased by 800,000. Russian women used to have, on average, two to three abortions each over a lifetime. Family planning programs are already at work offering alternatives to abortion for women and families. All across the former Soviet Union and in countries like Mexico and Columbia, there is a body of evidence that suggests increased contraceptive use actually reduces the number of abortions. If the Senate rejects President Clinton's request to release the 1997 international family planning moneys, the result will be more abortions performed worldwide.

I want to get away from abortion because that is truly not what today's debate is about. I want to focus for a few minutes on what international family planning moneys do accomplish and the importance of continued U.S. lead-

ership in this area. United States international family planning programs are perhaps the most successful foreign aid programs ever supported by U.S. taxpayers.

International family planning is about women's health. Death from pregnancy related conditions is the No. 1 cause of death for women in developing countries. According to Amnesty International, almost 600,000 women per year die because of pregnancy related causes. The death of a mother in the developing world is particularly tragic for a family seeking to escape poverty as these women are usually both the principal care givers for children and a wage earner. U.S. foreign assistance moneys have increased the availability of quality reproductive health care, including women-centered, women-managed services.

International family planning is about child survival. It is estimated that nearly 35,000 children under the age of 5 die every day in the world's developing countries. Allowing families to space the birthing of children will ensure healthier mothers better able to breast feed and care for children. Increased access to family planning, combined with other factors, could reduce child survival in the developing world by 20 percent. Rejecting the President's request for the release of the 1997 moneys will surely set back efforts to reduce the number of children who die each and every day in countries like India, Bangladesh, and Uganda.

International family planning is about helping young girls worldwide. Cultural preferences for sons in the developing world has dire and sometimes deadly results for young girls. Throughout the developing world girls are fed less; girls do not get adequate health care; and girls do not get the opportunity to attend school. And we all know of the documented cases where infanticide is practiced against young girls because of a preference for sons. It is somewhat ironic that many who rail against this treatment of young girls in China and other countries would now seek to further restrict or end United States international family planning programs that do so much to better the lives of young girls.

International family planning programs are fundamental to preserving the endangered natural environment of our planet. We all know of the punishing toll that the world's population takes upon the earth: the air we breathe; the clean water we require for healthy and sanitary living; and the arable land available to feed the population. More than one-half of the world's developing population is below the age of 25. And the number of women of reproductive age in the developing world will soon total nearly 1 billion. Our population problems and the ramifications for the United States

are growing. The U.S. commitment to combat overpopulation of our planet is shrinking. It is a responsibility I believe we must not shirk.

The Senate has the opportunity to send a message of hope and opportunity to the women of the world today, and particularly those women in the developing world seeking to make a better life for themselves and their families. It is really that simple. I hope my colleagues will join me in voting for the resolution to release this crucial funding.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Vermont has expired. The Senator from Kentucky has 1 minute and 6 seconds remaining.

Mr. McCONNELL. I yield back the time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

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

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

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—53

Akaka	Feinstein	Moseley-Braun
Baucus	Glenn	Moynihan
Biden	Graham	Murray
Bingaman	Gregg	Reed
Boxer	Harkin	Reid
Bryan	Hollings	Robb
Bumpers	Jeffords	Rockefeller
Byrd	Johnson	Roth
Campbell	Kennedy	Sarbanes
Chafee	Kerrey	Smith (OR)
Cleland	Kerry	Snowe
Collins	Kohl	Specter
Conrad	Landrieu	Stevens
Daschle	Lautenberg	Torricelli
Dodd	Leahy	Warner
Dorgan	Levin	Weinstone
Durbin	Lieberman	Wyden
Feingold	Mikulski	

NAYS—46

Abraham	Faircloth	Lugar
Allard	Ford	Mack
Ashcroft	Frist	McCain
Bennett	Gorton	McConnell
Bond	Gramm	Murkowski
Breaux	Grams	Nickles
Brownback	Grassley	Roberts
Burns	Hagel	Santorum
Coats	Hatch	Sessions
Cochran	Helms	Shelby
Coverdell	Hutchinson	Smith (NH)
Craig	Hutchison	Thomas
D'Amato	Inhofe	Thompson
DeWine	Kempthorne	Thurmond
Domenici	Kyl	
Enzi	Lott	

NOT VOTING—1

Inouye

The joint resolution (H.J. Res. 36) was passed.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. The Senate will now resume consideration of Senate Joint Resolution 1, which the clerk will report.

The bill 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 continued with the consideration of the joint resolution.

AMENDMENT NO. 8

The PRESIDING OFFICER. The Senate will resume the debate on the Reid amendment No. 8 until the hour of 6 p.m., with the time equally divided in the usual form.

Who yields time?

Mr. REID. Mr. President, I yield 20 minutes to the junior Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 20 minutes.

Mr. DURBIN. Mr. President, first I thank the Senator from Nevada for yielding on this important amendment. It is interesting; if you ask the American people about the balanced budget amendment, they will say in overwhelming numbers it is a great idea. I have to balance my checkbook. Why shouldn't the Federal Government have to balance its books?

But then you say, well, what if in the process of balancing the books the Federal Government jeopardizes the Social Security trust fund? Whoa. Wait a minute. Let us think about this. The people who were overwhelmingly for the balanced budget amendment have second thoughts, as well they should.

The amendment offered by the Senator from Nevada addresses that very real concern. In our pursuit to balance the budget, let us not do it at the expense of Social Security. That is simple. The Senator from Nevada offers this amendment in good faith, asking Members on both sides of the aisle, Republicans and Democrats, to come together and agree on this basic premise: yes, we will balance the budget but not at the expense of Social Security.

Some would say this is a pretty simple proposition. Why are you debating this? Frankly, because there is a very serious difference of opinion, and it gets down to the fundamental flaw in this constitutional amendment. We are debating what is its greatest flaw, the failure of this measure to protect Social Security. The balanced budget amendment includes the Social Security trust fund in the calculation of whether the budget is in balance. That means it uses the Social Security trust fund to balance the rest of the Federal budget in the near term and prevents the proper use of the Social Security

trust fund surplus to offset growing benefit payments in the long term. That is not the way to treat Social Security, a program which for 60 years has taken our parents and grandparents and their grandparents before them out of poverty into dignity. That is why I voted, and I will continue to vote, only for versions of the balanced budget amendment that protect Social Security by excluding the Social Security trust fund.

We hear a lot of witnesses. We have them come before us to talk about this balanced budget constitutional amendment, as well we should. I say to those listening, in 205 years of this Nation's history we have only amended that great document, the Constitution, 17 times. Let us be careful. Let us listen to the counsel of those who come to speak to us.

I was particularly struck by the testimony of one gentleman, called by my friend from Utah, the chairman of the committee, as a witness in favor of this balanced budget amendment. This gentleman was a Wall Street financier who holds a senior position in a major investment firm. He didn't see the issue of Social Security quite the same way that I do. He argued that excluding Social Security from the budget calculation—here are his words—“would be like going on a low-calorie diet but not counting chocolate.”

I was struck by that analogy, that this man decided that, in the scheme of life, in the scheme of things, in the scheme of those programs and those things that are important to American families, Social Security was like chocolate candy. For 43 million Americans, let me suggest, Social Security is not like candy. It is not a luxury; it is a necessity.

In my home State of Illinois, visit small-town America, find the widows living in town, the senior citizens living in the highrises, and ask them what Social Security means each month. You know what it means. If you have spoken to your parents and grandparents, you know it is the bread of life. It is what sustains so many people. For this witness, called by the majority, called by those who support the balanced budget amendment, to say that it is like chocolate candy really suggests to me that perhaps financiers, or Wall Street, see life a little differently than people who live on Main Street.

The balanced budget amendment before us—and let me get to the heart of this—includes the trust fund in the budget calculation. It invites cuts in Social Security to balance the budget. That has always been my fear: Down the line the economy goes bad, revenues are decreasing, people are paying fewer taxes because they are out of work, and as a consequence here we are, trying to figure out how are we going to balance this budget next year.

We do not have enough money coming in because people are unemployed, for example. So where do we turn? Where is there money? This is serious business. We cannot turn around and raise taxes in a recession. It is not popular at any time; it is very unpopular in a recession. Where do you turn?

Lo and behold, where is the mother lode of Federal money? Open the door to the Social Security trust fund, billions of dollars being contributed to the fund today by those of us who are working, including Members of the Senate and House of Representatives, to build a balance so when the day comes that this Senator and those of like age turn up to ask for Social Security, the money will be there. Understood.

Future Congresses should not be allowed to raid the Social Security trust fund, take away the savings that we planned for the rainy day that we know is coming, and use it to balance the budget. That is why the Senator from Nevada offers his amendment. Let us play this game fair. Let us say to the American people, “If you put the money in, in each of your paychecks, for Social Security in hopes it will be there for yourself, for your parents, that it be there.” It seems so obvious.

Now let us take a look at Social Security in the long term. Those who want to include Social Security in the budget calculation argue that our proposal to protect Social Security would invite future Congresses to run deficits 32 years from now when the trust fund is exhausted. This concern is unfounded. Current law does not allow the Social Security trust fund to run a deficit. If the trust fund runs out of money, it cannot keep writing checks.

Second, Congress has never authorized the Social Security trust fund to run an extended deficit. For a temporary time, around 1982 when there was a pending bankruptcy in the fund, we got close to that proposition, but only for time enough to develop a bipartisan solution.

Third, the American people are not going to allow the Social Security trust fund to be depleted. This is the single most popular program in America today, not just for seniors but for their children. It gives peace of mind to me to know that my mother, 87 years old, who is living on railroad retirement, an analogous program to Social Security, has a monthly check coming in based on her having worked during the course of her life. And it means, for me and my children, less of a concern about her financial security.

We are not going to turn away from that. We are never going to walk away from that. We are not going to allow the Social Security trust fund to be depleted. But we are not going to stand still and allow this balanced budget amendment to create a raid on Social Security. That is why this amendment

is being offered. It just stops me cold to hear those on the other side say, "We'll never touch Social Security. Trust us."

I trust the Senator on the floor. I am not sure I will trust his successor, or his successor's successor, who will be bound by this same constitutional amendment. I don't know who they will be. I don't know what they will face. But at a minimum, let us put in this great document, this Constitution, language which protects our values. The Reid amendment does that.

The Congressional Research Service is an interesting group because it's a professional organization, neither Democrat nor Republican. They are here to work for us, and if we have tough questions, we often turn to them to say, "What's the honest answer here? Don't give me the spin from the Republican National Committee or the Democratic National Committee; give it right down the middle, black and white, as best you can determine." They recently identified a critical reason for supporting Senator REID's amendment. "The balanced budget amendment as currently drafted would prevent the proper use of the trust fund surplus to pay extra benefits that the baby boom generation will have earned but which will exceed revenues when they retire."

Here is what it means. We are paying more in Social Security today, and have since 1983, than we need to pay out. As I said earlier, we are building up a surplus because we know down the line, when baby boomers like myself show up for their Social Security, we are going to have more people knocking on the window asking for checks than wage earners paying in. So we are building up a balance, we of this generation, which will inure to our benefit down the line. So this surplus is being built up in the Social Security trust fund. But, if you read this amendment to the Constitution closely, the amendment offered by the chairman of the committee, you will see there is a problem. The problem is you cannot spend that surplus out of the Social Security trust fund without making up for it somewhere else. That is a major flaw. Let me tell you what it means in practical terms.

Suppose I told you that a number of years from now you will face increasing expenses related to your retirement. You might decide to save up some money now so it will be available when that time comes. You might even decide to put the money in a special account in the bank and say, I am going to keep track of it and I am not going to touch it. I am going to need this when I retire.

Now suppose I told you when the day came and the expenses occurred, you were welcome to spend the money that you have personally saved but, one condition, in order to spend the first dollar out of your savings you have to

cut a dollar out of your spending, a dollar that you would otherwise spend for food or clothing or rent or utilities.

You say, "Wait a minute, why did I save all this money if when the time comes when I need it I have to cut other expenditures, dollar for dollar, to use it? That is no good. That is no savings. That does not help me." Let me say to my colleagues, that is exactly what is wrong with this amendment. This amendment says: In future generations, if we pass the balanced budget amendment and want to use the surplus in the Social Security trust fund, we can only do it if we cut other spending, balance it out.

Is this something that this Senator came up with? Is this something that the Democrats dreamed up, an interpretation of the balanced budget amendment? No. What I have just described to you comes directly from the Congressional Research Service. It is a fatal flaw in this balanced budget amendment.

You would think that those who would propose an amendment to the Constitution would be open to the possibility—the possibility—that what they want to put in that Constitution is not right and needs to be corrected and changed. But there has been resistance from the start to any amendments to this balanced budget amendment. These are the tablets of Moses, untouched by humans, brought to us, to this floor, to be accepted as is or else.

I don't like that approach when it comes to amending our Constitution. I certainly don't believe it is fair when we are dealing with the fate of 43 million Americans, and I don't believe that we should allow this flawed version of the balanced budget amendment to go forward.

I think the amendment offered by the Senator from Nevada, Senator REID, makes good sense, and I would predict this: If those who are pushing for this balanced budget amendment would, for a moment, stop, count to 10, perhaps accept a little more humble approach to this whole debate and amend in the protection of the Social Security trust fund, they would find a lot of Members coming forward, Democrats and Republicans, who could support it. To date, they haven't done it. But hope springs eternal.

I will be voting for Senator REID's amendment, and I hope my colleagues on both sides of the aisle who value the importance of a Social Security trust fund to the American family will join us.

Thank you, Mr. President.

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

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, simply put, Senator REID's amendment would

exempt Social Security from section 1 of the balanced budget amendment, which requires that "total outlays for any fiscal year not exceed total receipts for that fiscal year," unless three-fifths of each House of Congress concur. Senator REID, and many of those who favor exemption of Social Security, make rhetorical points that "we shouldn't balance the budget on the backs of the elderly," and that "unless exempted, the Social Security trust funds will be raided." Those are direct quotes from those who have spoken on the other side of the aisle.

The primary paradox of this debate, in a debate full of paradoxes, is the fact that removing Social Security from the protection of the balanced budget amendment will create an overwhelming incentive to do exactly what these critics of the amendment fear, for this would focus budget pressures on the Social Security trust funds that could destroy the viability of the Social Security program itself. It is a folly that has no real relationship to the goals sought, which should be the protection of the Social Security trust funds. What they are doing is a risky gimmick; it's a riverboat gamble. Frankly, it's a real mistake should this amendment be adopted.

Furthermore—another paradox—exempting the trust funds is simply unwarranted. There already exists an elaborate statutory scheme of firewalls.

Mr. President, I notice the distinguished Senator from Massachusetts is here. I have a rather extensive statement to make. So what I will do, if he cares to make his statement, I will yield the floor at this time, and then I will finish my statement afterward. I ask unanimous consent I not lose my right to the floor following the distinguished Senator from Massachusetts.

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

Mr. HATCH. I will forego, so the Senator can have the floor.

Mr. REID. Mr. President, I yield to the senior Senator from Massachusetts 30 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 30 minutes.

Mr. KENNEDY. Mr. President, I thank the Senator from Nevada for yielding this time, and I join with so many of our colleagues in the Senate, hopefully on both sides of the aisle, as well as our senior citizens all over this country in commending him for the leadership he has provided on this extremely important amendment.

I had the chance to offer a similar amendment in the Judiciary Committee's markup, and we debated some of these issues. But I think the eloquence and the force and the presentation that has been made by the Senator from Nevada has been extraordinarily powerful and increasingly appreciated and understood by the American people, and

we thank him for his leadership on this issue and so many others.

Mr. President, Social Security is America's time-honored commitment to senior citizens that we will care for them in their golden years. It says to every citizen that if you work hard and pay into Social Security throughout your working life, Social Security will be there for you when you retire. It will help you pay the rent, buy the groceries, and maintain a reasonable standard of life throughout your retirement years.

Social Security is the most successful social program ever enacted. It is among the most solemn obligations that any government can make to its citizens, and Congress should honor it and not undermine it.

The proposed balanced budget constitutional amendment puts the Social Security contract with senior citizens in danger. If this amendment is added to the Constitution, no one can guarantee you a Social Security check every month. The Rock of Gibraltar, on which this Nation's senior citizens have depended for over 60 years, would be gone, replaced by shifting political sands. The Reid amendment prevents this unacceptable change by protecting Social Security from the proposed constitutional amendment—no ifs, ands, or buts.

Millions of retired citizens live from Social Security check to Social Security check. They need it to arrive on time at the beginning of each month to pay their bills. Martha McSteen, who headed the Social Security Administration during the Reagan administration and is now president of the National Committee to Preserve Social Security and Medicare, said recently:

Keeping Social Security safe from budget tampering is, frankly, a matter of life and death for millions of Americans.

For 10 million Social Security beneficiaries age 65 and older, their monthly Social Security check amounts to 90 percent or more of their income. Those checks keep 40 percent of America's seniors out of poverty.

But under the proposed constitutional amendment, if Government revenues fall unexpectedly, or if Government expenses go up, payment on Social Security checks could stop.

Republicans say, "Trust us." We reply, in the well-known words of President Ronald Reagan, "Trust—but verify," and the way to verify is by adopting the Reid amendment.

Just 3 months ago, in November 1996, the House sponsors of the balanced budget constitutional amendment agreed that Social Security could be in trouble. As Congressmen SCHAEFER and CHARLES STENHOLM said:

Under the proposed constitutional amendment, "The President would be bound at the point at which the Government runs out of money to stop issuing the checks."

Economists say there is at least a 50-50 chance in any given year that the budget projections will be wrong and

that under this constitutional amendment, this Government will run out of money. Economic forecasting is not an exact science. If budget projections are off by as little as 1 percent, this constitutional amendment could put Social Security checks at risk.

Some in this debate have said that the budget that President Clinton just submitted to Congress counts the Social Security surpluses reaching a balanced budget by the year 2002. They said if President Clinton counts Social Security in his budget, then why not count it in the balanced budget constitutional amendment? But the difference between a balanced budget, which we will achieve by 2002, and a permanent constitutional amendment are immense, especially for Social Security.

In the Clinton budget, the laws protecting Social Security from the rest of the budget are still in place. There is nothing that President Clinton or any other President or Congress can do to jeopardize Social Security. Under the current law, President Clinton and future Presidents and Congresses must balance the budget without affecting Social Security. If they want to change Social Security, they have to change the Social Security law directly. The last thing we should do is change it indirectly by a vague constitutional amendment.

In its present form, this balanced budget constitutional amendment undercuts Social Security. Social Security would have to fight its way on an equal basis with highway construction, defense, welfare, education, and every other Federal program. Congresses have worked for many years, ever since the Reagan administration first tried to cut Social Security, to protect the Nation's senior citizens and Social Security from the annual Federal budget wars.

For 15 years, a solid bipartisan coalition of Republicans and Democrats have agreed that Social Security should be safe from that result. In 1983, the Greenspan commission recommended that Congress should place Social Security outside the Federal budget. The commission said that we need to build up a surplus in the trust funds now in order to have enough funds to provide benefits to the current generation when they begin to retire. Both Democrats and Republicans support that result.

The commission's 1983 recommendations were enacted in a law sponsored by Senator Dole and Senator MOYNIHAN, and their bill required Social Security to be placed off budget within 10 years. In 1985, 2 years later, Congress accelerated the process by placing Social Security outside the rest of the Federal budget. The Deficit Control Act of 1985, the so-called Gramm-Rudman-Hollings law, exempted Social Security from across-the-board cuts of se-

questration. That law also said that Social Security could never be included in the unified budget of the U.S. Government. Senator GRAMM emphasized during the Senate debate on the Gramm-Rudman-Hollings proposal, "This bill takes Social Security off budget. So if you want to debate Social Security, go to the museum, because that debate is over. The President cannot submit a budget that says anything about Social Security. It is not in order for the Budget Committee to bring a budget to the floor that does anything to Social Security. Social Security is off budget and is a free-standing trust fund."

From that point out, when Congress has adopted the annual Federal budget resolutions, Social Security is not included. The last time Congress voted on a budget that included Social Security was 1985. The Gramm-Rudman-Hollings law was approved by overwhelming majorities, 61-31 in the Senate and a 271 to 154 vote in the House of Representatives.

Then in 1990 some Members of Congress proposed to put Social Security back in the Federal budget, but Senator HOLLINGS and Senator Heinz rejected this unwise suggestion. They insisted that Social Security remain off budget and the Senate approved an amendment to protect Social Security by a 98 to 2 vote. In fact, the Budget Enforcement Act of 1990 speaks forcefully of Congress' intention to continue to protect Social Security.

Section 13-301 of the act reads "Exclusion of Social Security from all budgets"—it says plainly that Social Security shall not be counted as new budget authority, outlays, receipts, deficits, or surplus for the purposes of the budget of the U.S. Government as submitted by the President, the congressional budget, or the balanced budget and Emergency Deficit Control Act of 1985.

In 1995, section 22 of the congressional budget resolution amended the Budget Act even further to protect Social Security in a provision entitled the Social Security Firewall Point of Order. It said that any effort to include changes in Social Security in the Federal budget were subject to a 60-vote point of order in the Senate. The proposed balanced budget constitutional amendment would reverse these 15 years of steady progress in protecting Social Security. It would be turning its back on all of this history and expose Social Security to all the budget battles that lie ahead.

Further, in a major recent study, the Congressional Research Service suggested that the proposed constitutional amendment may actually place the trust funds off limits. The funds will be sitting there and the Social Security Administration will need them to write Social Security checks, but if the balanced budget amendment is adopted the Constitution will say no.

Here is what the Congressional Research Service concluded in its analysis for Senator DASCHLE on February 5:

Because the balanced budget amendment requires that the required balance between outlays for that year and receipts for that year, the moneys that constitute the Social Security surpluses would not be available for the payment of the benefits.

Therefore, the money that had been set aside, the time when more funds are being paid into the Social Security benefits, at the year 2019 when there will begin to be some deficit between the amounts paid in and the amounts that have to be paid out, what the Congressional Research Service is saying is you will not be able to use the surpluses that have been built in all of these next 20-odd years. We will have to only look at the year that the money comes in and that the money goes out. That is, I think, understandable when you look on page 2 of the amendment and under line 7, it says "total outlays for any fiscal year shall not exceed total receipts for that fiscal year." Those are the operative words which led the Congressional Research Service to that conclusion which puts it in danger not only of the possibility for balancing the budget in terms of any period in the future but risks the surpluses that have been put in place over these next several years.

Now, Republicans asked the Congressional Research Service to clarify its opinion. They hoped, if they asked again, they would get a different answer, but instead the Congressional Research Service reaffirmed the opinion of February 12 that Social Security is at risk under the proposed constitutional amendment. CRS said again that under the proposed constitutional amendment when Social Security payments are estimated to exceed Social Security receipts from payroll withholdings, which is expected to happen beginning in the year 2013, Social Security payments can be made from the trust funds only if spending for other programs is reduced by the same amount. In other words, for each dollar drawn down from the trust fund, a dollar must be cut from education or defense or some other Government program.

Employees have worked hard all of their lives. Social Security has been withheld from their paycheck month after month. They are expecting the money to be available when they retire. But this proposed constitutional amendment suddenly freezes all that money that they had paid in over the years. When this happened, if Social Security is not off budget, we would have only three choices: We could cut Social Security benefits, we could raise taxes, or we can cut billions of dollars from education, health, national defense, other priorities, to keep the Social Security checks flowing. Clearly,

Social Security benefits are at risk under the proposed constitutional amendment.

Now, some supporters of the balanced budget constitutional amendment want this result. When the Judiciary Committee was debating this amendment on Social Security, my amendment on January 30, Senator HATCH, the chair of the committee, said that under the constitutional amendment Social Security "would have to fight its way just like every other program." Senator HATCH went on to say that he believed Social Security has the easiest of all arguments to fight its way. But half of the members of the Judiciary Committee rejected that position. I had offered the amendment to protect Social Security during the committee's markup of the proposal. The committee was evenly split on the issue, 9-9. So in the very committee that is responsible for this amendment, half the membership, half of the membership, believed that Social Security is at risk under the proposed constitutional amendment.

Nothing in the proposed constitutional amendment, nothing, assures our senior citizens that their Social Security checks will survive the budget battles that lie ahead. Elderly Americans deserve more than expressions of good will by supporters of the constitutional amendment. If those who favor this unwise constitutional amendment are committed to protecting Social Security, they should write that protection in their proposal and adopt the Reid amendment.

President Clinton wrote to the Senate Democratic leader on January 28 about the risk to Social Security, and said to Senator DASCHLE, "I am very concerned that Senate Joint Resolution 1, the constitutional amendment to the balanced budget, could pose grave risks to the Social Security system." We cannot let that happen. I say we must—and we will, balance the budget. We must—and we will take steps to protect Social Security in the future. We should have that debate openly and honestly, but we should not jeopardize Social Security indirectly by subjecting it to the requirements of this blunderbuss constitutional amendment. I urge my colleagues to protect the Social Security by supporting the Reid amendment.

Mr. President, basically, just to sum up where I believe we are, if we look at the record of the Congress since the recommendation of the Greenspan commission of 1983, Social Security amendments in 1983 to put Social Security in order, and the recommendation, the unanimous recommendation was that Social Security was to be considered off budget, and that the commission itself urged them to do that in the next 10 years. Those recommendations were adopted 58 to 14, with 32 Republicans and 26 Democrats. This was a bi-

partisan effort to protect the Social Security system.

As I mentioned before, with Social Security, unlike other items in the Federal budget, people pay in in order to be able to receive later. I am a great supporter of education, but the students of this country have not paid in previously in order to receive either a grant or a loan. I am a great supporter of medical and biomedical research, but the researchers have not paid in in order to be able to receive funding. I am a great believer in child care, but the parents have not paid in so that they can receive money for child care.

The one program people have paid into in order to receive is Social Security. That is why, Mr. President, we have the recommendations—unanimous recommendations—of the bipartisan commission, supported by the ranking member of the Finance Committee—by Republicans and Democrats alike—that said we should take the recommendations of the Greenspan commission and, within 10 years, adopt a proposal that would effectively put Social Security off budget. We didn't wait 10 years. We waited 2 years. There was Gramm-Rudman-Hollings in 1985, which was adopted by 61 to 31, with 39 Republicans and 22 Democrats supporting. This is what it said: "Exempt Programs, section 255. Social Security benefits shall be exempt from reduction under any order issued under this part." This is in the Deficit Control Act. What they are saying is that we will not put at risk Social Security. And then a little later in that act, they pointed out that what we had was a sequestration, which meant there was going to be a reduction in various programs and done so on an across-the-board percentage. What happened in the Congress? What was accepted at that time? It said: "The Social Security benefits program shall be exempt from reduction under any order."

So it is saying doubly sure, don't include it, and if somehow it gets in, don't reduce it. This was the overwhelming position. Why? Because, as I stated earlier, it is the solemn pledge and commitment of the United States to our seniors, the lifeline for their lives, their well-being, their ability not to live in poverty, their ability to live with some degree of respect and dignity. These are men and women who have built this country, fought its wars and made it the great Nation that it is.

Then we had the 1990 Budget Enforcement Act, another opportunity to deal with the issues in Social Security. If it was not clear enough previously under the existing amendments, which have been stated, we had an amendment offered by Senators HOLLINGS, adopted 98 to 2. "Exclusion of Social Security from all budgets." There it is again. Recommended in 1983, enacted in 1985, clarified again in 1985 under the sequestration. If there is going to be any

question about it, in 1990, here is the amendment, 98 to 2, Republicans and Democrats, to take it off budget. And then, in 1995, we have the firewalls, those walls to try to separate the various functions of Government as to what areas could be cut or shifted, in terms of budget allocations. It was very clear again in 1995—Social Security firewall point of order in the Senate. It points out, once again, "Not only is Social Security off budget, but any budget amendments affecting Social Security are subject to a point of order." This is what they call the pay-go provisions.

Once again, every indication, coming from 1983 all the way up to the present time, Republicans and Democrats alike, when it came to the issues of dealing with budgetary considerations and the challenges that we as a country were facing, said Social Security is different. Social Security is different. The reason that it is different is self-evident for, I think, every Member of this body. It is because it is different that we are going to treat it differently from other general budget expenditures. Sure, we are going to have belt-tightening in some areas that many of us would hope that we would not necessarily have. We will have differences on where we ought to tighten the budget. But Republicans and Democrats have repeated time after time after time after time that we were going to exclude this program and let it be considered on its own, in terms of a trust fund, because it isn't the Social Security trust fund that has brought us to the kinds of deficits we have had over any period of time, and it is not the fault of our senior citizens.

I am not out here today to review what actions we took in 1981 that set us on a path toward the growth of the large deficits. We can debate that at another time. That is not relevant to this. What is relevant are the actions, in a bipartisan way, that have been taken at every single opportunity when this body has addressed the issues of budget. And now we are being asked in the most significant and important request of all to say that when it comes to a constitutional amendment, we are going to make sure that Social Security is going to be included. We are going to make sure it is going to be included.

How do we know that? Because when we ask to take it out, we are told we can't take it out. The primary sponsors of this program have said that Social Security is going to have to fight it out with the other programs, is going to have to fight it out with education, fight it out with national security, fight it out with other kinds of priorities for the Nation. We have to ask ourselves—some of us have very recent memory when we saw the kinds of potential cuts that were being proposed in Social Security-related programs in

the last Congress—cuts in the Medicare Program, not unrelated to Social Security, cuts in the program to pay for tax breaks for the wealthiest individuals.

Are we going to say now that we are going to wrap this potential cut in Social Security in this constitutional amendment, and that somewhere down the road it may be used as a piggy bank for trading off other kinds of budgetary requirements? I say, no. We have a chance to prevent that. This body is either serious about what we have done over the last 15 years and what we have stated to be the position of this institution, in a bipartisan way, and say Social Security is out, or we are telling our senior citizens that Social Security is being put at risk.

Now, Mr. President, we have to understand some other items. There are those who have said, well, if we pass the balanced budget, some of this legislation will still be out there, and it might provide some protection for Social Security. Well, they ought to read the Constitution one more time, because the Constitution is what controls statutes. It is the Constitution that is the law of the land. It is the Constitution that will be the driving factor and force on this particular issue, not what we have done in various statutes, not what we have done in budget orders, not actions that have been taken by other Congresses. It will be the Constitution.

So what we are saying, Mr. President, is we are going to put at risk, if the Reid amendment is not accepted, the future in terms of Social Security. All of these actions and protections that have existed there, with strong, overwhelming bipartisan support, not just simple majority—98 to 2—all of that is gone with the wind, all of that is past, all of that is sand, all of those pillars of marble that are out there are now effectively dust, in terms of protection.

Now, Mr. President, I know we will hear those who will say, well, the best we can do for our senior citizens is to have a sound economy. That is fine. We are going to work for a sound economy. But let's not put the senior citizens who have paid into this fund at risk in terms of their future and vital needs. This is a lifeline for our senior citizens. It is a fundamental and basic commitment that we have made over the more than 60 years it has been in effect. It has been reaffirmed and reaffirmed in this body. Without the Reid amendment, we are putting the Social Security system at serious and grave risk. That, I believe, is unwise, unjustified, and wrong. I hope the Reid amendment will be accepted.

I thank the Senator from Nevada again, and I thank my friend from Utah for working out the schedule.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am always happy to work out the schedule for my colleague from Massachusetts and always enjoy hearing my colleague. I think it is good for the acoustics from time to time, and it is also good for all of us who seem to talk at just a normal level. I always enjoy hearing my colleague, and I have enjoyed hearing him on this today, as bad and as dire and stressful as he seems to think things are. But then again, let's go back.

Simply put, Senator REID's amendment would exempt Social Security from section 1 of the balanced budget amendment, which requires that total outlays for any fiscal year not exceed total receipts for that fiscal year unless a three-fifths vote of both Houses concurs. Senator REID, and many of those who favor exemption of Social Security, make the rhetorical points that we should not balance the budget on the backs of the elderly; that the Social Security trust funds will be raided. Poppycock. The fact is, those funds are going to be invested in the very same bonds, no matter whether it is off budget or on.

The question is, what is the best budgetary approach to take? What is in the best interests of our senior citizens? What is in the best interests of our senior citizens is to understand that everybody in Congress will protect Social Security, and it is better off having it in the unified budget where it has always been protected. Show me a time when it wasn't. It has always been protected, at least in all the time I have been here. Put aside whether it is a riverboat gamble or whether it is a risky gimmick; it is pretty pathetic when you stop and think about it.

We have heard a lot of talk about how our uses of surpluses would be criminal conduct if done by business people and done in the private sector. But no one is going to prison around here. The fact is that removing Social Security from the protection of the balanced budget amendment would be the worst thing we could do to senior citizens. Talk about a risky gimmick, a riverboat gamble.

The primary paradox of this debate, as I have said before, in a debate full of paradoxes is the fact that removing Social Security from the protection of the balanced budget amendment would create an overwhelming incentive to do exactly what these critics say they fear. For this would focus budget pressures on the Social Security trust funds that could destroy the very viability of the Social Security program itself. It is a folly that has no real relationship to the goals sought. And that goal should be the protection of the Social Security trust funds.

Furthermore, another paradox that I will mention is that exempting the trust funds is simply unwarranted. There already exists a statutory

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 that would warrant the firewall protections being declared unconstitutional. The truth is, the passage of Senate Joint Resolution 1, the balanced budget amendment, will be the best protection to Social Security that we can get.

Yet another paradox is that the Reid amendment does nothing to respond to the concern that Social Security benefits will be reduced. There is no language in his proposal that would protect Social Security recipients from either further budget cuts or tax increases. In fact, the Reid amendment expressly reserves the right to cut benefits. Get that. It expressly reserves the right to cut benefits.

Removing Social Security from the protection of the balanced budget amendment would weaken the financial integrity of the Social Security system. Presently, the Social Security program is producing annual surpluses because the huge baby boomer generation is still working and paying FICA taxes into the system. But the surpluses will end no later than the year 2019, when most of the baby boomers retire.

Moreover, under current projections, Social Security will have exhausted the trust funds and will be running a huge deficit by the year 2029. By the year 2070, Social Security will face a startling \$7 trillion annual shortfall. Excluding Social Security ignores this problem and places this system in dire jeopardy. Including Social Security in the budget calculations forces Congress to address the pending crisis in a responsible manner before it becomes too late.

Let me just explain this in more detail. Let me talk about the Social Security exemption that they are asking for here. This risky gimmick of exempting Social Security would open up a loophole in the amendment and siphon off revenues from the trust funds. Placing the trust funds off budget will harm the Social Security program and make balanced budgets a virtual impossibility. The consequences of this could be very dire indeed. Further, I must emphasize that nothing in the Reid amendment protects recipients from either budget cuts or tax increases.

Under the Reid amendment, we would have two budgets. One would be based on sound principles of solvency and the other, the Social Security budget, would not be. One budget would be required to be in balance unless a supermajority votes to allow a deficit. The other, the Social Security budget, if they have their way, would be raided and bloated with costly unrelated projects. Anybody who doesn't

believe that has not watched this outfit for the last 28 years as we unbalanced the budgets in each of the last 28 years.

Social Security—don't leave it out. If you leave it out, you are going to have special interest rats eating all the Social Security cheese, whereas if we leave it in, it is protected by the balanced budget amendment. We protect it because we keep a sound, good economy. We all know who these rats are. They are special interests that come in here and buy their way into influence. Taking Social Security off budget will subject funds to Washington special interest scavengers. When you have rats in your house, you need to plug all of the holes. If you do not, they are going to 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 if they have to compete against other programs, will smell out the scent of Social Security and destroy it just like these high-class rats are destroying the cheese here on this chart. That is what is going to happen to Social Security. We all know it.

This is a game. The people who are arguing for it, with the exception of a few—certainly, Senator REID is very sincere about this—the people arguing for this hate the balanced budget amendment. It puts the screws to their spending programs, programs that are eating us alive and mortgaging our children's and our grandchildren's future. They want to defeat this amendment at all costs. And, therefore, they use these phony arguments that taking Social Security off budget is going to protect it when everybody knows it will not. This loophole will not only blow a hole in the balanced budget amendment, but it would also seriously harm Social Security.

Senator REID and supporters of the Reid amendment incorrectly contend that including present day Social Security surpluses in the unified budget would "raid" the trust funds. This is a complete misnomer. Here is how it works. The people pay the FICA tax. The Social Security Administration gets it and then sends it to the Treasury. All FICA tax proceeds are commingled with the general funds. The Social Security Administration receives Treasury bonds in recognition of the debt—and those bonds are the greatest redeemable securities in the world, United States bonds. They buy them to be redeemed later. The only way they are going to be redeemed is if we have a sound economy. The only way we are going to have a sound economy is if we live within our means. We clearly are not living within our means.

These documents are just 28 years. If we put the 58 years of the last 66 years, my goodness, what we have done to America is criminal. That is where the

real criminals are: people who continue to spend.

The fact is if you are looking for people who have committed wrongs, then look to Congress, and it would be a double wrong if we moved Social Security out the protection of the balanced budget amendment, where it is vulnerable, where it is out there open, where all these special-interest rats can attack it because it is the only thing left to be able to spend and spend and spend. That is exactly what is going to happen here if we do not watch out. The FICA tax, moneys that they get from the bonds of Social Security, are going right now for entitlement spending and discretionary spending. Many of these programs are critical programs. If you take this Social Security off budget in the sense they want to in the Reid amendment, every one of the important social spending programs we have in this country, every one of them is going to be hurt. And in the end Social Security will be hurt because then there will be that much more of a push to go to that nice big second budget there that is not subject to balanced budget requisites and hang all these programs on it. If that happens, mark my word, senior citizens, every one of you are going to be hurt.

Social Security receipts are by law used to purchase interest-bearing securities, as I have said. Nothing in Senate Joint Resolution 1 would change the Social Security program, but if Social Security were removed from the protection of the Senate Joint Resolution 1 balancing requirements, the trust fund really would be raided. Under the Reid amendment, Social Security receipts would not be designated as "receipts" or "outlays," as under the balanced budget amendment. Spending Social Security surpluses, therefore, would not have to be offset by other receipts as it must if there is no exemption. This creates a powerful, yet perverse, incentive for Congress to spend the surpluses by redesigning other programs as Social Security.

That is what they will do to you. You know that. They want it off so they can redesign other programs, call them Social Security and eat up the surpluses and add to the deficit that we are all dying from right now.

Look, it is the biggest con job I have ever seen. Sincere or not, it is a con job. Let me just say this. This would be real raiding because what constitutes "Social Security" will be expanded, with the present day surpluses funding newly relabeled programs, only they will be called Social Security, and they will just continue to spend just like we have been doing for 58 of the last 66 years. This is only 28 of those unbalanced budgets, the last 28.

If projects are not immediately redesignated Social Security as I just discussed, thereby consuming accumulated Social Security surpluses, surplus

proceeds would be used in the only possible manner that would avoid section 1's prohibition on outlays exceeding receipts, and that is to make debt repayment.

Normally, this would be wonderful, but, in fact, it creates a dangerous mechanism for the Congress to continue deficit spending if we adopt the Reid amendment. If the surplus is used to pay down the public debt, the total debt level will be reduced, creating a gap between the public debt total and the statutory debt ceiling. As a result, Congress would then be able to increase spending out of Social Security, which is not constrained by a balanced budget rule, without immediately bumping into the statutory debt ceiling. This would in essence allow a future Congress to again increase the Nation's debt without facing the balanced budget amendment's required three-fifths vote. Thus, any surplus generated by Social Security and used to pay off the debt would be squandered because the Congress could simply deficit spend under the Social Security exemption until the statutory debt ceiling is reached. This scenario would not be possible if Social Security was not exempted from the balanced budget amendment.

This secondary loophole constitutes an indirect way of using surplus Social Security receipts.

So, Mr. President, through one loophole or another, the Reid amendment would drain off the Social Security surpluses in the short term and fail to protect Social Security from tremendous deficits in the long term. Consequently, the Reid amendment not only fails to protect Social Security but is a risky gimmick, a riverboat gamble that will endanger the trust funds.

The net effect of the loopholes will be the depletion of the trust funds years early. When the balanced budget amendment does take effect in the year 2002, the trust funds will stop growing as all annual surplus funds would be reallocated for programs that have been redesignated Social Security. So instead of growing from 2002 to 2019, the years the trust funds are estimated to stop growing, the system would become stagnant. Exemption of Social Security from the balanced budget amendment will consequently speed up the system's demise.

If you do not believe that, then you have not watched Congress over the last 28 years. I think there might be some logic to what they say if you really stretched the cord, if you did not have the good old 28 years of unbalanced budgets sitting here, knowing the Congress cannot stop spending unless there is something in the Constitution that says we have to stop; you have to start living within your means; you have to start budgeting; you have to start doing what is right for the

American people and especially the future of our children.

Removing Social Security from the protection of Senate Joint Resolution 1 would make balancing the budget virtually impossible. Based on the gimmickry of the past, the most likely scenario Congress will follow is to pass legislation to fund any number of programs off budget through the Social Security trust funds. The budget could be balanced simply by shifting enough programs into the Social Security trust funds. Where would the senior citizens be then? You would be the ones who are being ripped off. You talk about criminal conduct.

Congress could simply add to an exempted Social Security enough budget items to make up any deficit from the official budget. Congress could then eliminate the deficit by simply transferring costly programs to the exempted Social Security program. We would have a balanced budget but on paper only. Talk about a risky gimmick.

FICA taxes have grown significantly over the years. Odds are that the loophole would only accelerate this increase. In fact, all kinds of new "Social Security" taxes would be enacted such as a "Social Security" income tax or a "Social Security" value-added tax. As this process continues, the loophole created by this exemption by the Reid amendment would easily swallow both the spending and taxing provisions of the balanced budget amendment.

The balanced budget amendment will allow the use of Social Security surpluses to fund benefits.

Some Senators have proffered another argument in support of removing Social Security from the protections of Senate Joint Resolution 1. They allege that the very wording of the balanced budget amendment will not allow the use of surpluses in following years. This is so, they claim, because in succeeding years the spending for benefits from the saved surpluses becomes "outlay" under the constitutional amendment. They created quite a storm when they claimed that a CRS memorandum confirmed this. The only problem with their elaborate theory is that it is wrong.

Simply put, Mr. President, I must say once more that passage and ratification of the balanced budget amendment will not harm the Social Security Program. In fact, the very passage of Senate Joint Resolution 1 will help stabilize the program. CRS never concluded that the balanced budget amendment will harm Social Security. I believe that the Congressional Research Service memorandum my friend from Nevada was alluding to was, unfortunately, quoted out of context.

Let me explain. The CRS memorandum, dated February 5, that my colleague was alluding to, did not conclude in any way whatsoever that the balanced budget amendment would

harm Social Security. All the CRS memorandum concluded was that, assuming the Social Security surplus survived through to the year 2019, the year Social Security will start running huge annual deficits, this previously accumulated surplus could be used to help pay for future deficits but only if it is offset by revenue or budget cuts.

Now, despite what my good friend asserted, under the balanced budget amendment, assets of the Federal Treasury could be drawn upon to ensure payments to beneficiaries when the system starts running deficits, annual deficits, that is.

To clear up any confusion, the Congressional Research Service produced another memorandum dated February 12, 1997, at Senator DOMENICI's request. This memorandum stated "We," that is, the Congressional Research Service, "are not concluding that the trust fund surpluses could not be drawn down to pay beneficiaries. The balanced budget amendment would not require that result."

So where is the problem? In the near future, when Social Security runs in the red, the Congressional Research Service concluded that under the balanced budget amendment, "The trust funds will be drawn down to cover the Social Security deficit in that year, and the Treasury will have to make good on the securities with whatever moneys it has available."

Senator MACK and I also requested that the Congressional Research Service clear up any confusion concerning the use of the February 5 CRS memorandum. CRS stated, in a letter dated February 14, that its memorandum was quoted out of context, and reiterated that under the balanced budget amendment, Federal receipts, including Social Security surpluses, could be used to pay for Social Security benefits.

I ask unanimous consent that the letter dated February 14, 1997, be printed in the RECORD at this point.

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

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, February 14, 1997.

HON. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: This letter is in response to inquiries made by you and Senator Mack about the conclusions CRS was reported to have reached in various responses to requests about the impact of the pending Balanced Budget Amendment (BBA) on the Social Security program. We note that you were engaged in a debate about these responses on the Senate floor on February 12, 1997.

Let me first say that CRS will always seek to respond to the specific needs of the congressional requestor, but will do so in a manner consistent with our obligation to provide research and information that is accurate and nonadvocative. We place the highest importance on these characteristics of our

work and make every possible effort to maintain them. I want to assure you that CRS has applied these principles in responding to requests on the question of the BBA's effects on Social Security.

Although the National Journal's "Congress Daily AM" report of February 12, 1997 and other subsequent press accounts suggest that CRS drew a conclusion in a February 5, 1997 memorandum to Senator Daschle that Social Security would be threatened by the enactment of the Balanced Budget Amendment (BBA), we did not.

In fact, we were careful in that memorandum to make sure the reader understood that there was a range of possible outcomes. We realize that considerable attention was drawn to the following statement in the memorandum:

"Because the BBA requires that the 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 payments of benefits. [The word 'surpluses' here was referring to the accumulated securities held by the Social Security trust funds.]"

The reader, however, only needed to go to the next and final paragraph of the memorandum to know that we were not concluding that this would be a problem for Social Security. It stated:

"Now, of course, this does not mean that Social Security benefits could not be paid. If the rest of the receipts into the treasury for a particular year exceed outlays, this amount could be used to offset the Social Security deficit. And, again of course, tax or expenditure provisions, or both, could be altered to create a new balance."

We came to realize from the immediate Congressional inquiries we received that there was a perception among some Members and staff that the statement, when taken in isolation, meant that if the BBA were enacted, the Social Security trust funds could not be drawn down to pay benefits if in any year the program was running a deficit. The statement in question simply was referring to how the drawdown from the trust funds would be scored under BBA accounting rules, not to what would happen to the program or trust funds. Nevertheless, in responding to subsequent congressional requests, we addressed this perception. In a February 12, 1997 memorandum prepared for Senator Domenici, which he inserted in the Congressional Record the same day, we pointed out first that

"the Trust Funds will be drawn down to cover the Social Security deficit in that year, and that the Treasury will have to make good on those securities with whatever moneys it has available." [Congressional Record, February 12, 1997, pp. S1294, 1295.]

We further pointed out that the earlier statement—that the drawdown from the trust funds would not count as receipts under BBA scoring rules—was not a conclusion by CRS that the trust Funds surpluses could not be drawn down to pay benefits. In fact, we said that the BBA would not require that result.

In both instances, CRS was asked specific questions on the same issues, but from different Members with different perspectives, and we gave consistent answers. I further would point out that in a CRS memorandum for general congressional distribution prepared February 7, 1997 for the purpose of discussing the impact of the BBA on Social Security generally, where we did not have to respond to a specific question from a Mem-

ber, we made a similar statement about the topic:

"Regardless of whether Social Security is included in calculating the budget, under the intermediate projections [of the 1996 Social Security trustees' report] its outlays must be reduced or its revenues increased to avoid insolvency in 2029. Whether it is more or less likely that these changes would occur if Social Security were or were not included in the Balanced Budget Amendment is a matter of conjecture." [Memorandum entitled "Analysis of effects of the balanced budget amendment on Social Security, including the effect of enactment of H.R. 3636," by Geoffrey Kollmann, February 7, 1997]

With numerous CRS staff from different disciplines responding to questions from many Members and offices with varying perspectives, which is a common occurrence on major legislative issues, we are conscious of the possibility that we could approach and respond to questions about an issue inconsistently. Consequently, we expend considerable effort to coordinate our analyses and responses, particularly through the extensive CRS review process. On this particular issue, I believe we have taken a consistent position on what we do know and don't know about the impact of the BBA on Social Security, both in responses to specific questions from individual Members and in our general products.

In closing, I would emphasize again the importance CRS attaches to its unique role as a source of accurate and balanced research and information. I trust this communication has demonstrated our commitment to preserving the reputation for integrity that we have earned from the Congress over eighty years.

Sincerely,

DANIEL P. MULHOLLAN,
Director.

Mr. HATCH. Furthermore, to nail the point home, the nonpartisan Concord Coalition entered the fray. In a memorandum dated February 18, 1997, the Coalition concluded that the Senate position—that if the balanced budget amendment does not exempt Social Security it will somehow nullify Social Security benefits and prevent payments of benefits to retired baby boomers—is, and I quote, "nonsense." Let me quote further.

"What the balanced budget amendment would do is to raise national savings, and thus make Social Security—along with the myriad other claims on tomorrow's economy—more affordable. It would be ironic indeed if concern about funding Social Security, whether real or pretended, turns out to be the issue that sinks the balanced budget amendment."

"Let us be clear," they go on to say, "The balanced budget amendment would in no way alter the status of the Social Security trust funds."

I ask unanimous consent that an article entitled "Facing Facts, The Truth about Entitlements and the Budget, A Fax Alert from The Concord Coalition," dated February 18, 1997, be printed in the RECORD at this point.

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

[From the Concord Coalition, Feb. 18, 1997]
MORE NONSENSE ON SOCIAL SECURITY AND THE BBA

Last week, Senator Byron Dorgan and several like-minded colleagues held a news conference at which they warned that if the balanced budget amendment (BBA) does not exempt Social Security it will somehow nullify the program's trust-fund surpluses and prevent Congress from paying promised benefits when Boomers retire. This conclusion, they said, has been corroborated by the Congressional Research Service (CRS).

All of this is nonsense. What the BBA would do is to raise national savings and thus make Social Security—along with the myriad other claims on tomorrow's economy—more affordable. It would be ironic indeed if concern about funding Social Security, whether real or pretended, turns out to be the issue that sinks the BBA.

A DEFICIT TIME BOMB

Let's be clear: The BBA would in no way alter the status of the Social Security trust funds. After enactment of the BBA, the Treasury IOUs held in the trust funds would be precisely as meaningless as they are today. With or without the BBA, these "assets" can only be redeemed if Congress hikes taxes, cuts other spending or borrows more from the public to raise the cash. The BBA, by requiring that the unified budget be in balance in every future year, would simply curtail the borrowing option—which, in effect, is all CRS says.

Apparently, what the senators really want is some guarantee that Congress translate Social Security's trust-fund surpluses into genuine economic savings by running unified budget surpluses of equal size. This may be a laudable policy goal—and there is nothing in the BBA to prevent Congress from pursuing it. But embedding trust-fund accounting in the Constitution by exempting Social Security from the BBA is a terrible idea.

Why? While the Social Security trust funds are officially projected to run modest surpluses until 2019, thereafter they are due to run ever-widening deficits. And once the deficits begin, the BBA-cum-exemption would allow Congress to run a unified budget deficit equal to the Social Security trust-fund deficit every year. By 2025, the allowable annual unified budget deficit would rise to \$315 billion; by 2040, it would rise to \$2.1 trillion. If the economy takes a dip, moreover, deficits could begin much sooner—by 2007, according to the Trustees' high-cost projection. In this case, a BBA that goes into effect in 2002 would guarantee very little near-term addition to national savings—but would allow a Niagara of deficit spending in future years.

And even this assumes that legislators won't redefine "Social Security" that the exemption becomes an immediate highway for any amount of deficit spending. With the White House now proposing to keep Medicare "solvent" by shuffling outlays between its trust funds, such shenanigans hardly seem farfetched.

TIME TO WAKE UP

It's time we focus less on process and more on substantive economic results. Trust-fund accounting is (and always has been) an arbitrary legislative artifact. Whether a trust fund is in surplus or deficit has little economic relevance. What does matter is the net difference between total federal revenues and outlays, otherwise known as the unified budget balance.

The senators should wake up and look around. The principal effect of their exemption would be to allow the nation to run

huge unified budget deficits at a time when a massive age wave will be straining the productive capacity of America's younger generations.

Yes, it probably is sound policy to run unified budget surpluses today to boost our lagging savings rate and prepare for the coming demographic transformation of our society. But let's not do so merely to fulfill some narrow trust-fund logic—and especially not as way to justify and allow massive budget deficits in the future.

Right now we find ourselves waist deep in deficit water. The purpose of the BBA is to require Congress to raise the deck above water and keep it there. The Social Security exemption would defeat this purpose. As for running budget surpluses, nothing in the BBA prevents Congress from doing so whenever it so decides.

Mr. HATCH. Even more important, yesterday, the very same Concord Coalition revealed a major analysis studying the effects of exempting Social Security from the unified budget.

This is the Balanced Budget Amendment and Social Security, the Concord Coalition Issue Analysis, 97-1, dated February 24, 1997, as of yesterday. Because of the significance of the analysis, let me quote its major conclusion:

Trust fund accounting is, and always has been, an arbitrary legislative artifact. Whether a trust fund is in surplus or deficit has little economic relevance. What does matter is the net difference between total Federal revenues and outlays, otherwise known as the unified budget balance.

Although some Senators and Representatives mistakenly believe that exempting Social Security from the balanced budget amendment would protect boomer retirees, it would, in reality, do nothing to guarantee future Social Security benefits, which would remain mere statutory promises, subject to change by Congress at any time.

"Instead," and let me go to this next chart—"Instead," it says:

... legislators should focus on how the balanced budget amendment without an exemption for Social Security would strengthen the Social Security program and the ability of our Nation to finance retirement benefits not only for the baby boom generation, but for succeeding generations as well. The BBA, the balanced budget amendment, would raise national savings and thus make Social Security—along with Medicare and other claims on tomorrow's economy—more affordable.

That's a statement of the Concord Coalition, The Balanced Budget Amendment and Social Security—6, in 1997.

The Concord Coalition is a nonpartisan group made up of Democrats and Republicans, business people and nonbusiness people, people who are concerned about fighting these budget battles in an appropriate way. They do not have any axes to grind except they are leading the fight to try to balance the budget. They are not playing games with the letters from the Congressional Research Service. Which really has occurred in this matter.

"Right now we find ourselves waist deep in deficit water," the Concord Coalition goes on to say.

The purpose of the balanced budget amendment is to require Congress to raise the deck

above water and keep it there. The Social Security exemption would defeat this purpose.

I ask unanimous consent to have the Concord Coalition's Issue Analysis 97-1, the Balanced Budget Amendment and Social Security, printed in the RECORD at this point.

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

[From the Concord Coalition, Feb. 24, 1997]

THE BALANCED BUDGET AMENDMENT AND
SOCIAL SECURITY
ISSUE ANALYSIS 97-1

On February 5, 1997, the American Law Division of the Congressional Research Service (CRS) issued a one-page memorandum (Appendix 1) evaluating whether the proposed balanced budget amendment (S.J. Res. 1) would preclude, at a future time, the use of Social Security trust fund surpluses to pay out benefits. This memorandum was Exhibit One at a press conference held by Senator Byron Dorgan and several like-minded colleagues to warn that the balanced budget amendment to the Constitution (BBA) would somehow nullify the program's trust-fund surpluses and prevent the payment of benefits when the baby boom generation retires.

In fact, the CRS memorandum did not buttress the Senators' point. After explaining that payments from the trust fund would, indeed, count as federal outlays, the CRS memorandum stated explicitly:

"... this does not mean that Social Security benefits could not be paid. If the rest of the receipts into the Treasury for a particular year exceed outlays, this amount could be used to offset the Social Security deficit."

Because the point of the February 5 memorandum was so widely misreported to say the opposite of what the author intended, CRS issued a second, clarifying memorandum on February 12. (Appendix 2) The second memorandum stated,

"We are not concluding that the Trust Funds surpluses could not be drawn down to pay beneficiaries. The BBA would not require that result. What it would mandate is that, in as much as the United States has a unified budget, other receipts into the Treasury would have to be counted to balance the outlays form the Trust Funds and those receipts would not be otherwise available to the Government for that year. Only if no other receipts in any particular year could be found would the possibility of a limitation on drawing down the Trust Funds arise. Even in this eventuality, however, Congress would retain authority under the BBA to raise revenues or to reduce expenditures to obtain the necessary moneys to make good on the liquidation of securities from the Social Security Trust Funds."

These two CRS memoranda make clear that the Senators' allegations are nonsense.

A DEFICIT TIME BOMB

Let's be clear: The BBA would in no way alter the status of the Social Security trust fund. After enactment of the BBA, the Treasury IOUs held in the trust fund would be precisely as meaningless as they are today. With or without the BBA, these "assets" can only be redeemed if Congress hikes taxes, cuts other spending, or borrows more from the public to raise the cash. This bears repeating: even if the BBA is never enacted, when the time comes to draw several hundred billion dollars from the Trust Fund in a

particular year in order to pay benefits, the money to turn the government bonds held by the Trust Fund into cash will have to be found somewhere, and it will have to be found in that year. These funds can come from only three sources: raising taxes, reducing other spending elsewhere in the budget, or borrowing from the public. The BBA, by requiring that the unified budget be in balance in every future year, would simply curtail the borrowing option—which, in effect, is all the CRS memoranda say.

Apparently, what some Senators and Representatives really want is some kind of guarantee that Congress translate Social Security's short term trust-fund surpluses into genuine economic savings by running unified budget surpluses or equal size. This is a laudable policy goal—and there is nothing in the BBA to prevent Congress from pursuing it. In fact, the Concord Coalition hopes that Congress will run substantial surpluses during extended periods of peacetime prosperity, and we invite Senators and Representatives to work with us on budget plans that not only reach balance by 2002 but contain credible, equitable, and politically realistic policies to achieve annual surpluses shortly thereafter roughly equal to Social Security surpluses.

But embedding trust-fund accounting in the Constitution by exempting Social Security from the BBA is a terrible idea.

Why? While the Social Security trust funds are officially projected to run modest surpluses until 2019, thereafter they are due to run ever-widening deficits. These deficits will not be a temporary phenomenon that will subside once the period of the baby boomers' retirement is over. The boomers' retirement marks the abrupt beginning of what will be a permanent demographic shift. The analogy is not a python trying to swallow a pig; the analogy is a python trying to swallow a telephone pole.

While one might be able to make a case for borrowing money to ride out a temporary crisis, no one can justify trying to borrow our way out of a permanent change. Once the deficit begins, the BBA with the Social Security exemption would allow Congress to run a unified budget deficit equal to the Social Security trust-fund deficit every year. By 2025, the allowable annual unified budget deficit would rise to \$315 billion; by 3040, it would rise to \$2.1 trillion. If the economy takes a dip, moreover, deficits could begin much sooner—by 2007, according to the Trustees' high-cost projection. In this case, a BBA that exempts Social Security that goes into effect in 2002 would guarantee very little near-term addition to national savings—but would allow a Niagara of deficit spending in future years.

And even this assumes that legislators won't redefine "Social Security" so that the exemption becomes a superhighway for any amount of deficit spending. With the White House now proposing to keep Medicare "solvent" by shuffling outlays between its trust funds, this hardly seems farfetched.

TIME TO WAKE UP

It's time we focus on substantive economic results. Trust-fund accounting is (and always has been) an arbitrary legislative artifact. Whether a trust fund is in surplus or deficit has little economic relevance. What does matter is the net difference between total federal revenues and outlays, otherwise known as the unified budget balance.

Although some Senators and Representatives mistakenly believe that exempting Social Security from the BBA would protect boomer retirees, it would, in reality, do

nothing to guarantee future Social Security benefits, which would remain mere statutory promises subject to change by Congress at any time. The principal effect of the exemption would be to allow the nation to run huge unified budget deficits at a time when a massive age wave will be straining the productive capacity of America's younger generations.

Yes, it is sound policy to run unified budget surpluses today to boost our lagging national savings rate and prepare for the coming demographic transformation of our society. But let's not do so merely to fulfill some narrow trust-fund logic—and especially not as a way to allow and justify massive budget deficits in the future.

Instead, legislators should focus on how the BBA without an exemption for Social Security would strengthen the Social Security program and the ability of our nation to finance retirement benefits not only for the baby boom generation, but for succeeding generations as well. The BBA would raise national savings and thus make Social Security—along with Medicare and other claims on tomorrow's economy—more affordable. It would be ironic indeed if concern about funding Social Security, whether real or pretended, turns out to be the issue that sinks the BBA.

Right now we find ourselves waist deep in deficit water. The purpose of the BBA is to require Congress to raise the deck above water and keep it there. The Social Security exemption would defeat this purpose. As for running budget surpluses, nothing in the BBA prevents Congress from doing so whenever it so decides.

APPENDIX 1

CONGRESSIONAL RESEARCH SERVICE,

THE LIBRARY OF CONGRESS,

Washington, DC, February 5, 1997.

To: Hon. Thomas A. Daschle, Attention: Jonathan Adelstein.

From: American Law Division.

Subject: Treatment of Outlays from Social Security Surpluses under Balanced Budget Amendment

This memorandum is in response to your inquiry for an evaluation of an argument made in connection with interpretation of the proposed Balanced Budget Amendment (BBA), now pending in the Senate as S.J. Res. 1. Briefly stated, the contention is that the terms of the proposal, if proposed and ratified, 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 surpluses built up in the Social Security trust funds to pay out benefits.

At the present time, surpluses are being accumulated in the Social Security trusts funds, at least as an accounting practice, as a result of changes made in 1983. It is expected that when the receipts into the funds fall below the amount being paid out that moneys from the surpluses will be used to make up the differences.

The BBA would have its impact on this legislated plan because under §1 of the proposal "[t]otal outlays for any fiscal year shall not exceed total receipts for that fiscal year. . . ." Under §7 of the BBA, the two terms are defined thusly: "Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal."

Therefore, under the BBA's language, there is mandated a balance in each year of the

outlays that year and the receipts that year. Payments out of the balances of the Social Security trust funds would not be counted as Government receipts under the BBA, when in the year 2019, or whenever the time occurs, the receipts in those particular years into the Social Security 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 BBA requires that the 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 payments of benefits.

Now, of course, this does not mean that Social Security benefits could not be paid. If the rest of the receipts into the Treasury for a particular year exceed outlays, this amount could be used to offset the Social Security deficit. And, again of course, tax or expenditure provisions, or both, could be altered to create a new balance.

JOHNNY H. KILLIAN,
Senior Specialist,
American Constitutional Law.

APPENDIX 2

CONGRESSIONAL RESEARCH SERVICE,

THE LIBRARY OF CONGRESS,

Washington, DC, February 12, 1997.

From: American Law Division.

Subject: Treatment of Outlays from Social Security Surpluses under BBA.

This memorandum is in response to your inquiry with respect to the effect on the Social Security Trust Funds of the pending Balanced Budget Amendment (BBA). Under S.J. Res. 1 as it is now before the Senate, & I would mandate that "[t]otal outlays for any fiscal year shall not exceed total receipts for that fiscal year. . . ." Outlays and receipts are defined in §7 as practically all inclusive, with two exceptions that are irrelevant here.

At some point, the receipts into the Social Security Trust Funds will not balance the outlays from those Funds. Under present law, then, the surpluses being built up in the Funds, at least as an accounting practice, will be utilized to pay benefits to the extent receipts for each year do not equal the outlays in that year. Simply stated, the federal securities held by the Trust Funds will be drawn down to cover the Social Security deficit in that year, and the Treasury will have to make good on those securities with whatever moneys it has available.

However, §1 of the pending BBA requires that total outlays for any fiscal year not exceed total receipts for that fiscal year. Thus, the amount drawn from the Social Security Trust Funds could not be counted in the calculation of the balance between total federal outlays and receipts. We are not concluding that the Trust Funds surpluses could not be drawn down to pay beneficiaries. The BBA would not require that result. What it would mandate is that, inasmuch as the United States has a unified budget, other receipts into the Treasury would have to be counted to balance the outlays from the Trust Funds and those receipts would not be otherwise available to the Government for that year. Only if no other receipts in any particular year could be found would the possibility of a limitation on drawing down the Trust Funds arise. Even in this eventuality, however, Congress would retain authority under the BBA to raise revenues or to reduce expenditures to obtain the necessary moneys

to make good on the liquidation of securities from the Social Security Trust Funds.

JOHNNY H. KILLIAN,
Senior Specialist,
American Constitutional Law.

Mr. HATCH. The Reid amendment will make it harder to balance the budget. And it will harm not only Social Security, but other social programs.

Furthermore, in another paradox, the exclusion of the present-day surpluses in the budget would make it extraordinarily difficult to balance the budget by the year 2002, the date Senate Joint Resolution 1 mandates balancing. Between now and the year 2002, the surplus is estimated to be over \$500 billion; over \$500 billion. On this chart we have 10 years of the surplus. You will notice at the bottom the surpluses are worth \$1.067 trillion, that is 10 years from now. Mr. President, \$1.067 trillion is more than our expenditure this year on Medicare, education, veterans' benefits, the environment, national defense, Social Security, transportation, and infrastructure and national resources combined. In fact, between the year 2002 and 2019 when Social Security outlays will exceed receipts, the trust fund is expected to earn more than \$1.9 trillion.

Where do supporters of the Reid amendment propose to come up with the money necessary to cover this supposed shortfall? This is an annual surplus average of approximately \$100 billion each year. According to current budgetary figures, \$100 billion per year is more than our current annual expenditure on education, the environment, transportation and infrastructure. Where will we come up with the money if this goes off budget to fund these programs if we exclude Social Security surpluses from the unified budget, and if we are serious about getting to a balanced budget by the year 2002? Show me the money. We are going to have to come up with \$1.067 trillion, and it is going to have to come out of these programs that are critical programs, if you follow this amendment that the distinguished Senator from Nevada has filed here.

Federal programs would have to be cut under his amendment, or taxes raised by that amount to reach the balanced budget goal. If the American people think they are taxed enough now, wait until they have to be taxed to make up part or all of \$1.067 trillion in the next 5 years. Keep in mind, the fact of the matter is, Social Security goes from the people to the Social Security Administration, funds go into the Treasury, and then they are invested, the surplus funds are invested in bonds that go back to the Social Security Administration to be redeemed later. They happen to be invested in the most important securities in the world. The only way we are going to be able to pay those bonds is if we have a

balanced budget amendment without any gimmickry or games, and especially risky gimmicks at that, that literally help us to have a good enough economy to redeem those bonds.

If we do not do that, then many of these discretionary spending programs such as Head Start, education, entitlement spending programs such as veterans' pensions and benefits are going to be seriously harmed. It is just that simple.

Additionally, I have to point out again, not all of President Clinton's budgets have included the Social Security surpluses in their calculations. Doesn't that bother you, that the President says, "Oh, I think we ought to take Social Security out just like Senator REID does?" Why doesn't he? Why doesn't he take it out? Because he knows he cannot even make a claim to getting close to a balanced budget without those surpluses and he also knows he would have to cut most of the expensive social welfare programs that he and most of us up here would like to keep going in the best interests of people.

Indeed, Secretary Rubin, the Secretary of the Treasury, testified in a recent judiciary hearing, that without including the surpluses in budget calculations, it would be virtually impossible to arrive at a balanced budget. In his recent press conference President Clinton admitted the same when he confessed, and this is what he said, "Neither the Republicans nor I could produce a balanced budget tomorrow that could pass if Social Security funds cannot be counted." And the reason is because those surpluses are now being used to help balance the budget. But the obligation will be the same. The bonds are still going to be there. It will still be invested in bonds, whether the Reid amendment passes or whether we continue the same system. So, to say if we were in the private sector doing this we would all go to jail is not only a misnomer, or a misstatement, the fact is that we are putting them into the securities that are the only great securities in the world.

But they are only as great as this country is. And if this country continues to spend into bankruptcy, we will not have the money to redeem those securities. If we do what the distinguished Senator from Nevada wants done here, we will not have the monies. Then you really will harm those trust funds by putting them out there all alone, not subject to balanced budget requisites, not subject to any reforms that need to take place with regard to the whole budget as a whole, but out there, vulnerable to the special interest rats who come along and eat it like cheese.

The Social Security trust funds consist not of cash but of debt securities, as this chart shows. And they will be, whether this amendment passes, the

Reid amendment passes, or not. But these debt securities have to be paid back.

How do you pay them back if you don't get the country's spending under control? If you look at reality—that is these 28 budgets that have been unbalanced since 1968—how are we going to get spending under control so we can pay back those bonds and redeem those bonds and pay back that money to the Social Security fund?

Part of the problem in addressing the Social Security issue in this debate results from the confusing terminology used by our opponents. They complain that the present trust fund surplus will be "raided" if we have a unitary budget that includes Social Security. But the fact is the Social Security trust funds are not a giant wallet of \$100 bills or \$1,000 bills or gold, for that matter. The FICA tax receipts come from the people to the Social Security Administration, and the bonds are given to the surplus, which are used to balance the budget today, and it will be the same system if the Reid amendment is adopted. The only difference is there is no balanced budget amendment. That is the only difference.

(Mr. GORTON assumed the chair.)

Mr. HATCH. The Social Security FICA tax receipts are used to pay benefits, and any excess is, by law, loaned to the Treasury to pay other Federal obligations in exchange for Treasury bonds. These bonds are interest-bearing bonds. That is all. They are evidence of the debt the Federal Government owes itself.

The most important question for future retirees is whether the Federal Government will be able to pay off its debts. The only way they will be redeemed in the future is if a budget is balanced and we have enough revenue to redeem the securities.

Mr. President, the best protection for Social Security is passing and ratifying Senate Joint Resolution 1. This would create the needed discipline to balance the budget. Payments on debt interest would be substantially reduced. The chance for Government default would be significantly diminished. The economy will grow at a brisker pace, repayment of Social Security obligations will be more secure, and we will end this process of never-ending mounting national debts, which have been continuing since—well, 58 of the last 66 years, but 28 of the last 28 years.

As I stated, the Social Security system is facing a future crisis. By the year 2029, the system will be bankrupt. We will put that chart up and you can see, when you get up to 2029, the system is bankrupt and we go into very serious deficit. Sadly, the Social Security trust fund's board of trustees estimates that by the year 2070, Social Security will be facing a \$7 trillion annual deficit. In 1996 dollars, that amounts to more than \$1 trillion in

deficits each year. Our current total annual Federal budget is only \$1.5 trillion. Where will we get the revenue to redeem the Social Security securities, then, unless we plan and budget for it as required under our balanced budget amendment?

The trust fund securities are only a claim on the General Treasury funds with no capital to back up that claim. If the country ever defaults on its debts, the Social Security trust funds will suffer. For this reason alone, Social Security recipients, both current and future and those who are concerned about them, should strongly support the balanced budget amendment—for that reason alone.

The biggest threat to Social Security, therefore, is our growing debt and concomitant interest payments. The Government's use of capital to fund debt slows productivity and income growth and, thereby, lessens the pool of revenues available to fund Social Security. The real 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, or any plan to balance the budget, but in all probability will also pose a real risk to the Social Security system.

Section 13301 of the Budget Enforcement Act of 1990 does not require that Social Security be placed "off budget." Supporters of exempting Social Security argue that section 13301 of the 1990 Budget Enforcement Act literally exempts Social Security trust funds from the President's and the Congress' budget calculations. They claim that the balanced budget amendment would change this because it requires a unified budget.

These critics of the balanced budget amendment are wrong on both counts. Under section 13301(a) of the Budget Enforcement Act, the receipts and outlays of the Social Security trust funds are, indeed, not counted in both the President's and Congress' budgets, but only for certain specific purposes. The primary purpose for this exclusion was to exempt Social Security from sequestration by the President under the Gramm-Rudman-Hollings procedures and from the act's pay-as-you-go requirement.

In addition, as added protection, sections 13302 and 13303 of the Budget Enforcement Act also created firewall point of order protections for Social Security trust funds in both the House and the Senate. All this is made clear by the conference report accompanying the 1990 act.

Indeed, the 1990 Budget Enforcement Act does not preclude both Congress and the President from formulating a unitary budget that includes Social Security trust funds for national fiscal purposes. Surely the opponents of the balanced budget amendment are not suggesting that the President of the

United States and the Congress have been flouting the law when they include the Social Security trust funds in their respective budget calculations. Look, we all know that Social Security will need reform if it is to continue to be viable over the long haul. This chart shows that. There is no way that we can continue to go the way we are going without reforming Social Security.

We all know that, but the problem is not the inclusion of Social Security trust funds in the budget. The problem is that at the time of the retirement of baby boomers, there will not be enough FICA taxes to fund their retirement. Moreover, the surplus Social Security taxes being collected today will not cover the future cost of the system. Most of the current Social Security taxes are used to cover benefit payments to present retirees.

Outlays will exceed receipts of the system in about the year 2019, maybe even before. The guarantee of future benefits, therefore, will depend on the Federal Government's future ability to pay benefits.

Not including Social Security in the budget would harm the program. Congress could redesignate programs as part of the exempted Social Security system. The distinguished Senator from Nevada yesterday said Social Security is statutorily defined. Let's understand what that means. When something is statutorily defined, a subsequent statute can change the definition of it, and that only takes a simple majority in both Houses of Congress to do. Anybody who doesn't understand that doesn't understand the legislative process.

Let me tell you, if you don't include Social Security in the budget, the program is going to be harmed. Congress could rename anything "Social Security," as they have done before, by a simple majority vote. If they just name it Social Security and use the FICA taxes to fund these programs, then you will really see the program raided.

The problem that the Reid amendment raises in reality is not with the balanced budget amendment, but with the problems that the Social Security Program faces. We need to fix that, and adopting the balanced budget amendment and getting rid of these unbalanced budgets is a heck of a good start.

The balanced budget amendment does not overturn existing statutory protections for Social Security. In a related argument that seeks to justify the exemption, some have argued the balanced budget amendment will override the existing statutory protections for Social Security. Contrary to this assertion, it is clear that the current statutory protections for Social Security would not be eliminated by the amendment. Of course, the supremacy clause of the Constitution provides that any legislation contrary to a con-

stitutional provision must fail. As the great Chief Justice John Marshall held in the landmark 1803 decision of *Marbury versus Madison*: "An act of the legislature repugnant to the Constitution is void."

But what critics fail to mention is that there is absolutely nothing in the balanced budget constitutional amendment that is inconsistent with current statutory schemes. The Social Security statutory protections are not legislative acts "repugnant to the Constitution" as amended by Senate Joint Resolution 1. Congress, under the balanced budget amendment, can also create statutory protections for the Social Security Program.

Further, the Reid amendment has absolutely no protection against Social Security benefit cuts. The plain fact is that the best thing we can do for Social Security, the best thing we can do for retirees, and the best thing we can do for all Americans is to enact the balanced budget amendment without loopholes, without exemptions, and bring fiscal sanity and a little common sense back to Government.

Opponents of Senate Joint Resolution 1 who argue for a Social Security exemption contend that the balanced budget amendment will not in reality produce a balanced budget because gross debt will still rise. This is clever but it is misleading.

Mr. President, the balanced budget amendment does indeed require a balanced budget. Outlays must not exceed receipts under section 1 of Senate Joint Resolution 1. But it is also true that gross debt may still increase even if the budget is balanced. That is because the Government's exchange of securities for incoming FICA taxes is counted as gross debt. It is merely an accounting or bookkeeping notation of what one agency of Government owes another agency. It is analogous to a corporation buying back its own stock or debentures. Such stock and bonds are considered retired obligations that once paid have no economic or fiscal significance. Thus if we enact the balanced budget amendment the debt the United States owes to everyone but itself will stop growing.

This is very different from obligations owed by the Federal Government to the public. This type of debt—termed net debt or debt held by the public—is legally enforceable and is what is economically significant. If net debt zooms—because of interest payments of debt—which last year amounted to more than \$250 billion—budget deficits balloon with all the dire economic consequences. To assure that budgets will be balanced unless extraordinary situations arise, debt held by the public cannot be increased unless three-fifths of the whole number of each House concur.

That net debt is considered to be of far greater economic significance than

gross debt is a widely held truism among economists. Indeed, in the study "Analytical Perspectives: Budget of the U.S. Government Fiscal Year 1998," the Clinton administration no less concludes that net debt or "borrowing from the public, whether by the Treasury or by some other Federal agency, has a significant impact on the economy."

On the other hand, the study also maintains that gross debt or debt issued to Government accounts "does not have any of the economic effects of borrowing from the public. It is merely an internal transaction between two accounts, both within the Government itself."

Now, it is true that the balanced budget amendment does not by itself reduce the \$5.3 trillion national debt. But what it does do is straighten out our national fiscal house and make it orderly. Passage of Senate Joint Resolution 1 will increase economic growth and allow us to run surpluses. With this, our national debt may be decreased if Congress desires to do so in the interest of national economic stability and prosperity. Without Senate Joint Resolution 1, this would be and will be an impossibility.

The Reid amendment, on the other hand, adds nothing to protect the trust funds from accumulating debt. In fact, by creating this loophole, this risky gimmick, this riverboat gamble, the Reid amendment may cause the trust fund to dry up sooner and run deeper deficits. Thus, the Reid amendment is a risky gimmick that endangers Social Security.

The Reid amendment is confusing and its application is going to harm Social Security. Let me just say, finally, Mr. President, the Reid amendment should be rejected because it is confusing. As I have said, its application may harm the Social Security Program, the very thing the Reid amendment claims to protect. The amendment exempts the Social Security trust funds from the balancing requirement, but it also includes the proviso "as and if modified to preserve the solvency of the Funds."

Explicitly exempting Social Security by placing it in the Constitution may "constitutionalize" the program in perpetuity unless a subsequent constitutional amendment provides for the program to be altered or abolished. As a result of the Reid amendment, do minor technical changes to Social Security every year require amendments to the Constitution? The constitutional amendment process was designed by the Framers to be lengthy, to prevent specious changes to the Constitution. If we must go through this time-consuming process for every change to Social Security because we have written specifically a statutory scheme into the Constitution, a statutory program into the Constitution

—even minor technical alterations—I fear major needed reforms to Social Security will come far too late if at all.

Similarly, does the proviso language mandate the solvency of the Social Security system, or does that language merely allow the Congress to take such steps? If the answer is that Congress must take measures to assure solvency, does this require mandated tax increases or benefit cuts?

Frankly, this proviso language strands us in uncharted territory. We do not know exactly how this language is going to be interpreted. Once it becomes part of the Constitution, assuming this amendment would pass, this language could also very well mean that the scope of Social Security as a constitutional provision could be amended by statute. For instance, in 1965, Social Security was broadened by a statute to include hospital insurance. That is, part A of Medicare. My question is this: If under the Reid amendment Social Security can be variously modified by statute, would we be constitutionalizing a massive loophole through which we could constitutionally enforce spending on any program redesignated as "Social Security?" If, on the other hand, we can only modify Social Security by constitutional amendment, will that not require a two-thirds Senate vote, approval of 37 States, and a 7-year delay to enact even the most minor changes?

All of this demonstrates the danger that the Reid amendment as a whole creates—that Congress ought to be responsible and not amend the Constitution to include specific statutory programs like Social Security. A constitutional amendment should be timeless and reflect a broad consensus and not make narrow policy decisions. We should not place technical language or overly complicated mechanisms in the Constitution and undercut the simplicity and universality of the balanced budget amendment. Explicitly exempting Social Security may constitutionalize the program in perpetuity unless a subsequent amendment provides for the program to be altered or abolished. It would also invite, in the opinion of many, gaming, and I can tell you it will invite gaming and endless litigation as the terms of the program are altered.

Former Assistant and Acting Attorney General Stuart Gerson and attorney Alan Morrison, on different sides of the fence, both have extensive experience litigating constitutional issues and testified in a Judiciary Committee hearing on Senate Joint Resolution 1. Although the two disagree about the wisdom of the balanced budget amendment, they agree that exempting Social Security is a bad idea, and both strongly oppose exempting Social Security from the balanced budget amendment. Stuart Gerson is for the balanced budget amendment. Alan

Morrison was against. But both agree Social Security should not be exempted. Nothing should be. It ought be in the unified budget, to approach to intelligently.

According to Alan Morrison, a liberal, against the balanced budget amendment, a litigator with Public Citizen who opposes the balanced budget amendment and testified for the minority:

Various proposals have been floated to exclude Social Security from the amendment, presumably as a means of attracting additional votes. 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.

That is pretty important testimony given before the Judiciary Committee by a person who, although he hates the balanced budget amendment and does not want it as a liberal, nevertheless believes it would be tremendously detrimental to the Constitution if we put a statutory scheme in the Constitution.

In conclusion, Mr. President, the biggest threat to Social Security is our growing debt and concomitant interest payments. Debt-related inflation hits hardest on 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, get rid of the year after year of unbalanced budgets, get us living within our means. The proposal to exempt Social Security will not only destroy the balanced budget amendment, but in all probability would also cause the Social Security trust funds to run out of money sooner than they would have without an exemption, perhaps mortally wounding the very program the Reid amendment was designed to protect. That would be the paradox indeed.

Let me just finally conclude, anyone who believes Social Security will not be harmed are simply wrong.

The Reid amendment is a risky gimmick. The Reid amendment is a gamble. Special interest scavengers will sniff out Social Security. Before long, we will be using Social Security to fund all sorts of perks like the S.S. Social Security battleship. If we can put that chart up to make the point. We can see it happening. Now, that is bizarre but not nearly as bizarre as what has been done for 28 years, with all these unbalanced budgets. There is nothing in the Reid amendment that protects Social Security. Indeed, the Reid amendment threatens Social Security. It is a risk, it is a gamble, and it should be defeated.

I reserve the remainder of my time.

Mr. LEAHY. Mr. President, will the Senator from Utah entertain a unanimous-consent request? I will explain it. I was going to ask that we lay aside the Reid amendment, call up the Kennedy amendment No. 10, have it considered, then lay that aside and go back to the Reid amendment.

Mr. HATCH. Let me first suggest the absence of a quorum with the time to be divided equally.

I suggest the absence of a quorum and ask unanimous consent that the time be divided equally.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. LEAHY. Mr. President, I ask unanimous consent that the amendment of the distinguished senior Senator from Massachusetts, [Mr. KENNEDY] amendment No. 10, be deemed as qualified and having been brought up, but without altering the order of other amendments in their normal course or by unanimous consent.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 10

(Purpose: To provide that only Congress shall have authority to enforce the provisions of the balanced budget constitutional amendment, unless Congress passes legislation specifically granting enforcement authority to the President or State or Federal courts)

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of Mr. KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. KENNEDY, proposes an amendment numbered 10.

Mr. LEAHY. 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, at the end of line 14, insert the following: "Unless specifically otherwise provided by such law, Congress shall have exclusive authority to enforce the provisions of this Article."

AMENDMENT NO. 8

Mr. LEAHY. Mr. President, I yield the floor and the control of the time on the Reid amendment to the distinguished Senator from Wisconsin, [Mr. FEINGOLD].

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I thank the floor manager. I yield myself such time as is necessary.

PRIVILEGE OF THE FLOOR

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Susanne Martinez, Sumner Slichter, Mary Murphy, and Michael O'Leary, of my staff, be granted the privilege of the floor during Senator Joint Resolution 1 and all rollcall votes thereto.

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

Mr. FEINGOLD. Mr. President, I rise to support the Reid amendment. I want to commend my friend and the distinguished Senator from Nevada for offering it.

Mr. President, Social Security is unlike any other program in the unified budget. In fact, the surpluses generated by Social Security are the principal reason that the unified budget was created in the first place.

Social Security is, fiscally and politically, a special program, and those special traits require us to separate it out from the rest of the budget. Social Security is singular as a public contract between the people of the United States and their elected Government.

What happened here with Social Security, Mr. President, is that the elected Government promised that if workers and their employers paid into the Social Security fund, they would be able to draw upon that fund when they retire—a simple proposition. But the singular nature of Social Security and the special regard in which it is held by the public, Mr. President, does not flow from some fleeting sense of nostalgia. Rather, Social Security has provided real help for millions of seniors.

According to AARP, Social Security keeps 15 million beneficiaries of all ages out of poverty. Today, 13 percent of recipients rely on Social Security for all of their income; 1 in 4 count on it for at least 90 percent of their income; 3 in 5, Mr. President—60 percent—depend on it for at least half of their income.

For those seniors, and for millions of others, the Social Security contract is very real and a vital necessity, and anything other than partitioning Social Security off from the rest of the budget risks a breach of that public contract, Mr. President.

Beyond the issue of our moral obligation to such a contract and keeping our promise, there are critical fiscal reasons for making a special distinction in this new constitutional budget structure.

Most obvious is the enormous temptation Social Security will provide to those who might seek to raid the trust fund to alleviate the deficit. This scenario is not hard to imagine. It is not some kind of a nightmare or a pipe dream. We already do it now. A unified budget masks the true, on-budget deficit. This is not a weakness of one

party or one branch of Government. But it is a problem that we need to address, and it is a problem we need to address quickly. If we do not, the Social Security surpluses will be used to distort the true deficit picture, and it will undercut the deficit reduction that needs to be done. In fact, what will happen is we will pretend that we really have a balanced budget. But we will not because we will have used Social Security dollars to make it look in balance.

So, Mr. President, we have to begin to rid ourselves of the addiction to the Social Security trust fund and to begin to learn how to balance the budget without it if we are to fulfill the promise we made to today's workers that the Social Security benefits would be there for them when they retire; that those benefits will be there for them when they need it.

Some may argue that current law provides adequate protection for Social Security; or, many say, that, if the balanced budget amendment is ratified, Social Security can and will be protected though passage of implementing legislation. There are several responses to those claims.

First, let us recall that many of those who make that argument are also the people who maintain that mere statutory mandates are insufficient to move Congress to do what it has to do. The argument, when it comes to the subject of balancing the budget, is that only constitutional authority is sufficient to engender the will necessary to reduce the deficit.

Let's use the reasoning of these supporters. Using their reasoning, the willpower needed to resist the temptation to raid the Social Security "cookie jar" can presumably only come from a constitutional mandate, or, more specifically, a specific reference in this amendment that protects Social Security. Those who oppose giving extra constitutional protection for Social Security often suggest that there is no practical need for the protection because "Social Security will compete very well * * *" with other programs.

I heard the distinguished chairman of the Judiciary Committee reassure us time and again during the committee proceedings of this claim that we don't have to worry; that once we pass the balanced budget amendment Social Security is going to do very well; nothing to worry about.

Mr. President, Social Security should not have to compete with anything. As many have noted, it is a separate program with a dedicated funding source intended to be self-funding.

In addition, any assessment of the political potency of any particular program is going to have to be reappraised if we ever enter the brave new world of the balanced budget amendment.

Mr. President, let us take a look at the current environment to get a clue

as to what might happen after the balanced budget amendment is passed, ratified, and implemented. In the current environment, it isn't even Social Security that receives the most preferred treatment. In the last 2 years that status, the greatest preferential status, has been reserved for military budgets that receive billions more than the Pentagon even asks for. That higher status has also been reserved not for Social Security but for corporate tax loopholes which were specifically exempted from the new line-item veto authority that many of us supported and sent on to the President last year.

What is more important, Mr. President, the proposed constitutional amendment imposes a new burden on Social Security that it doesn't even impose on other programs. Not only is Social Security not exempted, or protected, but it has the problem the way this amendment is drafted that other programs don't face. Because outlays cannot exceed receipts in any year, we are effectively barred from drawing on savings built up to fund future outlays. It is the very approach that we have to rely on to fund the expected ballooning of Social Security benefits as generations such as the baby boom generation reach older age.

Mr. President, the surplus of Social Security revenues produced today contribute to the equivalent of a giant savings account which will have to be used to pay for the expected bulge in beneficiaries when the baby boomers begin to retire. By 2002 the combined Social Security trust fund balance will exceed \$1 trillion. By 2010, the balance will exceed \$2 trillion. And by the year 2020, Mr. President, that figure will approach \$3 trillion. All of this money is intended for and is supposed to be for Social Security benefits. And we are going to need it. But the proposed constitutional amendment would impose a three-fifths majority requirement on that financing structure, and no statutory approach would be able to overcome the problem. It will have been enshrined in the Constitution.

So, if we want to address the problem, if we want to be able to use that surplus fund to pay for these benefits in the future, it has to be done as part of the constitutional amendment itself.

So, Mr. President, the bottom line on this proposed constitutional amendment is—that is right—that it does not treat all programs alike. Programs like Social Security which require a build-up of savings into the future somehow have to reach the higher standard and muster a three-fifths majority. But the defense budget, special interest spending done through the Tax Code, and corporate welfare all get a free pass in the brave new world of the balanced budget amendment.

So, Mr. President, unless this is altered along the lines perhaps of the amendment proposed by the Senator

from Nevada, the proposed constitutional amendment will not only enshrine the current practice of using Social Security surpluses to disguise the size of the budget deficit, it will actually make it nearly impossible to use those surpluses for Social Security when we need them. It will turn a bookkeeping gimmick into a \$3 trillion heist.

Mr. President, I urge my colleague to support the Reid amendment and at least give Social Security the same chance every other program has.

Thank you, Mr. President.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. How much time does the Senator need?

Mr. DOMENICI. I do not recall how much I had.

Mr. HATCH. I yield such time as the Senator needs.

I yield 15 minutes to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, and fellow Senators, I note that my good friend, Senator REID, is on the floor. Let me say that it is with great reluctance that I say to the Social Security recipients across America that the Reid amendment threatens Social Security. Let me repeat. The Reid amendment threatens Social Security. Senator Reid and others have introduced their own version of a balanced budget amendment which would require a balanced budget in 2002 excluding the Social Security trust fund.

It is interesting right off. The President of the United States opposes the constitutional amendment for a balanced budget. One of the reasons he gives is that Social Security ought to be off budget. Everyone should know the President has been touting to all Americans that he has a balanced budget. And he said to the Republicans, "Why don't you work with me, and maybe together we can have a balanced budget by 2002?" Everybody should know that the President does that balanced budget with Social Security on budget—not off budget. He has never once ever said in a budget document that he sends up here that we ought to take Social Security off budget so we will protect Social Security. Never, never, never has he done that.

The people on the other side of the aisle have proposed their own balanced budgets in the past, and I am going to say, since I am not sure of one those budgets, that every single one ever offered included Social Security on budget—not off budget. Isn't it interesting when the time comes that you are really going to insist that the American people are protected in the future from big Government and big deficits that now the excuse is Social Security should not be on budget. It should be off budget.

Those same people argue that Social Security in the balanced budget effectively authorizes the raiding of the Social Security trust fund and the surpluses that are in that trust fund for purposes of balancing the budget.

Mr. President and fellow Senators, I believe the argument that is being made, and this argument in particular and the Reid proposal in particular, is nothing more than a smokescreen. It is intended to divert public attention from the real issue—constitutionally required fiscal discipline. It provides an excuse for some who supported the balanced budget in the past to vote against it now, now that their vote really matters, for this is obviously within one or two votes at the most of leaving the Senate and going to the House, after which there is a real chance it will go to the sovereign States to see if three-fourths of them want constitutionally imposed fiscal restraint.

Let me repeat. Now that the chips are down, that a vote is a real vote, excuses are coming forth from the walls in abundance, and the biggest excuse and risky gimmick is that we should leave the largest program of the Federal Government, into which the largest amount of American taxes are entrusted, that we should not have it on the budget. I believe the American people will ultimately see through this smokescreen because it is obviously a charade. It is not about Social Security. It is about defeating the balanced budget amendment to the Constitution.

It is clear to me that it is their version of a balanced budget that would lead to the so-called raiding of Social Security, while our balanced budget would protect the trust funds. Let me repeat, it is very, very interesting to note that the argument is being made that you must take Social Security off budget or you will harm Social Security when as a matter of fact from what I can tell, and I think I understand budgeting, to take it off is to put it more at risk. Let me see if I can explain why.

Make no bones about it. The Social Security trust fund, who gets paid and how much they get paid, what is subject to the trust fund and what can they pay out of it, is not enshrined in the Constitution. It is totally, purely, Mr. President, legislation. Social Security is defined by whom? It is not defined by God. It is not in the Ten Commandments. It is written by legislators. They define it. They write into that law who can get money, what programs might be within the Social Security trust fund, and here we go.

The Reid amendment says balance the rest of the budget but leave this very large trust fund to float hither and yon on its own, subject to what, Mr. President? Subject to what Congress wants to do with it. Senior citi-

zens, you are being duped, if you are coming here in large numbers telling us to leave it off the budget. Leave it off the budget, for what? For what? So that Congress can do with it what it wants without regard to the budget.

Now, I am not suggesting that any Member of the Senate has that in mind, I say to the Senator from Oklahoma. I am not suggesting that my great friend from the State of Nevada has that in mind, but I am suggesting that when you enshrine in the Constitution a balanced budget that leaves Social Security out of the budget, you then have to ask the question over time, what might happen to that trust fund? I submit, in the past 15 years on at least one occasion that I am aware of, believe it or not, the now bankrupt Medicare fund, a trust fund, had a surplus, I say to my friend from Oklahoma, and Social Security was hurting. So guess what we did under the leadership of the chairman of the Finance Committee, Russell Long. We borrowed money from the Medicare fund and put it in the Social Security fund.

We made up for that later. But now what we are going to do is take Social Security and put it out there all by itself. Guess what is going to happen in the next decade. The Social Security fund has a lot of money in it. It is growing. It has a lot of surplus. And guess what. Its sister fund for hospitalization for seniors is diminishing. We are all running around saying let us keep it from bankruptcy. What if we do not keep it from bankruptcy, I say to my friend, the occupant of the Chair? What if we do not keep Medicare from bankruptcy and in 8 years it is desperately in need of money? Where do you think Congress might look to get the money? This budget that has Medicare on it will be a tough budget because it has to be in balance. So I think it will be as easy and as axiomatic as anything that goes on, like day following night, Congress will say, let us take it out of the trust fund. Then somebody will rise up and say, but what about the balanced budget? Then some will stand up and say, well, we did not put it in that balanced budget because we wanted to protect it. Then somebody will say, protect it? Let us use it. So they will borrow from it. Or in fact make the payments for Medicare out of it saying we will fix it later.

Now, frankly, I truly believe there is a higher probability of that happening than there is the probability that when the Social Security trust fund needs the cash that its reserves represent, that we have borrowed for the Federal Government, there is a higher chance of harming it by taking money out of it than there is the chance we will not have the money when the time comes that the surpluses have to really be turned into cash available.

Then, might I suggest, if the whole purpose of a constitutional

amendment—and I do not deny the sincerity of those who propose a constitutional amendment other than ours, than the one we propose. My friend from Nevada probably really wants a constitutional balanced budget, but the truth of the matter is the purpose of that is so that you get to the point in time, fellow Senators, the point in time when you cannot borrow any more money. Right? That is the whole purpose of this constitutional amendment. It is structured in that way and there is no question about it.

Now, I ask you to just take a look at this one chart. I will use no more than this one. You see the black dotted line. That comes down to about 2020. That is the period of time when there will be a surplus that Congress can play with and spend if they would like because it is sitting out there, and in the Reid constitutional amendment it is subject to no limitation.

Now, if the purpose then of the balanced budget amendment that my friend, Senator REID, introduces is to say we are not going to be borrowing more money after we get to balance, then I ask what is going to happen in 2022 when that trust fund starts going in the red and you need to borrow money if you have not fixed the program? That is the red line. If we do not fix Social Security out there in the future, the difference between that green line and that red line, that great big triangle, is the amount of money that would have to be borrowed if we do not fix Social Security.

Now, let us assume that it is sitting out there in 2024. That is not farfetched because the constitutional amendment is supposedly forever, right, for 100, 200 years. Now, here we are. The whole purpose of the Reid constitutional amendment is to put us in the position where you cannot borrow any money after you are in balance.

I ask the Senator from Utah [Mr. HATCH] what happens when Congress says, well, we need \$650 million for Social Security; it is going in the red? So somebody proposes, why, America has a great, strong economy. Let us borrow the money. Right?

Mr. HATCH. Right.

Mr. DOMENICI. What will there be in the constitutional amendment, if the Reid amendment became law, that says we cannot borrow that money? Nothing, Senator NICKLES. It can be borrowed. So we have kind of a charade going. You write a constitutional amendment that says when you finally get to balance you cannot borrow any more money, right? But that is only on that budget. On this other budget that is floating over here, there is no limitation on borrowing. I ask, if you are trying to protect the American economy and future generations from borrowed money, is there any difference between the borrowed money that might go into the first budget as compared with bor-

rowed money that might go into the Social Security fund? I think not. I think both have the same negative effect on the future of our children and the growth and prosperity of the Nation.

So, if we want to stop at \$5 trillion in deficits, when we finally get to balance under the Hatch constitutional amendment, we are saying we should not borrow any more money. But if the Reid amendment becomes law, we are not saying that. We are saying, for Social Security purposes you can borrow as much as you want. If that isn't a sorry state of affairs, after we have adopted a constitutional amendment if we were to adopt the Reid constitutional amendment, then I have not seen one; a situation which is more dissimilar after the fact than this. For after the fact there is no limitation on borrowing money.

Having said that, I choose, today, not to take up the second part of my comments other than to say we are struggling here today—have I used all my time?

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. DOMENICI. May I have an additional 2 minutes?

Mr. HATCH. I yield 2 minutes.

Mr. DOMENICI. We are struggling today to see if we can make a deal with the President of the United States. We are trying to get a balanced budget by the year 2002. It is hard to do. The President struggled, he said, with putting one together and said how hard it was. We are now looking at how we would do it and we say the President's is not a very good budget, but still we have to get there.

If, in fact, we got a constitutional amendment like the one my friend from Nevada offers, it says you will be balanced in 2002 without Social Security surpluses being counted. I will just tell you what the President would have to add to his budget in order to be in balance under that definition by 2002: \$75 billion more in Medicare cuts. We are having trouble, arguing between \$120 billion in savings and \$160 billion in savings. But you would have to add \$75 billion to the President's. Mr. President, \$35 billion more in Medicaid; \$28 billion more in civil service, military retirement, and other mandatories, and \$158 billion more in education, environment, law enforcement and discretionary spending. Mr. President and fellow Senators, we all know that cannot happen. I mean, we cannot even settle on a balanced budget using the unified budget. It is difficult to get done.

So I must submit, in all deference and with as much respect as possible, that the Reid amendment is not intended to become the law of the land. It is not intended to become the constitutional amendment that goes to our sovereign States for ratification.

For, if it was, it would have no chance of being ratified, for who would support it under the circumstances I have described?

I thank the Senate and thank Senator HATCH for yielding and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Will the Senator yield me 8 minutes?

Mr. HATCH. I yield 8 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I wish to compliment my colleague, Senator HATCH from Utah, for his leadership in this bill as well as Senator DOMENICI for his excellent statement. I hope our colleagues had a chance to listen to the Senator from New Mexico. He probably knows more about the budget than most all of us. He made an outstanding presentation.

I urge our colleagues to vote against this amendment. I recognize this amendment may be good politics. It sounds kind of good. I have heard some people say, "If you vote for this amendment you are going to protect Social Security." I totally disagree. As a matter of fact, I think it may have just the opposite result, or opposite conclusion. But it looks good. And, if it is reported by the press, "Well this one amendment was trying to protect Social Security," if they write it like that, some people are going to assume that is correct. I think it has just the opposite result.

I think, if we pass a constitutional amendment that says we are going to balance the budget, we are not going to spend any more than we take in but, oh, incidentally, we are going to exempt the largest and most popular program in Government, in other words we want to be in balance except for this very important, popular program, you just gutted the balanced budget amendment. There is no reason to have a balanced budget amendment. The amendment would say we are going to exclude the old age and survivors and Federal disability insurance program. You could include a lot of other things. Why not include Medicare? A lot of people think Medicare is the same thing as Social Security. It is all paid for by a payroll tax. Right now American citizens pay 12.4 percent for Social Security, which includes retirement and disability. And they pay another 2.9 percent in Medicare. There is no reason why we would not include that. You could define that as Social Security.

As a matter of fact, in the President's budget he takes home health care—basically he takes it out of the Medicare trust fund and moves it over from part A to part B, and then says it is all going to be paid for by the Federal Government.

My point is, you can shift around trust funds and I think you would find a multitude of programs running to be defined as Social Security. Let us throw in Medicare. Let us throw in welfare. Let us throw in anything else, and it will all be exempt from the balanced budget amendment requirement. That makes the balanced budget amendment a facade, it makes it a fraud, it makes it worthless.

I am not saying this is from the sponsor of the amendment, but I think a lot of people who are going to vote for the amendment want that to happen. There are a whole lot of people who are going to vote for the amendment of the Senator from Nevada—not that they hope it will pass, they do not support a balanced budget amendment anyway. And I would include President Clinton in this category. He does not support a constitutional amendment to balance the budget. But now he raises the specter of Social Security, maybe to scare people into thinking that is a good way to kill the amendment; to kill the constitutional amendment to balance the budget. I regret that.

I looked at a statement President Clinton made on January 28 at a press conference. He said, dealing with whether or not we should exclude Social Security that we couldn't right now. "Neither the Republicans nor I [and the Congress] could produce a balanced budget amendment tomorrow that could pass if Social Security funds cannot be counted," if you will, as part of the budget.

So the President is saying: Wait a minute, I use Social Security surpluses right now in my budget to get down to zero in the year 2002. So do the Republicans. President Clinton has in every single budget that he has had in the past. So have other Presidents. My point being he is now saying we will try to pass that amendment because he knows it is a killer amendment, not because he believes it is good policy. He knows it is bad policy. I think everybody, if they were asked legitimately, is this good policy, they would say, "No." Is it good politics? They may say, "Well, it may be." It might be good politics but it certainly is bad, bad policy.

You should not have a constitutional amendment that says we are not going to spend any more than we take in and exclude the largest program in Government. You should not open it up to a program that is not really defined by the Constitution, and therefore every other program in Government could be added as part of Social Security. All of which would be excluded from the constitutional requirement.

I think, frankly, when you are talking about the Constitution you should not be trying to write in the Constitution an exclusion for a particular Federal program. That does not fit. Again, it may fit for political purposes but it

does not fit in the Constitution. It does not belong in the Constitution.

So, Mr. President, I mention this, I have the greatest respect for my colleague and friend from Nevada. I am afraid a lot of people will be looking at this amendment and saying it has a lot of political appeal but substantively it should not be in the Constitution. We are dealing with serious business. We are right on the throes of having the vote to pass a constitutional amendment to balance the budget. I hope that we will in the next few days. We will not, in my opinion, I will tell my colleagues, we will not if we come up with this amendment.

I have heard some people say if we just agree to this amendment I would vote for it in a minute. I don't think they would, not if they looked at what the results would be, not if they looked at the changes that would have to be made. I don't think that is accurate. This Senator would not vote for it because I think of it as a fraud. I think it would be misleading the American people and I don't want to do that. I think we should be serious in our legislating and I think we should be doubly serious when we are talking about a constitutional amendment in any form, and certainly one to balance the budget.

So, Mr. President, with all respect I urge my colleagues to vote "no" on the Reid amendment and, hopefully, it will go down and then we will be able to pass a constitutional amendment to balance the budget in the next few days.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada has 46 minutes 35 seconds remaining.

Mr. REID. And my friend from Utah?

The PRESIDING OFFICER. Thirteen minutes forty-seven seconds.

Mr. REID. Mr. President, I wrote a letter to a number of people in Nevada, and this is what I said in the last paragraph of the letter:

There is no question Congress must face up to the tough task of balancing the Federal budget. I'm the first to accept responsibility for this task, but I draw the line on devastating the Social Security trust fund to accomplish this task.

Franklin D. Roosevelt, upon signing the Social Security Act, said,

We can never insure 100 percent of the population against 100 percent of the hazards and vicissitudes of life, but we have tried to frame a law which will give some measure of protection to the average citizen and to his family against the loss of a job and against poverty-ridden old age.

I received numerous responses after writing this letter, but one response I received, as I mentioned on the floor yesterday, was from Helen Collins who said:

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.

That is what this debate is all about. It is about the Helen Collinses of the world, not the people who are running full-page ads in the New York Times and the Wall Street Journal. The people on Wall Street want this to pass because it gives them an easy opportunity to balance the budget.

Mr. President, I heard my friend, my good friend, with whom I serve on a subcommittee—I am the ranking member of the subcommittee, and I have served on the Appropriations Committee with him since I have been in the Senate—I heard my friend, the senior Senator from New Mexico, say that what we are trying to do is keep Social Security on its own. That is absolutely true, we are. We are trying to keep Social Security on its own. It is not part of the unified budget. It shouldn't be part of the unified budget. We have passed laws in this body so it would not be part of the unified budget.

Here is what happened over the last decade: The Greenspan commission, where we established, by a majority vote, a bailout of the Social Security system, and it was to last to the year 2060; in 1985, we passed the Deficit Control Act, which further strengthened Social Security; in 1990, we passed the Hollings-Heinz amendment which took Social Security off budget.

What right do we have to suddenly start including it in the unified budget? We don't have any right to do that. Everyone has said you can't balance a budget unless you use Social Security. That is my whole point. If we are going to balance the budget, we should do it the right way, the hard way.

I think the most telling thing, Mr. President, was when my friend from New Mexico came and gave this very well-meaning speech—he is a sincere man, but I think it is glaring that he did not respond to the statements that I have made and the junior Senator from South Carolina has made over the last 2 days about his own words from 1990. These were his own words:

I voted for Senator Hollings' proposal because I support the concept of taking Social Security out of the budget deficit calculation. But I cast the vote with reservations.

What were his reservations that he came to this floor and did not respond to? His reservations:

We need a firewall around those trust funds. . . .

That is what this amendment is all about.

We need a firewall around those trust funds to make sure the reserves are there to pay Social Security benefits in the next century. Without a firewall or without the discipline of budget constraints, the trust fund

would be unprotected and could be spent on any number of costly programs.

It is here, and that is what my amendment is all about. Social Security should not be used to pay—in the words of the present chairman of the Budget Committee, “the trust funds would be unprotected and could be spent on any number of costly programs.” These moneys should be spent on one thing and one thing only: paying old-age benefits.

Silence is golden. My friend from New Mexico did not, in his 20 minutes on the floor, even respond to the statements he gave in 1990. They are in the CONGRESSIONAL RECORD. Not a word.

Mr. President, we received today almost a million signatures from a group of senior citizens who signed these petitions in the last few days. They have a right to do that. Of course they do, because, Mr. President, American seniors are exercising a powerful right to stop a devastating wrong. The right to petition our Government for wrongs is guaranteed in the first amendment of the Constitution. This right is a cornerstone of our democracy and deserves to be enshrined in the Constitution, and it was. Giving Congress and the courts the power to permanently raid Social Security should not be guaranteed by the highest, most powerful legal document in our country.

So, Mr. President, I believe that what is taking place here is a cheap, easy, deceitful way to balance the budget. It is contrary to law to take the Social Security surpluses and use them for other purposes. And even if it weren't law, you shouldn't do it because it is a trust fund, and a trust fund should not be spent for any purpose other than for what the trust fund was established.

My friend from Utah, the chairman of the Judiciary Committee, talked about the Concord Coalition and others who last Congress said we would protect this program through enabling legislation. What they were saying in the last Congress is maybe what we can do is have a statute to preserve Social Security. I am sure they must have checked with somebody who is in their first year of law school who told them that a statute will not override the Constitution. And after having checked with a first-year law student, they came up with a new pitch, and that is, “Let's go along with it. Let's just raid Social Security.” And that is what they have said.

Mr. President, my good friend from Utah has also said the Congressional Research Service changed the memo the second time, it doesn't really say what they said it says. The Center on Budget and Policy Priorities disagrees. The Center on Budget and Policy Priorities, among other things, says, all three memos, the two from CRS and theirs, explain that under the Hatch balanced budget amendment, outlays in any year, including outlays for bene-

fits 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 Social Security benefits of retired baby boomers would not count as receipts in those years.

They go on to 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 there was offsetting surplus in the rest of the budget.

Mr. President, we have a number of other people saying that, and one person saying it is not a first-year law student but a graduate of one of the finest universities in America today, the person who is in charge of the Office of Management and Budget, a person who has a great reputation, Franklin D. Raines.

Franklin Raines said, in writing this letter to Senator DASCHLE, the minority leader:

DEAR MR. LEADER: I am writing in response to your inquiry regarding the February 5, 1997, Congressional Research Service memorandum entitled “Treatment of Outlays From Social Security Surpluses Under a Balanced Budget Amendment.”

That memorandum noted that the 1983 Social Security reforms called for accumulating those surpluses to allow payments even when annual trust fund income is no longer sufficient to make those payments. It concluded that, under S.J. Res. 1 and without further congressional action, accumulated trust fund surpluses could not be used for the full payment of Social Security benefits in any year when outlays would otherwise exceed receipts. That conclusion is correct.

Under current law, expenditures from trust funds are governed by the amount of funds available in the trust fund balances and by congressional spending authorizations. This general rule applies to the Social Security trust funds. . . .

S.J. Res. 1 would require overall federal government cash flow balance on a year-by-year basis. In the event that revenues are projected to fall below outlays for a given year, outlays would need to be adjusted for the remainder of the year. Such a shortfall would most likely occur toward the end of a fiscal year, when only a limited base of discretionary outlays would be available for reduction. Consequently, programs with monthly payments would be unable to avoid exposure to such reductions.

All entitlement expenditures—including Social Security—would be treated as expenditures under S.J. Res. 1 and, thus, would be exposed to reductions. This would mean that, due to operation of the proposed constitutional amendment, the government might not be able to make payments from trust funds with both available balances and full congressional authority to make expenditures from the trust fund. Reductions in entitlement spending would have a particularly perverse effect if the revenue shortfall was caused by a recession, and where payments subject to limitation are part of the automatic stabilizers.

So, Mr. President, it is very clear that the underlying amendment would devastate Social Security. Well, there

are some who say, “Why are you trying to protect Social Security, there are other trust funds?” Mr. President, the reason I am trying to protect Social Security is that is where the money is. The other trust funds are pittances. They are bits and kibbles. There really is not much money there. Social Security is the finest social program in the history of the world, and I feel an obligation, a moral obligation, to protect it.

The reason that there has been all this emphasis on Social Security is they are going after the moneys just as Senator DOMENICI in 1990 said we should try to prevent. “We need a firewall around those trust funds,” said Senator DOMENICI, “to make sure the reserves are there to pay Social Security benefits in the next century. Without a firewall of the discipline of budget constraints, the trust funds would be unprotected and could be spent on any number of costly programs.”

That is a direct quote.

So, Mr. President, I think we have to narrow the focus of what this is all about. The focus is whether or not we are going to allow the Social Security trust fund to be raided on a yearly basis until it runs out of money and then, of course, Social Security would be wiped out.

I say, Mr. President, that I suspect, and I feel that I cannot direct this to anybody in the Senate because I do not know, but there are people in the leadership in the House of Representatives who believe the Social Security program is a bad program. Again, I do not think you have to be real bright to figure out that is how they feel. This is a statement from the majority leader, the present majority leader of the House of Representatives. Again, I quote: “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.”

Now, does that appear to be somebody that is pushing a balanced budget amendment and wanting to protect Social Security? Would you trust someone of that philosophy to try to draft a statute to avoid a constitutional provision? First of all, you cannot. But even if you could, would you trust someone with that philosophy? I think not. There are people supporting this amendment, recognizing that doing so will wipe out Social Security.

I think we should not do that. I think we should look at the Helen Collines of the world and say the money that she is talking about is just a small amount of money. We have a number of letters here that my staff has brought me. One woman talks about getting 300-some-odd-dollars a month. That gives her a little bit of independence. This amendment protects her interest by excluding Social Security from the calculations of the balanced budget amendment. It protects the interest of the Helen Collines of the world.

Social Security is, therefore, not at fault for the deficits that have been accumulated. Not a single Social Security recipient is the cause of the deficit. Social Security is not running up deficits. In 1983 we passed legislation to forward fund Social Security. The reason this amendment is so important to some people is that is where the money is. They do not want to balance the budget the hard way.

We heard statements here from President Clinton saying it is going to be real hard to balance the budget if you do not use Social Security. No kidding. I understand that. We all understand that. But if we pass my amendment we would have a true balanced budget and we would also preserve Social Security. I think that is a pretty good deal and I think it is worth the risk.

The Social Security trust fund is being used to mask the size of the deficit. Each time the Government dips into the Social Security trust fund to help pay for the deficit it hurts Social Security. We should stop that.

Because the Constitution will require the Federal Government to balance the budget, Social Security moneys will have to come from one of four places.

I see my friend from Florida. Does he care to make a statement? I am happy to withhold and allow my friend from Florida to make a statement.

Mr. MACK. If you want to take a few more minutes to finish your thought, fine. However I would like to have the opportunity to speak.

Mr. REID. Please go ahead.

Mr. MACK. Mr. President, again, I thank my colleague for allowing me to take this time to address the Senate on the issue of the balanced budget amendment.

I have spoken many times in the past years on this issue, both in the House and here in the Senate. I think it is a vital one. It is truly a debate about whether we are committed to the belief that the era of big Government is over. The reason there is such a debate about this issue is because it really is fundamental to that.

Before I make some additional comments I think I might just make a statement or two with respect to the issue of Social Security. I represent the State of Florida, and therefore I think it is fair to say I am pretty sensitive to the retiree, the elderly vote in my State and their concerns about Social Security. I make the claim that probably the most significant way to protect Social Security is, in fact, to pass a balanced budget constitutional amendment.

My feeling is that, in fact, it is a risky gimmick, I think, to be taking Social Security off budget. For that matter, I think it is to be proposing that a whole series of programs be taken off budget. We need to address the balanced budget constitutional

amendment from the standpoint of all the expenditures, all the income and all the expenditures of the Federal Government, not separating them off into different accounts and considering only one group of expenditures at a time. Again, I think it is a risky gimmick to take Social Security off budget.

Mr. President, over the last couple years I had the opportunity to read several books on the Constitution. One written by Catherine Drinker Bowen, and maybe this comes back to my mind after having watched the special on Thomas Jefferson that was on PBS last week. I thought it was a terrific 3-hour presentation and discussion about the roots of our Government, the roots of this Nation. Catherine Drinker Bowen's book, called "Miracle at Philadelphia," was all about the debate about the establishment of the Constitution. I know that some have said, "Well, the Constitution did not have a balanced budget requirement as part of it." Therefore, people would make the claim if they did not feel it was important then, and they were certainly some of the brightest minds we have ever experienced in Government, who are we to claim that there needs to be an amendment to the Constitution to address this issue, the need for a balance within our expenditures?

I think that the people who make that claim fail to take into consideration how our Constitution has been amended over the years and the fact that the Senate used to be appointed. I believe it was either in 1912 or 1916—I have forgotten the specific date—when the Constitution was changed to require a direct vote on Members of the Senate. Well, there was an intricate balance that the writers of the Constitution came up with that was changed, with the result of the Senate being directly elected by the people. If you will remember, the fear that many had in those days was that the House, directly elected by the people, would be off pursuing many different ideas of great popular support, and that there needed to be some kind of restraint that would be placed on the people's House, and that would come from the Senate. Again, that has been changed. So some of the restraint was built into the system to be able to say, no, we don't think we ought to pursue that particular program or that particular expenditure. That was taken out as a result of the change in the direct election of Members of the U.S. Senate.

I think it is fair to say that we ought to address the particular point that, today, there is a tendency to think of this debate as being a debate about economics. The reality is this is about human behavior and how we are going to control the desire on the part of some people to support all the different initiatives that might come from our

constituents. So I think, from a constitutional perspective, one can say that the conditions have changed significantly, to the point where it is completely legitimate to be arguing today that we need an outside restraint on the ability of the Members of the Congress to spend our taxpayers' dollars. I have supported the constitutional amendment since I have entered Congress, which was back in 1982.

I want to take just a moment or two to talk about the benefits that are derived. Again, all too often we find ourselves talking about some very intricate aspect of this debate, and we fail to address what I believe are the important benefits that come from a constitutional amendment to balance the budget, a requirement that we balance the budget. I believe, in the long term, we will end up with lower taxes, higher growth, more jobs, less Government, and lower interest rates.

Again, lower interest rates can, I think, produce some very tangible benefits to our constituents. We have made estimates, for example, that lower interest rates would save the average family \$125 a month. Now, some people might say that is not a great deal of money. I say to my colleagues, then go stand out in front of a grocery store and ask the individuals coming out whether they think an extra \$125 a month is meaningful. I believe it is. We believe the way they can save that kind of money is, again, because of lower interest rates. Mortgage payments would be lower, automobile loans would be less expensive, student loans would be more affordable. That is a direct benefit that is passed on to our constituents.

Again, I have a tendency to think at this time about the kinds of people that will be affected by what we do. I again ask my colleagues to consider the folks back home—the mother who might have two jobs who is being asked to support funding of all these various programs at the Federal level, the family where the husband and wife both work. In fact, I remember one particular individual coming up to me and explaining that he works all week and comes home and takes care of the children over the weekends while his wife works over the weekend. These are the kinds of people who we are asking to pay taxes to the Federal Government to fund the various programs. I can only think of one way we can finally put some restraint, again, on the Members' ability to spend their money, and that is to pass a balanced budget constitutional amendment.

At this point, Mr. President, I yield the floor.

Mr. REID. Mr. President, I yield 5 minutes to my friend, the Senator from North Dakota.

Mr. DORGAN. Mr. President, I was listening to my friend from Florida, Senator MACK, someone for whom I

have great regard and affection. The interesting thing about this debate is that we essentially agree that we ought to balance the budget. There is no disagreement about the goal here. There is a disagreement about the methods of achieving that goal.

Earlier this afternoon, I heard someone come to the floor of the Senate and speak of the Reid amendment. He said that the Reid amendment actually threatens Social Security. Well, that is the most byzantine argument I have heard, perhaps, in all the time I have served in the U.S. Senate—the Reid amendment injures or threatens Social Security. The Reid amendment is designed to make sure that we do two things at once—balance the Federal budget by exacting the discipline needed to do that in the Constitution, but while we do it, keeping our promise to those who we made a promise to with the Social Security system, saying that you are paying taxes into the system, that taxes are dedicated for one purpose, and we are going to honor that. That is what the Reid amendment is about.

Without the Reid amendment, this constitutional amendment doesn't balance the budget. I came here this morning at 9:40 and spoke in favor of this amendment. I asked a question, and I am going to ask the Senator from Nevada, who has been on the floor all day because he has been managing his amendment, whether anybody has come to the floor to respond to that question. I asked this question, and the question itself strips naked the proposition that what is on the floor from the majority party requires a balanced budget. If we passed this proposal, just like that, 20 seconds from now, and if we then passed a proposal to balance the budget, as offered by the majority, just like that, 20 seconds later, and it is the year 2002, why then does the budget require that the Federal Government increase its debt limit by \$130 billion in a year in which the proponents claim the budget is balanced? I have not heard anyone respond to that. If the budget is balanced, why is there a requirement to increase the Federal debt limit by \$130 billion?

I know the answer, but I am asking it of the other side because I want to hear them say what I know to be the case. The reason you have to increase the debt limit by \$130 billion when you claim the budget is in balance is because the budget isn't in balance, precisely because of the kind of thing Senator REID is trying to address. You take, on that side, the Social Security revenues and add them in over here and say, look what we have done, we have balanced the budget, implying somehow there is no obligation over here to use those moneys in Social Security when the baby boomers retire.

The Senator from Nevada offers an amendment that says if we are going to

do this, let's do it the honest way. I suspect there are not the votes in the Senate to pass the amendment of the Senator from Nevada. I intend to vote for it. But I suspect it will be defeated so we can have the same old same-old here of claiming to balance the budget when, in fact, the Federal debt limit continues to increase.

I ask the Senator from Nevada, has anybody come and answered the question of why, using this approach, enshrining this practice into the Constitution, when they say they have balanced the budget, why the Federal debt would then increase by \$130 billion in the very year they claim they balanced the budget?

Mr. REID. I left breakfast early so I could be here early to hear all the debate. The Senator has asked this question more than one time, and I thought this would be an appropriate time for someone to respond to the question. You have asked it at least a half dozen times. I thought that, with all the power behind this underlying amendment, Senate Joint Resolution 1, someone would come and be prepared to answer your question. There has not been a single word spoken in response to your question.

Mr. DORGAN. I think the reason for that is that this is a giant dance that goes on. The farther they get from the truth, the faster they dance. I am talking about those who are suggesting to us that they have an approach that will balance the budget, even as that balanced budget requires the Federal debt to continue to increase.

There was a hearing on this subject. I went and testified at the hearing. At the hearing they had the debt clock. That is the neon clock with the numbers that keep increasing that shows how the Federal debt is increasing. I made the point that debt clock actually reinforces what I was asking. I said, it is interesting. When you say that you have balanced the budget that debt clock is going to keep increasing. Until you turn the debt clock into a stopwatch you have not balanced the budget and nobody in my home town thinks you are going to balance the budget.

So, if you accept the Reid amendment, which is a perfecting amendment to the underlying constitutional amendment that balances the budget, you will solve that problem. It is not so hard to do. Accept the Reid amendment, and I think we can enact this constitutional amendment to balance the budget with 70 to 75 votes, mine included. But this is important because it relates to the underlying question of are we really about balancing the budget, or are we about altering the Constitution so that we can claim we have done something that we have not in fact done? That is what is at the root of this issue.

Mr. President, we will have an opportunity to vote for a perfecting amend-

ment that Senator Reid is offering. If we lose that, we will have the opportunity to vote for a substitute constitutional amendment which incorporates the Reid amendment that I will offer.

So we will have two votes on this. If those who study this subject decide that they don't want to change it so that we do this in a way that really does balance the budget, which does require a balanced budget, and which does not increase the Federal debt after you have claimed the budget is in balance—if they don't want to do that, then I guess there will not be a constitutional amendment. If they want to do it, all they have to do this afternoon is accept the Reid amendment. This is not just on our side of the aisle. Congressman NEUMANN, Senator SPECTER, and many other folks said the same thing that Senator REID and I are saying. So this is not just a group of folks who are on one side of the political aisle that makes this case. This is a \$1 trillion issue over the next 10 years. It is very important to a very important program. It is also important in terms of the question of whether we actually are going to balance the budget and at the same time meet our obligations for Social Security in the years ahead.

I appreciate the Senator from Nevada yielding to me.

Mr. REID. Mr. President, the chairman of the Judiciary Committee and I had an agreement that I would have the last 5 minutes and that he would have 5 minutes prior to that. So will the Chair notify me when I have about 5 minutes left on my side?

The PRESIDING OFFICER (Mr. BROWNBACK). The Chair would be happy to.

Mr. REID. Mr. President, when I yielded to my friend from Florida, I was saying at that time that if it passes it will require the Federal Government to balance the budget and Social Security moneys after that will have to come from four places.

No. 1, raise the payroll taxes in order to cover the difference; No. 2, cut benefits to beneficiaries; No. 3, cut Government expenditures and other needed programs to pay its debt to Social Security; and No. 4, because of the language in the constitutional amendment, to get a three-fifths majority of each House to constitutionally raise the debt.

That is a pretty rough row to hoe.

Also, it is quite clear that because there is no vote required to borrow from the Social Security trust funds that there is a powerful incentive to borrow from those funds to pay for general programs.

So I believe we should pass a balanced budget, which is not a gimmick. It isn't going to make it easy. I acknowledge that. If my amendment passes, it is going to be extremely difficult to balance the budget. But when

we do, it will be a fair way to balance the budget. We will not be using the surpluses out of Social Security to balance that budget.

Mr. President, last Saturday the President gave his weekly statement to the American public over the radio. He said in that radio address:

Over the last several weeks, we've received the full data on our country's economic progress for the last four years. The economy created 11.5 million new jobs, for the first time ever in a single term. That includes a million construction jobs and millions of other good paying jobs.

In fact, Mr. President, 60 percent of the jobs were high-paying jobs.

Entrepreneurs have started a record number of new businesses, hundreds of thousands of them owned by women and minorities. We've the largest increase in home ownership ever, a big drop in the poverty rate, and a big increase in family income. And just this week, we learned that the combined rate of unemployment and inflation over the last four years is the lowest for a Presidential term since the 1960's.

That is a direct quote from the President's address.

There is more that he said. But, among other things, he said, if this amendment passes, that:

... 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 raise new taxes just to meet the demands of the constitutional amendment.

I say that isn't very pleasant.

Also, there are millions of people out there young and old who believe that this Senate Joint Resolution 1 is bad. For example, the National Committee to Preserve Social Security stated in a February 11 letter that my amendment will preserve the integrity of the Social Security fund under a balanced budget constitutional amendment. Borrowing from a reserve to finance the current debt will place a heavy burden on future generations because the debt to the trust fund must be repaid with interest.

The American public support my position. Almost 75 percent of the people in the polling data in the last week say we want a constitutional amendment to balance the budget, but not if you include Social Security.

The argument being used by the proponents of this amendment is Orwellian. They are saying that because we have been stealing money from the Social Security trust fund in the past that we should go ahead and stick it in the Constitution. We are saying exempt it. That is what should be done.

I know that my friend, the minority whip, wishes to speak. I am very happy to have him speak. But I want to just say, Mr. President, that this is not a group of Democrats only. Maybe in the Senate. But in the House we have some courageous Republicans—most of them sophomores—who have said we are not

going to be taken down the path to destroy Social Security, and we will not vote for a balanced budget amendment unless we can vote on an amendment like Senator REID is propounding.

This is what Congressman DAVID MCINTOSH, a sophomore Republican House Member from Indiana, said, "Republicans cannot allow us to be defined as cutting Social Security even as we move forward with the balanced budget amendment."

I say that Congressman MCINTOSH has it right. We should follow his lead. Some of the people on the other side of the aisle and over here should follow this courageous young man and vote for my amendment.

Mr. President, how much time does this side have?

The PRESIDING OFFICER. Seventeen minutes and thirty seconds.

Mr. REID. I yield 5 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I thank my friend from Nevada for allowing me the time to speak. I compliment him for his courage, for his ability, and for his tenacity. We have seen that before. We have never needed it any more than we do right now.

Mr. President, just before I came up I was going through some letters that came into my office today. You always see something personal which just happened. Here is a fellow—I will not use his name—who said, "I truly am concerned about my future as a citizen of the United States of America." He also adds, "I am worried about my future. Will there be any Social Security money left for me to have and live on after I am retired?" The concern is there. If you want a balanced budget, vote for the Reid amendment.

Tomorrow you will have 70-some-odd votes. Now we are scrambling to get one more trying to pass it and force it down people's throats.

In 1983, I had to cast a very, very hard vote. That is when we increased the taxes on Social Security. We did it so it would be there for the so-called baby boomers. We developed a surplus on purpose so they would be taken care of in the outyears. Now we find that, if this balanced budget amendment is passed as is without the Reid amendment, it will be a piggy bank that will not stand the crowbar of balancing the budget. They will break that piggy bank and use that Social Security money like it is going out of style. And I will not vote for a balanced budget amendment that desecrates the Social Security vote I cast in 1983.

How many would have voted with Senator Dole when he came from that commission if he had told us that someday this money will go for welfare reform, that someday this money will go for foreign aid, and for other programs? I doubt seriously if it would have passed at that time.

No. Here we are now with a balanced budget amendment that says to those that we have committed to—the senior citizens—that we are not going to cut them. But what happens to those that come after those that are on Social Security now? They are almost there. What about your children and my children that are 45 and 48 years old? They have been required to pay higher taxes. Some of them pay more Social Security than they pay withholding taxes. Now we are saying to them that in your older age for Social Security retirement it will not be there if this passes.

There is one thing that ought to make everybody shiver. There is a possibility of the courts telling the legislative bodies to raise taxes and not to issue checks. So then we come subervient, and we are not a three-part Government any longer. Under this amendment the courts can tell a legislative body what to do. If that doesn't send chills up your spine, if that doesn't tell the people of this country that non-elected, appointed-for-life people, are going to tell a legislative body, the Congress, what to do—that ought to send shivers up and down the spine of every American.

We have been here for over 200 years; the best and strongest country in the world. And we are about ready to say the system that brought us to this point is about to be eliminated; the system that brought us to this point today is about to be eliminated because of the possibility of the courts telling the Congress to raise taxes and not to issue checks; things of that nature. Oh, we will hear the crocodile tears, the Reagan-Bush memorial over here on my right, you know. We hear all of that. But I say to my friends that I made a commitment. It is called the Social Security trust fund, and I gave my word, and the trust of the people of this country in this Congress ought to be upheld.

In the last Congress, the Senate voted 83 to 17 to adopt a sense-of-the-Senate amendment stating that Social Security should not be cut in order to balance the budget.

Protecting the Social Security trust fund is not just a seniors issue, according to this letter from this young person. We have promised not to reduce benefits for current Social Security beneficiaries in order to balance the budget, but what about this young person's concern about whether they will be able to secure Social Security based on what we have in this balanced budget amendment.

Let me just go back to the possibility of what the courts might do. I do not think there is anyone in this body who wants the courts telling us what to do and how to do it. They will interpret whether it is constitutional or not. That is their prerogative. That is the way the system works. But I tell you

when we pass an amendment that says the courts have the authority to run this country—unelected, appointed for life—I have some real concerns.

“Will there be any Social Security money left for me when I retire?” this young person writes. “I am truly concerned about my future as a citizen of the United States.” I say to that young person, my vote will secure Social Security for her or him or whoever it might be out there, and I want their future as a citizen of the United States to be brighter. We can balance the budget, as the President says, if we cast the vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada has 10 minutes remaining.

Mr. REID. I extend my appreciation to the Senator from Kentucky, a man who not only has served with distinction here in this body but who has balanced a few budgets as Governor of one of the biggest, most populous States in the Nation, the State of Kentucky. We respect his work on budgetary and other matters.

Mr. President, I would ask the Chair to advise me when I have 5 minutes remaining.

The PRESIDING OFFICER. The Chair will so advise.

Mr. REID. Mr. President, my amendment is not one I want to direct to big numbers, even though that is what this body has talked about during these past few days. But I want to draw your attention to small numbers, people who draw Social Security checks on a monthly basis. They do not understand the billions and trillions of dollars we are talking about. They understand the hundreds of dollars they receive on a monthly basis because the check they receive represents the difference between retirement with dignity and retirement in poverty.

The reason President Roosevelt signed the bill in August 1935 was to give seniors dignity, and, Mr. President, that is what Social Security has done. I repeat, it is the most successful social program in the history of the world. And we are about to give everyone an opportunity to see how they stand for Social Security.

We have had people come to this floor and say, well, I am a big supporter of Social Security. I have a lot of seniors in my State.

I have no doubt that is true. But if you want to protect Social Security, exclude it. Why? Because to do otherwise, these funds will continue to be raided and the Social Security trust fund will be a slush fund.

Most, as I have indicated, express public support for continued maintenance of Social Security. But this is the test right now. Vote to support a balanced budget amendment, a true, honest, nondeceptive balanced budget amendment. Those who say they will

not use Social Security to balance the budget cannot have it both ways. You cannot say we are not going to use Social Security, we are going to protect Social Security and say that we are going to do it. And I agree with the chairman of the Budget Committee when he said in 1990 there should be a firewall developed to protect Social Security. I want that firewall, and that is what this amendment is.

We have communication from the Congressional Research Service, the President of the United States, the Office of Management and Budget, think tanks, who say if you pass this amendment, you are going to destroy Social Security. Absent an express exemption of the Social Security trust fund, we will place at risk the ability to draw down those reserves when the baby boomers begin to retire. We have both a moral and a fiduciary relationship to prevent this.

We all know that the practice of misusing Social Security trust funds is wrong, so let us stop it. Let us terminate it. This is the chance to do that. About 75 percent of the American public agrees with us. Why do we not do something for a change that the American public thinks is the right thing to do, not continue the smoke and mirrors process that has been going on in this country so long that we have stacks of deficits that big, 4 or 5 feet high as indicated by my friend from Utah. It has been referred to as the Reagan-Bush budget deficit memorial. That is what it is. Huge deficits have accumulated during these years. They must stop. They have gone down in the last 4 years from over \$300 billion to a little over \$100 billion. We can do better.

My amendment, even as my opponents concede, is the only way to do this. But they say if you do it, it is going to be hard to balance the budget. I am willing to take that chance and make the hard, make the difficult choices because when we do it, it will not be smoke and mirrors. It will not be a gimmick. We will be balancing the budget the right way, the proper way, and we will protect the most important social program in the history of the world.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I would ask the time run equally against the opponents and proponents of this amendment during the time that I suggest the absence of a quorum.

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

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

Mr. HATCH. I ask how much time is remaining?

The PRESIDING OFFICER. Each side has 4 minutes remaining.

Mr. HATCH. Mr. President, it is my fervent hope that during the debate over the proposed exemption of the Social Security funds from the requirements of Senate Joint Resolution 1, I have convinced my colleagues to support the balanced budget amendment. As Justice Brandeis so eloquently wrote in the 1927 case of *Whitney versus California*, “It is the function of speech to free men from the bondage of irrational fears.”

I truly believe that many of my well-meaning colleagues’ desires to exempt the Social Security Program is based on unfounded fears.

Look, if we take the largest item in the Federal budget and put it outside of balanced budget purview, we are left with no mechanism at all for its protection. Social Security will be out there all alone, with no protections whatsoever. Whereas, if we keep a unified budget and keep everything in it, Social Security will be protected because everybody in the Congress wants to protect it, and it can compete better than any other Federal program for the available funds. Frankly, I know it would get them. Every one of us would vote for Social Security, for its protection.

But if you agree to the risky gimmick of putting Social Security outside the budget, and everything else is subject to balanced budget amendment requirements but Social Security, then those who want to destroy Social Security or those who want to continue to spend for social programs, all they have to do is statutorily—because that is all Social Security is, a myriad of statutes—statutorily add anything they want to Social Security and go on spending forever more without any budgetary restraint at all. The more provisions they add to the total Social Security bill outside the purview of the budget, the more Social Security will be watered down, diminished, and eaten away. That is the difference here.

We have a unified budget, and with a balanced budget amendment that unified budget is going to have to be balanced by the year 2002 or we are going to have to stand up and vote not to balance it. There is no reason in the world to put the largest item in the budget outside of the purview of the balanced budget amendment, since every dime that comes in from the FICA funds will be invested in Federal Government securities anyway. Whether we keep it in budget or put it out on its own without any budgetary restraints, those surpluses are going to go into Federal Government bonds, and the only way we can pay those bonds off, the absolute, only way, is if we pass this balanced budget amendment intact without excluding any program from its purview.

Last but not least, in this limited time, if you write a statute into the amendment, that means you make it constitutional. Can you change Social Security to reform it or make it better or help people or increase funds without a constitutional amendment? Unfortunately, I am not sure we can answer that today. It might well be the case that it would take a constitutional amendment to do it. If that is so, that would be a tragedy.

I do not think this amendment is well thought through. I hope our colleagues will not support it. Constitutionally, it is the wrong thing to do. Most important, even if you do what the distinguished Senator from Nevada sincerely wants to do here, you are not protecting Social Security because you cannot protect it outside of the budget from suspect spending practices. It is free floating without any of the budgetary restraints that the balanced budget amendment would put on the whole unified budget.

Let us do what budget people really know we have to do, and that is live within the constraints of the unified budget, keep Social Security in there where it will compete better than any other program, and, in the end, I think our country will be so much better off because we will be able to balance the budget, reduce interest rates, and make this country really run properly.

It is always helpful to put this debate in a larger context. Today, the accumulated national debt is nearly \$5.4 trillion. Interest payments on this debt consumes \$250 billion annually, which the Washington Times recently estimated, is more than the combined budgets of the Departments of Commerce, Agriculture, Education, Energy, Justice, Interior, Housing and Urban Development, Labor, State, and Transportation. This means that the share of the debt for every infant born today is about \$20,000.

There is a crying need for sound fiscal reform. Unless we do something, this Nation will continue to have stagnant economic growth with less jobs. Unless we do something, the interest payment on the debt will continue to devour capital that could be otherwise used for investment or Federal programs. Let's not kid ourselves that Washington politicians will remedy this problem; the blunt truth is that no balanced budget deal has worked in the past, that is why we need to amend the Constitution to provide for fiscal sanity.

Yet, opponents of Senate Joint Resolution 1 argue that Social Security should be removed from the protection of the balanced budget amendment. But to do so as they request would be a risky gimmick that would harm Social Security and open a loophole in the constitutional amendment.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Nevada has 4 minutes.

Mr. REID. Mr. President, even the great mind, Justice Scalia, who does not like legislative history, does not like to look at it, even Justice Scalia would recognize we have established in this matter a legislative history that is second to none. We are taking Social Security from the confines of this balanced budget amendment. This is not all alone, floating in the air. It is out on its own, as it was required by law in 1990. All of a sudden we are ignoring this law we passed. Any one of the Senators who voted for this in 1990 and now does not vote for my amendment better check his or her record on inconsistency, because this would probably be at the top of their inconsistency list.

The only way to protect Social Security is the way we are doing it. We are not running full-page ads paid for by the Wall Street brokers and power brokers. We are trying to establish, through petitions signed by a million people that were received today, that what is being done with Senate Joint Resolution 1 is wrong. We are representing the recipients, the beneficiaries of Social Security, not the people who want to raid Social Security so it will be easier to balance the budget.

We are supported by the beneficiaries past and those in the future and those in the present. We are supported by the American public by almost 75 percent in polls taken. We are supported by the National Committee to Save Social Security, by the President, in letter and in radio address. We are supported by the Office of Management and Budget.

Mr. President, we are supported by Republicans in the House of Representatives who have stepped forward courageously to say we are not going to be seen as trying to cut Social Security. I repeat, I hope some of my friends on the other side of the aisle will step forward with the courage shown by Congressman McIntosh, Republican of Indiana.

Mr. President, Franklin Roosevelt, when this legislation was signed, said that he had an obligation not only to protect business interests. I feel that same obligation to protect business interests. I am for reduction in the capital gains tax. I was for the legislation that gave significant incentives to small businesses last year that we passed in conjunction with the minimum wage bill. But as President of the United States, Franklin Roosevelt, said:

... 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 a half and half manner: it is all or none.

We have to help business and we have to help the small person. We are trying to help those people who are trying to

survive to maintain their dignity. That is what this amendment is all about. I repeat, anyone who voted in 1990 to take Social Security off budget and now votes against my amendment had better recognize that that is probably about as inconsistent as you can be, legislatively.

I ask my colleagues to support this amendment. It is the right thing to do for the American public.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REID. I ask for the yeas and nays.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, 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 amendment No. 8, offered by the Senator from Nevada [Mr. REID]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—55

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Robb
Bond	Grassley	Roberts
Brownback	Gregg	Roth
Burns	Hagel	Santorum
Campbell	Hatch	Sessions
Chafee	Helms	Shelby
Coats	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Collins	Inhofe	Snowe
Coverdell	Jeffords	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kerrey	Thompson
DeWine	Kyl	Thurmond
Domenici	Lott	Warner
Enzi	Lugar	
Faircloth	Mack	

NAYS—44

Akaka	Feingold	Lieberman
Baucus	Feinstein	McCain
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Harkin	Murray
Bryan	Hollings	Reed
Bumpers	Johnson	Reid
Byrd	Kennedy	Rockefeller
Cleland	Kerry	Sarbanes
Conrad	Kohl	Specter
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	

NOT VOTING—1

Inouye

The motion to lay on the table the amendment (No. 8) was agreed to.

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

Mr. CRAIG. Mr. President, I move to lay it on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. ENZI. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak up to 5 minutes each.

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

SCHINDLER'S LIST

Mr. D'AMATO. Mr. President, I hold in my hand a press statement sent to my office and I believe to all of the Senate and House offices from a Congressman from Oklahoma, Congressman TOM COBURN, regarding the showing of "Schindler's List," this past Sunday. I have to tell you, we had to call the office to assert whether or not this was a joke. We thought it was a prank. The Congressman in his press release goes on to raise concerns on behalf of the family caucus, and says that the airing and demonstration of the television program that depicted sex and violence was inappropriate. He complains about the nudity of the program.

I cannot believe, and I am shocked and appalled, that any Member of Congress would put out a statement of this kind that shows those who were imprisoned and being sent to their death—it seems to me that anyone who would make a statement condemning "Schindler's List" is totally out of touch with the importance of this historic film, depicting the monstrous deeds that took place and the heroism that was also displayed.

To equate the nudity of the Holocaust victims in a concentration camp with any sexual connotation is outrageous and offensive. I am shocked and appalled that any Member of Congress would make these kinds of statements. I am particularly embarrassed that they were made by a Member of my own party.

I understand that the Congressman is planning to make a clarification of his statement. While I await them, I think that everyone should seek that clarification. Certainly, this should not be a view expressed by anyone in public office who is right-thinking.

Again, I thought this press release was a prank at first, and it was only when I called that we verified it was not the case. The Congressman should respond quickly and clarify exactly what he meant by this statement.

I yield the floor.

UNANIMOUS-CONSENT
AGREEMENT—SENATE JOINT
RESOLUTION 1, AMENDMENT NO.
7

Mr. GRAHAM. Mr. President, I recognize we are now in morning business, but I ask unanimous consent that it be in order to offer an amendment at this time, which I previously filed, listed as amendment No. 7 to Senate Joint Resolution 1.

It is my intention that the amendment be taken up and then laid aside for consideration later in the debate on Senate Joint Resolution 1.

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

Mr. GRAHAM. Mr. President, I also ask unanimous consent that Senator ROBB of Virginia be added as a cosponsor of amendment No. 7.

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

When the Senate resumes the business of Senate Joint Resolution 1, amendment No. 7 will be one of several amendments pending to the resolution.

Mrs. MURRAY. Mr. President, I thank the Chair.

(The remarks of Mrs. MURRAY pertaining to the introduction of S. 351 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MANAGEMENT FAILINGS IN THE
FBI

Mr. GRASSLEY. Mr. President, reports of alleged mismanagement within the Federal Bureau of Investigation have been in the news, recently. Most of the reports reflect issues in the FBI's vaunted crime lab. These allegations of mismanagement come on the heels of FBI management disasters with Waco, Ruby Ridge, Filegate, and Atlanta, as well as others.

The average citizen is wondering if this premiere law enforcement agency is out of control. The deputy director of the FBI, Weldon Kennedy, understands the significance. Two weeks ago, he said the following:

The single thing most responsible for the success of the FBI is that "people are confident that if they come to the FBI, the matter will be handled professionally and well. If that trust ever breaks down, not only is the FBI in trouble, but the American people are in trouble.

Mr. President, that is the issue. Weldon Kennedy hit the nail squarely on the head.

The issue is trust and confidence in the Nation's No. 1 law enforcement agency. And in the context of other, recent management fiascos at the FBI, skepticism is validly the order of the day.

Indeed, allegations of problems in the FBI lab are troubling. I have been

working, parallel to the Justice Department's inspector general, to find out if the allegations are true or not. The IG's report is due for public release on or about March 14.

So far, the FBI has responded to the allegations in a less than credible way. First, they shot the messenger—Dr. Frederic Whitehurst, the lab scientist who first raised the allegations.

Next, the FBI used the typical "everything's okay" strategy to make the public think there was no problem. But that was contradicted by the facts. Weldon Kennedy said the problems in the lab wouldn't compromise any past, present, or future case.

That statement raised a lot of eyebrows. The deputy attorney general, Jamie Gorelick, refused to confirm Mr. Kennedy's wild optimism. Her refusal to do so totally undercut Mr. Kennedy's statement. Mr. Kennedy's credibility came into question. Even Mr. Kennedy had to back off his own statement. On February 6, he admitted, "Maybe I was overstating the case."

But then, in a letter to me dated February 21, Mr. Kennedy went right back to defending his wildly optimistic statement—that no past, present or future case is in danger. In my view, Mr. Kennedy is playing fast and loose with reality, with a purpose to mislead the public, and mislead Congress. The simple fact is, it is much too premature for Mr. Kennedy to be making groundless predictions. For him to do so anyway shows a strategy to mislead.

Third, I have learned that it is not just Dr. Whitehurst who has alleged wrongdoing in the FBI crime lab. Others have as well. So in the near future, I will resume speaking to my colleagues about this issue, Mr. President. At that time, I intend to discuss a very specific case with specific allegations of alleged wrongdoing. Today, however, I intend for my remarks to remain general.

Finally, I fear the FBI has covered up the lab's shortcomings. The FBI has been aware of many of these specific problems for more than 10 years. Yet, there have been few, if any, fixes to the problems. I suspect the reason is that the obvious solution is for the lab to be accredited; but the lab is so poorly configured and maintained that it can't be accredited. So instead, the FBI calculated that it's better to "cover it up" until the new lab is constructed down at Quantico in the year 2000.

If true, Mr. President, this decision by the FBI would be appalling. I am not prepared at this time to conclude that this is the FBI's intent. But if it is, not only is the FBI in trouble, so are the American people, as Mr. Kennedy so aptly put it. Because if this is true, it is not just a problem with the FBI crime lab; it's a problem with the FBI's overall leadership.

As I mentioned, the IG report will be released to the public no sooner than

March 14. Meanwhile, the FBI is out there spinning. In Mr. Kennedy's February 21 letter, he says the IG report, once we all read it, will ultimately reveal no problems. Here's what he says:

[T]he Department of Justice Office of the Inspector General found no instances of perjury, evidence tampering, evidence fabrication, or failure to report exculpatory information.

That's true, but irrelevant. Mr. President, never in my 16 years of sitting on the Judiciary Committee have I found a more misleading statement by an official of the FBI. It has a designed purpose of making the public think everything is under control at the FBI crime lab.

Well, everything is not under control. The fact of the matter is—and the FBI is well aware of this, which is why Mr. Kennedy made this statement—the IG did not investigate to determine if there were any crimes committed by FBI agents—like, perjury, evidence tampering, evidence fabrication, or failure to report exculpatory information. The IG's charter was to determine management problems and administrative problems—not crimes.

The criminal investigation comes next. Because the IG also has the right the refer issues for possible criminal referral. And I predict, Mr. President, that the FBI will have to back off of that statement as well, when all of this is over.

Mr. President, what we're seeing in the FBI lab issue is systemic. It reflects a culture that says the FBI is more interested in a conviction than they are in the truth. They don't reveal all the facts. Only enough to make their case. This is what I intend to show in a future statement before this body. The issue will be the FBI shaving evidence to get a prosecution.

That's not cricket. It's not American. And it can't be tolerated. I grew up the son of a farmer. My father taught me to be proud of the FBI. Its image was that it could do no wrong. A whole generation of people like me grew up believing the FBI could do no wrong. Now, that confidence, that trust, has been shaken.

Finally, Mr. President, let me send a shot across the bow. There are rumors I'm hearing that the FBI intends to fire Dr. Whitehurst right after the IG report is released. My message today to the Bureau is, "you fire Dr. Whitehurst, and you will cause a protracted battle with the Congress over the integrity of the FBI's leadership."

In the end, it will be shown that the standards of the FBI crime lab have been far short of their vaunted reputation. It will be shown that the FBI was well aware of these problems, but chose to do little, if anything, to fix them. It will also be shown that the problems, would not have been addressed by the IG were it not for the courage of Dr. Whitehurst.

This is a wake-up call to the FBI. The public will not tolerate an arrogant response by the FBI in this matter. Too much is at stake; namely, the integrity of the criminal justice system in America. I intend to keep this issue before the American people. I will make sure they understand they have a choice between an FBI with integrity, and an FBI that plays fast and loose with the truth.

Mr. President, I ask unanimous consent that Weldon Kennedy's February 21 letter be printed in the RECORD.

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

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, February 21, 1997.
Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: The Attorney General shared a copy of your February 13th letter with me. While the Department of Justice will respond directly to you, because you suggested that I misled you and the public I am compelled to respond to the inferences which you have raised about my personal integrity.

First, let me state that I share your belief that any public servant who misleads the public or Congress should be held accountable regardless of his rank or position. As not only a career civil servant but a sworn law enforcement officer with more than thirty-five years of service to this Nation, I hold dear not only my personal reputation for integrity but also my duty to uphold and defend the constitution. As one who has been charged with the responsibility to investigate the alleged criminal acts of my fellow citizens, I assure you that I am extremely sensitive to my own responsibility, as well as that of other governmental officials such as you to avoid rash judgments and to devote every effort to insure the accuracy of my conclusions.

I remain convinced everything said during our briefing of you is accurate. I further do not believe what Ms. Gorelick said is inconsistent with our position, a position fully supported by the facts.

If you recall from our briefing, Mr. Maddock explained in great detail about how every allegation with even the slightest potential for *Brady* implications was referred to the appropriate prosecutor to determine if the information should be supplied to the defense counsel. This process has been ongoing for more than a year and was undertaken out of an abundance of caution to ensure there is no doubt we have more than met any legal obligation to disclose even potentially exculpatory information to criminal defendants. The fact that information is provided to defendants ensures their right to a fair trial, but it does not mean that a defendant is not guilty or that a successful prosecution will not or should not be brought. That is the process to which Ms. Gorelick referred and which the FBI fully supported.

What I said during our briefing and to the public was that no prosecutions have been compromised. That remains as accurate today as when I said it. No past or current prosecutions have been compromised and we know of no information that indicates a future case will be compromised. There is no basis to conclude otherwise in spite of journalistic sensationalism which has misled you and the public to believe the contrary.

Through a series of malicious leaks and gross speculation by the press and other uninformed persons, doubt has been cast on the whole of the FBI Laboratory. As I reported to you, after 16 months of intensive investigation, the Department of Justice Office of the Inspector General found no instances of perjury, evidence tampering, evidence fabrication, or failure to report exculpatory evidence. Neither did the inquiry find any support for spurious allegations charging systemic evidence contamination or improper evidence handling.

I believe when you are afforded the opportunity to review the report including our lengthy response, the basis on which I made the statement will be apparent. I also hope this helps you understand why the comments by Ms. Gorelick are not "at odds" with what I said either to you or to the public.

Sincerely yours,
WELDON L. KENNEDY,
Deputy Director.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, February 24, the Federal debt stood at \$5,340,989,383,890.18.

Five years ago, February 24, 1992, the Federal debt stood at \$3,824,562,000,000.

Ten years ago, February 24, 1987, the Federal debt stood at \$2,241,493,000,000.

Fifteen years ago, February 24, 1982, the Federal debt stood at \$1,046,755,000,000.

Twenty-five years ago, February 24, 1972, the Federal debt stood \$426,341,000,000 which reflects a debt increase of nearly \$5 trillion—\$4,914,648,000,000—during the past 25 years.

TRIBUTE TO ROY D. NEDROW

Mr. THURMOND. Mr. President, one of the most unsung professions in the United States is law enforcement. It is a dangerous and demanding career field that offers few tangible rewards, yet it is an occupation that attracts men and women of tremendous dedication and determination, individuals who are committed to making a difference in their lives and jobs. Today, I rise to pay tribute to one such person, Roy D. Nedrow, the Director of the Naval Criminal Investigative Service, who is about to end a distinguished career in local and Federal law enforcement after more than 30 years.

Director Nedrow began his service in law enforcement as a street cop in Berkeley, CA, during the turbulent 1960's. As many know, that city is the home to a beautiful University of California campus, but at that time in Berkeley's history, the plazas, walkways, and streets of, and surrounding, Cal became a kind of urban battleground. No doubt, it was in this contentious and frequently violent environment that Officer Nedrow learned some very valuable lessons about law enforcement, people, and managing crises, all which would help him throughout his career.

After 6 years in local law enforcement, Sgt. Roy Nedrow traded the seven-pointed star and khaki uniform of the Berkeley Police Department for a business suit, a set of credentials, and a job as a U.S. Secret Service special agent. For more than the next 20 years, he handled numerous cases involving fraud, counterfeiting, forgery, and protection. In the process, he steadily climbed the command ladder of that agency, holding a number of positions of great responsibility, eventually rising to the office of Deputy Assistant Director of the Office of Investigations, where he was responsible for managing 1,200 special agents in more than 100 field locations throughout the world.

His experience with the U.S. Secret Service gave him invaluable training in managing investigations, people, and budgets, and made him an ideal candidate to head-up a law enforcement agency. When the Naval Criminal Investigative Service was looking for a new director in the early 1990's, they very quickly spotted Roy Nedrow as a desirable candidate to take charge of their agency.

Assuming the helm at NCIS in 1992, Director Nedrow moved swiftly and surely to change the public's perception about this agency which had suffered from several public relations misfortunes, and he made turning NCIS into a more effective and streamlined organization his priority. Managing a Federal agency in this era of shrinking budgets, downsizing, and hiring freezes, is very challenging and Director Nedrow had to find a way to continue to meet the many international missions with which his special agents are tasked, particularly force protection and antiterrorism, with fewer available resources. Not deterred by the size of the task before him, the Director established many successful initiatives, a number of which were particularly effective in making NCIS an even better law enforcement agency.

During his tenure as Director, Roy Nedrow oversaw the establishment of a Cold Case Homicide Squad which has reinvestigated murder cases previously thought unsolvable, bringing closure to 18 cases and earning 13 convictions. Realizing the importance of reigning in fraud and ensuring that the money of the American taxpayer was not wasted, the Director fought to keep the fraud investigation mission at NCIS. Over the past 5 years, his special agents assigned to pursuing such cases have recovered more than \$900 million in procurement fraud, fines, and restitution, helping to cut out fiscal waste and abuse, as well as essentially compensating the Government for what it costs to operate NCIS. Another innovative solution discovered by the Director, was to better integrate Navy Reserve personnel into his agency, providing him with the ability to secure a

surge of qualified and trained individuals capable of helping NCIS meet its force protection mission in times of national crisis.

Mr. President, anyone who dedicates their life to protecting the people of this Nation from criminal elements is worthy of our thanks, and for 33 years, Roy Nedrow has done just that. He has established an impressive reputation for professionalism and leadership at every level of law enforcement he has worked, and has left the Berkeley Police Department, the U.S. Secret Service, and the Naval Criminal Investigative Service all better places for his efforts. His stewardship as the Director of the Naval Criminal Investigative Service has greatly benefited that agency, and has helped to strengthen the Federal law enforcement community. We are proud of the work he has done, are grateful for his many sacrifices, and wish he and his lovely wife Claudia, much health, happiness, and continued successes in the years to come.

TRIBUTE TO SENATOR JOHN GLENN

Ms. MIKULSKI. Mr. President, today I wish to pay tribute to a friend and colleague; one who has both orbited the Earth and walked the Halls of Congress. Performing either responsibility on its own has been the dream of many. Achieving both has been realized by very few. Senator JOHN GLENN is a truly remarkable man.

So it was with sadness that I received the news of his plans to retire at the end of this Congress. His early announcement will give us some time to try to get used to the idea of a Senate without his calm leadership, his uncommon commitment and dedication, and his tremendous decency and civility.

Senator GLENN has helped make our Space Agency, NASA, what it is today. Senator GLENN's Mercury space mission 34 years ago sparked a national interest in space exploration that continues to this day. JOHN GLENN is a national hero who is the personification of astronaut. Since his daring and heroic mission, children all over the country have dreamt of becoming astronauts.

The environment of Washington is as foreign to many as the Moon. Senator GLENN left the Moon in orbit, while trying to bring Washington more down to Earth—closer and more responsive to the needs of the American people. JOHN GLENN has played a vital role in helping to pass several measures important to reinventing our Government.

Senator GLENN and I share a strong respect for the environment. I was a proud cosponsor of Senator GLENN's Department of the Environment Act, which would have elevated the Envi-

ronmental Protection Agency to Cabinet-level status. In introducing this important bill, Senator GLENN noted that, having had the rare privilege to view the Earth in all of its beauty and grandeur from space, he was struck by how thin and fragile the environment is that sustains life on our planet. I absolutely agree with him and appreciate what he has done for the environment. Our environment has had a strong ally in the Senate, and we will miss his leadership on these issues.

When this Congress is over, and Senator GLENN touches down in his home State of Ohio, we will remember him as a friend and hero whose achievements have displayed a strong respect for the Earth and its inhabitants.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

REPORT OF THE SUPPLEMENTARY AGREEMENT BETWEEN THE UNITED STATES AND GREAT BRITAIN—MESSAGE FROM THE PRESIDENT—PM 15

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

Pursuant to section 233 (e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95-216, 42 U.S.C. 433(e)(1)), I transmit herewith the Supplementary Agreement Amending the Agreement Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Social Security (the Supplementary Agreement), which consists of two separate instruments: a principal agreement and an administrative arrangement. The Supplementary Agreement, signed at London on June 6, 1996, is intended to modify certain provisions of the original United States-United Kingdom Social Security Agreement signed at London February 13, 1984.

The United States-United Kingdom Social Security Agreement is similar in objective to the social security agreements with Austria, Belgium,

Canada, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, The Netherlands, Norway, Portugal, Spain, Sweden, and Switzerland. Such bilateral agreements provide for limited coordination between the U.S. and foreign social security systems to eliminate dual social security coverage and taxation, and to help prevent the loss of benefit protection that can occur when workers divide their careers between two countries.

The Supplementary Agreement, which would amend the 1984 Agreement to update and clarify several of its provisions, is necessitated by changes that have occurred in U.S. and English law in recent years. Among other things, the Supplementary Agreement removes certain restrictions in the original agreement concerning payment of UK disability benefits to residents of the United States. The Supplementary Agreement will also make a number of minor revisions in the Agreement to take account of other changes in U.S. and English law that have occurred in recent years.

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

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

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

WILLIAM J. CLINTON.

THE WHITE HOUSE, February 25, 1997.

REPORT OF THE 1997 NATIONAL
DRUG CONTROL STRATEGY—
MESSAGE FROM THE
PRESIDENT—PM 16

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

I am pleased to transmit the 1997 *National Drug Control Strategy* to the Congress. This strategy renews our bipartisan commitment to reducing drug abuse and its destructive consequences. It reflects the combined and coordinated Federal effort that is directed by National Drug Control Policy Director Barry McCaffrey and includes every department and over 50 agencies. It enlists all State and local leaders from across the country who must share in the responsibility to protect our children and all citizens from the scourge of illegal drugs.

In the 1996 *National Drug Control Strategy*, we set forth the basis of a coherent, rational, long-term national effort to reduce illicit drug use and its consequences. Building upon that framework, the 1997 *National Drug Control Strategy* adopts a 10-year national drug-control strategy that includes quantifiable measures of effectiveness. The use of a long-term strategy, with annual reports to the Congress and consistent outreach to the American people on our progress, will allow us to execute a dynamic, comprehensive plan for the Nation and will help us to achieve our goals.

We know from the past decade of Federal drug control efforts that progress in achieving our goals will not occur overnight. But our success in reducing casual drug use over the last decade demonstrates that drug abuse is not an incurable social ill. Thanks to the bipartisan efforts of the Congress and the past three administrations, combined with broad-based efforts of citizens and communities throughout the United States, we have made tremendous progress since the 1970's in reducing drug use.

Nonetheless, we are deeply concerned about the rising trend of drug use by young Americans. While overall use of drugs in the United States has fallen dramatically—by half in 15 years—adolescent drug abuse continues to rise. That is why the number one goal of our strategy is to motivate America's youth to reject illegal drugs and substance abuse.

Our strategy contains programs that will help youth to recognize the terrible risks associated with the use of illegal substances. The cornerstone of this effort will be our national media campaign that will target our youth with a consistent anti-drug message. But government cannot do this job alone. We challenge the national media and entertainment industry to join us—by renouncing the glamorization of drug abuse and realistically portraying its consequences.

All Americans must accept responsibility to teach young people that drugs are wrong, drugs are illegal, and drugs are deadly. We must renew our commitment to the drug prevention strategies that deter first-time drug use and halt the progression from alcohol and tobacco use to illicit drugs.

While we continue to teach our children the dangers of drugs, we must also increase the safety of our citizens by substantially reducing drug-related crime and violence. At the beginning of my Administration, we set out to change this country's approach to crime by putting more police officers on our streets, taking guns out of the hands of criminals and juveniles, and breaking the back of violent street gangs. We are making a difference. For the fifth year in a row serious crime in this country has declined. This is the longest period of decline in over 25 years. But our work is far from done and we must continue to move in the right direction.

More than half of all individuals brought into the Nation's criminal justice systems have substance abuse problems. Unless we also break the cycle of drugs and violence, criminal addicts will end up back on the street, committing more crimes, and back in the criminal justice system, still hooked on drugs. The criminal justice system should reduce drug demand—not prolong or tolerate it. Our strategy implements testing and sanctions through coerced abstinence as a way to reduce the level of drug use in the population of offenders under criminal justice supervision, and thereby reduce the level of other criminal behavior.

Our strategy supports the expansion of drug-free workplaces, which have proven so successful and we will continue to seek more effective, efficient, and accessible drug treatment to ensure that we are responsive to emerging drug-abuse trends.

We must continue to shield America's air, land, and sea frontiers from the drug threat. By devoting more resources to protecting the Southwest border than ever before, we are increasing drug seizures, stopping drug smugglers, and disrupting major drug trafficking operations. We must continue our interdiction efforts, which have greatly disrupted the trafficking patterns of cocaine smugglers and have blocked the free flow of cocaine through the western Caribbean into Florida and the Southeast.

Our comprehensive effort to reduce the drug flow cannot be limited to seizing drugs as they enter the United States. We must persist in our efforts to break foreign and domestic sources of supply. We know that by working with source and transit nations, we can greatly reduce foreign supply. International criminal narcotics organizations are a threat to our national security. But if we target these networks, we can dismantle them—as we did the Cali Cartel.

We will continue to oppose all calls for the legalization of illicit drugs. Our vigilance is needed now more than ever. We will continue to ensure that all Americans have access to safe and effective medicine. However, the current drug legalization movement sends

the wrong message to our children. It undermines the concerted efforts of parents, educators, businesses, elected leaders, community groups, and others to achieve a healthy, drug-free society.

I am confident that the national challenge of drug abuse can be met by extending our strategic vision into the future, educating citizens, treating addiction, and seizing the initiative in dealing with criminals who traffic not only in illegal drugs but in human misery and lost lives.

Every year drug abuse kills 14,000 Americans and costs taxpayers nearly \$70 billion. Drug abuse fuels spouse and child abuse, property and violent crime, the incarceration of young men and women, the spread of AIDS, workplace and motor vehicle accidents, and absenteeism in the work force.

For our children's sake and the sake of this Nation, this menace must be confronted through a rational, coherent, cooperative, and long-range strategy. I ask the Congress to join me in a partnership to carry out this national strategy to reduce illegal drug use and its devastating impact on America.

WILLIAM J. CLINTON.

THE WHITE HOUSE, February 25, 1997.

MESSAGES FROM THE HOUSE

At 6 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that pursuant to the provisions of section 506 of the congressional Accountability Act of 1995 (Public Law 104-1), and to provide for the completion of ongoing proceedings, the Review Panel of the Office of Fair Employment Practices is reconstituted in the 105th Congress in the same form as at the end of the 104th Congress by the following appointing authorities:

By the Speaker: Mr. Randy Johnson and Mr. Alan F. Coffey, Jr., both members from private life.

By the minority leader: Ms. Karen Nelson and Ms. Marda Robillard, both members from private life.

By the chairman of the Committee on House Oversight: Mr. DIAZ-BALART, Chairman, and Mr. NEY.

By the ranking minority member of the Committee on House Oversight: Mr. JEFFERSON and Mr. PASTOR.

The message also announced that pursuant to section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)), the Speaker appoints the following Member on the part of the House to the Board of Trustees of the John F. Kennedy Center for the Performing Arts: Mr. YATES.

The message further announced that pursuant to section 103, Public Law 99-371 (20 U.S.C. 4303), the Speaker appoints the following Member to the Board of Trustees of Gallaudet University: Mr. BONIOR.

The message further announced that pursuant to the provisions of sections

5580 and 5581 of the Revised Statutes (20 U.S.C. 42-43) the Speaker appoints the following Member on the part of the House to the Board of Regents of the Smithsonian Institution: Mr. TORRES.

The message also announced that pursuant to the provisions of section 6968(a) of title 10, United States Code, the Speaker appoints the following Members on the part of the House to the Board of Visitors to the U.S. Naval Academy: Mr. HOYER and Mr. McHALE.

The message further announced that pursuant to the provisions of section 4355(a) of title 10, United States Code, the Speaker appoints the following Members on the part of the House to the Board of Visitors to the U.S. Military Academy: Mr. HEFNER and Mr. SKELTON.

The message also announced that pursuant to the provisions of section 194(a) of title 14, United States Code, the Speaker appoints the following Member on the part of the House to the Board of Visitors to the U.S. Coast Guard Academy: Mr. GEJDENSON.

The message further announced that pursuant to the provisions of section 9355(a) of title 10, United States Code, the Speaker appoints the following Members on the part of the House to the Board of Visitors to the U.S. Air Force Academy: Mr. DICKS and Mr. TANNER.

The message also announced that pursuant to the provisions of section 1295(h) of title 46 App., United States Code, the Speaker appoints the following Member on the part of the House to the Board of Visitors to the U.S. Merchant Marine Academy: Mr. MANTON.

The message further announced that pursuant to the provisions of section 3(b)(1)(B) of Public Law 104-169 and the Order of the House of Thursday, February 13, 1997, authorizing the Speaker, majority leader, and minority leader to accept resignations and to make appointments authorized by law or by the House, and upon consultation with the minority leader, the Speaker, on February 13, 1997, appointed as a member from private life on the part of the House to the National Gambling Impact and Policy Commission: Mr. John Wilhelm of Washington, DC.

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-1147. A communication from the Director of the U.S. Arms Control and Disarmament Agency, transmitting, a draft of proposed legislation to authorize appropriations for fiscal years 1998 and 1999; to the Committee on Foreign Relations.

EC-1148. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on

support for east European democracy for fiscal year 1996; to the Committee on Foreign Relations.

EC-1149. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to melons, received on February 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1150. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to domestic dates, received on February 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1151. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to import regulations, received on February 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1152. A communication from the Administrator of the Rural Utilities, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to insured electric loans, received on February 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1153. A communication from the Acting Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule relative to large traders, received on February 12, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1154. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, a draft of proposed legislation to resolve an outstanding issue relating to action taken in the Omnibus Appropriation Act of 1996; to the Committee on Appropriations.

EC-1155. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, a draft of proposed legislation to authorize construction at certain military installations for fiscal year 1998; to the Committee on Armed Services.

EC-1156. A communication from the Director of the Defense and Accounting Service, Department of Defense, transmitting, pursuant to law, a cost comparison study relative to all Depot Maintenance Accounting functions; to the Committee on Armed Services.

EC-1157. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of rule concerning exports to Cuba, (RIN0694-AB43) received on February 24, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-1158. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule relative to holding period requirements, received on February 21, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-1159. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule non-qualified thrift lenders, received on February 24, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-1160. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to

harvest specifications of groundfish, (RIN0648-XX69) received on February 24, 1997; to the Committee on Commerce, Science, and Transportation.

EC-1161. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to harvest specifications of groundfish, (RIN0648-XX74) received on February 24, 1997; to the Committee on Commerce, Science, and Transportation.

EC-1162. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to directing fishing for pollock, (RIN0648-XX69) received on February 12, 1997; to the Committee on Commerce, Science, and Transportation.

EC-1163. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to directing fishing for pollock, received on February 24, 1997; to the Committee on Commerce, Science, and Transportation.

EC-1164. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to FM broadcast stations, received on February 21, 1997; to the Committee on Commerce, Science, and Transportation.

EC-1165. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report on the Marine Mammal Protection Act; to the Committee on Environment and Public Works.

EC-1166. A communication from the Chairman of the Migratory Bird Conservation Commission, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Environment and Public Works.

EC-1167. A communication from the Federal Energy Regulatory Commission, transmitting, pursuant to law, the report under the Federal Power Act; to the Committee on Energy and Natural Resources.

EC-1168. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on Metal Casting Competitiveness for fiscal year 1996; to the Committee on Energy and Natural Resources.

EC-1169. A communication from the Director of the Office of Government Relations of the Smithsonian Institution, transmitting, pursuant to law, a report relative to the National Society of the Daughters of the American Revolution; to the Committee on Rules and Administration.

EC-1170. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report of recommendations for legislation action; to the Committee on Rules and Administration.

EC-1171. A communication from the Regulations Unit Chief of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, Revenue Ruling 97-9; to the Committee on Finance.

EC-1172. A communication from the Regulations Unit Chief of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, Revenue Ruling 97-10; to the Committee on Finance.

EC-1173. A communication from the Regulations Unit Chief of the Internal Revenue

Service, Department of the Treasury, transmitting, pursuant to law, a rule entitled "Estate and Gift Tax Marital Deduction" (RIN1545-AU27) received on February 18, 1997; to the Committee on Finance.

EC-1174. A communication from the Regulations Unit Chief of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, Revenue Procedure on S Corporation Bank Accounting Method Change received on February 19, 1997; to the Committee on Finance.

EC-1175. A communication from the Regulations Branch Chief of the U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, a rule entitled "Entry of Softwood Lumber Shipments From Canada" (RIN1515-AB97) received on February 20, 1997; to the Committee on Finance.

EC-1176. A communication from the Commissioner of Social Security, transmitting, pursuant to law, a report relative to vocational rehabilitation; to the Committee on Finance.

EC-1177. A communication from the Assistant Secretary of Labor for Pension and Welfare Benefits, transmitting, pursuant to law, a rule entitled "Class Exemption" received on February 13, 1997; to the Committee on Finance.

EC-1178. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "The Military Beneficiaries Medicare Reimbursement Model Project Act of 1997"; to the Committee on Finance.

EC-1179. A communication from the Commissioner of Social Security, transmitting, pursuant to law, two rules including a rule entitled "Cycling Payment" (RIN0960-AE31, AE57); to the Committee on Finance.

EC-1180. A communication from the Director of Selective Service, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC-1181. A communication from the Director of Operations and Finance, the American Battle Monuments Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC-1182. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC-1183. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC-1184. A communication from the Office of the General Counsel of the Legal Services Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC-1185. A communication from the Director of the U.S. Information Agency, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC-1186. A communication from the Director of Peace Corps, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC-1187. A communication from the Executive Director of the Occupational Safety and

Health Review Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC-1188. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, a rule entitled "Inmate Legal Activities" (RIN1120-AA58) received on February 12, 1997; to the Committee on the Judiciary.

EC-1189. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, a rule entitled "Research" (RIN1120-AA14) received on February 12, 1997; to the Committee on the Judiciary.

EC-1190. A communication from the Marshal of the Supreme Court, transmitting, pursuant to law, the annual report for the period February 15, 1996 through February 15, 1997; to the Committee on the Judiciary.

EC-1191. A communication from the Chief Justice of the Supreme Court, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference of the United States; to the Committee on the Judiciary.

EC-1192. A communication from the President of the National Safety Council, transmitting, pursuant to law, the report of the combined financial statements for the years ended June 30, 1995 and 1996; to the Committee on the Judiciary.

EC-1193. A communication from the Secretary of the Judicial Conference of the United States, transmitting, a draft of proposed legislation to provide salary relief; to the Committee on the Judiciary.

EC-1194. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a rule entitled "Classification of Certain Scientists" (RIN1115-AD33) received on February 18, 1997; to the Committee on the Judiciary.

EC-1195. A communication from the Associate Administrator, Office of Management Service and Human Resources, General Services Administration, transmitting, pursuant to law, the report under the Government Management Reform Act; to the Committee on Governmental Affairs.

EC-1196. A communication from the Director of the Office of Administration, Executive Office of the President, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act.

EC-1197. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports and testimony for January 1997; to the Committee on Governmental Affairs.

EC-1198. A communication from the Director of the Program Support Center, Division of Commission Personnel, Department of Health & Human Service, transmitting, pursuant to law, the annual report fully disclosing the financial condition of the pension plan for fiscal year 1995; to the Committee on Governmental Affairs.

EC-1199. A communication from the Chief of Staff of the White House, transmitting, pursuant to law, the report on the President's Drug Free Work Plan; to the Committee on Governmental Affairs.

EC-1200. A communication from the Comptroller General, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Governmental Affairs.

EC-1201. A communication from the Director, Office of Financial Management, General Accounting Office, transmitting, pursuant to law, the 1996 annual report of the

Comptroller General Retirement System; to the Committee on Governmental Affairs.

EC-1202. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report of employees detailed to congressional committees; to the Committee on Governmental Affairs.

EC-1203. A communication from the Deputy Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a rule entitled "Funding of Administrative Law Judge Examination," (RIN3206-AH31) received on February 12, 1997; to the Committee on Governmental Affairs.

EC-1204. A communication from the Executive Secretary of the National Labor Relations Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for 1996; to the Committee on Governmental Affairs.

EC-1205. A communication from the Manager of the Benefits Communications of the Ninth Farm Credit District Trust Committee, transmitting, pursuant to law, the annual report for the plan year ended December 31, 1995; to the Committee on Governmental Affairs.

EC-1206. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for 1996; to the Committee on Governmental Affairs.

EC-1207. A communication from the Postmaster General, United States Postal Service, transmitting, pursuant to law, the 1996 Comprehensive Statement on Postal Operations; to the Committee on Governmental Affairs.

EC-1208. A communication from the Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC-1209. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC-1210. A communication from the Associate Director for Management of the Peace Corps, transmitting, pursuant to law, the report of amendment to system of records; to the Committee on Governmental Affairs.

EC-1211. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the 1996 report under the Freedom of Information Act; to the Committee on Governmental Affairs.

EC-1212. A communication from the Chairman of the Armed Forces Retirement Home Board, transmitting, pursuant to law, the report concerning the Federal Managers Financial Integrity Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC-1213. A communication from the Administrator of the Office of Independent Counsel, transmitting, pursuant to law, the report on audit and investigative activities; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. MCCONNELL (for himself, Mr. BIDEN, and Mr. LEAHY):

S. 348. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes; to the Committee on the Judiciary.

By Mrs. BOXER (for herself, Mr. KENNEDY, and Mr. HOLLINGS):

S. 349. A bill to amend the Public Health Service Act to provide for expanding, intensifying, and coordinating activities of the National Heart, Lung, and Blood Institute with respect to heart attack, stroke, and other cardiovascular diseases in women; to the Committee on Labor and Human Resources.

By Mr. THURMOND:

S. 350. A bill to authorize payment of special annuities to surviving spouses of deceased members of the uniformed services who are ineligible for a survivor annuity under transition laws relating to the establishment of the Survivor Benefit Plan under chapter 73 of title 10, United States Code; to the Committee on Armed Services.

By Mrs. MURRAY:

S. 351. A bill to provide for teacher technology training; to the Committee on Labor and Human Resources.

By Mr. BIDEN:

S. 352. A bill to require the United States Sentencing Commission to amend the Federal sentencing guidelines to provide an enhanced penalty for follow-on bombings; to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 353. A bill to amend title XXVII of the Public Health Service Act and part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to establish standards for protection of consumers in managed care plans and other health plans; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 354. A bill to amend the Federal Property and Administrative Services Act of 1949 to prohibit executive agencies from awarding contracts that contain a provision allowing for the acquisition by the contractor, at Government expense, of certain equipment or facilities to carry out the contract if the principal purpose of such provision is to increase competition by establishing an alternative source of supply for property or services; to the Committee on Governmental Affairs.

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

S. 355. A bill to amend the Internal Revenue Code of 1986 to make the research credit permanent; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. HUTCHINSON, Ms. MIKULSKI, and Mr. CHAFEE):

S. 356. A bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs; to the Committee on Finance.

By Mr. BENNETT (for himself, Mr. HATCH, Mr. MURKOWSKI, Mr. CRAIG, Mr. BURNS, and Mr. THOMAS):

S. 357. A bill to authorize the Bureau of Land Management to manage the Grand Staircase-Escalante National Monument,

and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. KENNEDY (for himself, Mr. MACK, Mr. MOYNIHAN, and Mr. D'AMATO):

S. Res. 59. A resolution designating the month of March of each year as "Irish American Heritage Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL (for himself, Mr. BIDEN, and Mr. LEAHY):

S. 348. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes; to the Committee on the Judiciary.

THE LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS ACT OF 1997

• Mr. MCCONNELL. Mr. President, American families turn on the news every night and get bombarded by the reality that the war against crime and drugs is escalating. No one understands the dangers of this domestic war better than the men and women who serve on the front lines. I'm talking about our Nation's police officers.

These dedicated individuals offer up their lives as an act of service every day. They know the stress and the strain of walking the daily beat, of being caught in the crossfire in a world of gangs and drugs. These officers experience first-hand the casualties of our national epidemic.

As the Washington Post reported this Sunday, seven law enforcement officers right here in the Nation's Capital have been killed—in little more than 2 years. Moreover, the ambush of these "men and women wearing badges [occurred]—even though the officers posed no immediate threat to their attackers."

Our Nation's police officers endure unfathomable pressure every day as they fight to take back our streets. In the words of one officer, "the ultimate sacrifice could occur at any time. * * * [The gangs and criminals] have rewritten the rule book."

To make matters worse, the pressure of crime and drugs—of gangs and thugs—is multiplied by the fear of unjust disciplinary actions. Our law enforcement officers face intrusive investigations into their professional and personal lives—oftentimes at the behest of some recently arrested criminal looking for a payback.

Our officers live in the fear of: being investigated without notice; being interrogated without an attorney; and being dismissed without a hearing.

We must act now to address this situation by guaranteeing our police officers their basic and fundamental rights. So, today, along with Mr. BIDEN and Mr. LEAHY, I proudly introduce the Law Enforcement Officers' Bill of Rights.

This bill protects rights that most of us take for granted. For example, it allows police officers to be involved in, or refrain from, political activity.

The bill also gives significant due process rights to every police officer subject to investigation for non-criminal disciplinary action. Some of these rights include:

The right to be informed of the administrative charges prior to being questioned; the right to be advised of the results of an investigation; the right to a hearing and an opportunity to respond; and the right to be represented by counsel or other representative.

We owe our law enforcement officers a national debt of gratitude for their valiant fight in a battle that must be won. I ask my colleagues to show their appreciation and understanding of the plight of our police force. We must act boldly to equip every officer with basic and fundamental rights.

Finally, I must conclude by explaining that this bill is a product of years of input from the men and women who have experienced these daily pressures, and continue to endure them. This legislation has benefited from the thoughtful ideas and past support of many law enforcement groups, including the Fraternal Order of Police, the National Association of Police Organizations, and the International Brotherhood of Police Officers.

In particular, I am grateful to the contribution made by the Fraternal Order of Police. Over the past 6 years, I have worked closely with the Kentucky FOP to develop and promote this legislation. Seasoned and well-informed officers like Ray Franklin and Mike Hettich, both of whom are National FOP officers from my home State, have worked with me in refining the language of this bill and developing grassroots momentum. I would also like to say a personal word of thanks to Verlin Flaherty, Rick McCubbin, and Martin Scott.

The time has come to protect those who protect us. We must give our law enforcement officers the basic and fundamental rights that they desperately need and deserve.

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. 348

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Law Enforcement Officers' Bill of Rights Act of 1997".

SEC. 2. RIGHTS OF LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end the following:

"SEC. 820. RIGHTS OF LAW ENFORCEMENT OFFICERS.

"(a) DEFINITIONS.—In this section:

"(1) DISCIPLINARY ACTION.—The term 'disciplinary action' means the suspension, demotion, reduction in pay or other employment benefit, dismissal, transfer, or similar action taken against a law enforcement officer as punishment for misconduct.

"(2) DISCIPLINARY HEARING.—The term 'disciplinary hearing' means an administrative hearing initiated by a law enforcement agency against a law enforcement officer, based on probable cause to believe that the officer has violated or is violating a rule, regulation, or procedure related to service as an officer and is subject to disciplinary action.

"(3) EMERGENCY SUSPENSION.—The term 'emergency suspension' means temporary action imposed by the head of the law enforcement agency if that official determines that there is probable cause to believe that a law enforcement officer—

"(A) has committed a felony; or

"(B) poses an immediate threat to the safety of the officer or others or the property of others.

"(4) INVESTIGATION.—The term 'investigation'—

"(A) means the action of a law enforcement agency, acting alone or in cooperation with another agency, or a division or unit within an agency, or the action of an individual law enforcement officer, taken with respect to another enforcement officer, if such action is based on reasonable suspicion that the law enforcement officer has violated, is violating, or will in the future violate a statute or ordinance, or administrative rule, regulation, or procedure relating to service as a law enforcement officer; and

"(B) includes—

"(i) asking questions of other law enforcement officers or nonlaw enforcement officers;

"(ii) conducting observations;

"(iii) evaluating reports, records, or other documents; and

"(iv) examining physical evidence.

"(5) LAW ENFORCEMENT AGENCY.—The term 'law enforcement agency' means a State or local public agency charged by law with the duty to prevent or investigate crimes or apprehend or hold in custody persons charged with or convicted of criminal offenses.

"(6) LAW ENFORCEMENT OFFICER.—The terms 'law enforcement officer' and 'officer'—

"(A) mean a member of a law enforcement agency serving in a law enforcement position, which is usually indicated by formal training (regardless of whether the officer has completed or been assigned to such training) and is usually accompanied by the power to make arrests; and

"(B) include—

"(i) a member who serves full-time, whether probationary or nonprobationary, commissioned or noncommissioned, career or noncareer, tenured or nontenured, and merit or nonmerit; and

"(ii) the chief law enforcement officer of a law enforcement agency.

"(7) SUMMARY PUNISHMENT.—The term 'summary punishment' means punishment imposed for a minor violation of a rule, regulation, or procedure of a law enforcement agency that does not result in suspension, demotion, reduction in pay or other employment benefit, dismissal, or transfer.

"(b) APPLICATION OF SECTION.—

"(1) IN GENERAL.—This section sets forth rights that shall be afforded any law enforcement officer who is the subject of an investigation.

"(2) NONAPPLICABILITY.—This section does not apply in the case of—

"(A) a criminal investigation of the conduct of a law enforcement officer; or

"(B) a nondisciplinary action taken in good faith on the basis of the employment related performance of a law enforcement officer.

"(c) POLITICAL ACTIVITY.—Except if on duty or acting in an official capacity, no law enforcement officer shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in such activity.

"(d) RIGHTS OF LAW ENFORCEMENT OFFICERS UNDER INVESTIGATION.—If a law enforcement officer is under investigation that could lead to disciplinary action, each of the following minimum standards shall apply:

"(1) NOTICE OF INVESTIGATION.—A law enforcement officer shall be notified of the investigation within a reasonable time after the commencement of the investigation. Notice shall include the general nature and scope of the investigation and all departmental violations for which reasonable suspicion exists. No investigation based on a complaint from outside the law enforcement agency may commence unless the complainant provides a signed detailed statement. An investigation based on a complaint from outside the agency shall commence not later than 15 days after receipt of the complaint by the agency.

"(2) NOTICE OF INVESTIGATIVE FINDINGS AND RECOMMENDATION FOR DISCIPLINARY ACTION.—At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

"(e) RIGHTS OF LAW ENFORCEMENT OFFICERS BEFORE AND DURING QUESTIONING.—If a law enforcement officer is subjected to questioning that could lead to disciplinary action, each of the following minimum standards shall apply:

"(1) REASONABLE HOURS.—Questioning of a law enforcement officer shall be conducted at a reasonable hour, preferably during the time that the law enforcement officer is on duty, unless exigent circumstances otherwise require.

"(2) PLACE OF QUESTIONING.—Questioning of the law enforcement officer shall take place at the offices of the persons who are conducting the investigation or the place where the law enforcement officer reports for duty, unless the officer consents in writing to being questioned elsewhere.

"(3) IDENTIFICATION OF QUESTIONER.—The law enforcement officer under investigation shall be informed, at the commencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

"(4) SINGLE QUESTIONER.—During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

"(5) NOTICE OF NATURE OF INVESTIGATION.—The law enforcement officer under investigation shall be informed in writing of the nature of the investigation not less than 72 hours before any questioning.

"(6) REASONABLE TIME PERIOD.—Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the law enforcement officer.

"(7) NO THREATS OR PROMISES.—Threats against, harassment of, or promise of reward shall not be made in connection with an investigation to induce the answering of any question. No statement given by the officer may be used in a subsequent criminal proceeding unless the officer has received a written grant of use and derivative use immunity or transactional immunity.

"(8) RECORDATION.—All questioning of any law enforcement officer in connection with the investigation shall be recorded in full, in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

"(9) COUNSEL.—The law enforcement officer under investigation shall be entitled to counsel (or any other one person of the officer's choice) during any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

"(f) DISCIPLINARY HEARING.—

"(1) NOTICE OF OPPORTUNITY FOR HEARING.—Except in a case of summary punishment or emergency suspension described in subsection (h), if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the law enforcement officer is entitled to a hearing on the issue by a hearing officer or board before the imposition of any disciplinary action.

"(2) REQUIREMENT OF DETERMINATION OF VIOLATION.—No disciplinary action may be taken unless a hearing officer or board determines, pursuant to a fairly conducted disciplinary hearing, that the law enforcement officer violated a statute, ordinance, or published administrative rule, regulation, or procedure.

"(3) TIME LIMIT.—No disciplinary charges may be brought against a law enforcement officer unless filed not later than 90 days after the commencement of an investigation, except for good cause shown.

"(4) NOTICE OF FILING OF CHARGES.—The law enforcement agency shall provide written, actual notification to the law enforcement officer, not later than 30 days after the filing of disciplinary charges, of the following:

"(A) DATE, TIME, AND LOCATION OF HEARING.—The date, time, and location of the disciplinary hearing, which shall take place not sooner than 30 days and not later than 60 days after notification to the law enforcement officer under investigation unless waived in writing by the officer.

"(B) INFORMATION RELATING TO HEARING OFFICER.—The full name and mailing address of the hearing officer.

"(C) INFORMATION RELATING TO PROSECUTOR.—The name, rank, and command of the prosecutor, if a law enforcement officer, or the name, position, and mailing address of the prosecutor, if not a law enforcement officer.

"(5) REPRESENTATION.—During a disciplinary hearing, an officer shall be entitled to be represented by counsel or other representative.

"(6) HEARING BOARD AND PROCEDURE.—

"(A) IN GENERAL.—Subject to subparagraph (B), a State shall determine the composition of a disciplinary hearing board and the procedures for a disciplinary hearing.

"(B) MEMBERSHIP.—A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include not less than 1 law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

"(7) ACCESS TO EVIDENCE.—A law enforcement officer who is brought before a disciplinary hearing board shall be provided access to all transcripts, records, written statements, written reports, analyses, and electronically recorded information pertinent to the case that—

"(A) contain exculpatory information;

"(B) are intended to support any disciplinary action; or

"(C) are to be introduced in the disciplinary hearing.

"(8) IDENTIFICATION OF WITNESSES.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall notify the law enforcement officer, or his attorney if he is represented by counsel, not later than 15 days before the hearing, of the name and addresses of all witnesses for the law enforcement agency.

"(9) COPY OF INVESTIGATIVE FILE.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall provide to the law enforcement officer, upon the request of the law enforcement officer, not later than 15 days before the hearing, a copy of the investigative file, including all exculpatory and inculpatory information, except that the law enforcement agency may exclude confidential sources, unless the law enforcement officer is entitled to such sources under subparagraph (A), (B), or (C) of paragraph (7).

"(10) EXAMINATION OF PHYSICAL EVIDENCE.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall notify the law enforcement officer, at the request of the officer, not later than 15 days before the hearing, of all physical, nondocumentary evidence, and provide reasonable date, time, place, and manner for the officer to examine such evidence not less than 10 days before the hearing.

"(11) SUMMONSES.—The hearing board shall have the power to issue summonses to compel testimony of witnesses and production of documentary evidence. If confronted with a failure to comply with a summons, the hearing officer or board may petition a court to issue an order, with failure to comply being subject to contempt of court.

"(12) CLOSED HEARING.—A disciplinary hearing shall be closed to the public unless the law enforcement officer who is the subject of the hearing requests, in writing, that the hearing be open to specified individuals or the general public.

"(13) RECORDATION.—All aspects of a disciplinary hearing, including prehearing motions, shall be recorded by audio tape, video tape, or transcription.

"(14) SEQUESTRATION OF WITNESSES.—Either side in a disciplinary hearing may move for and be entitled to sequestration of witnesses.

"(15) TESTIMONY UNDER OATH.—The hearing officer or board shall administer an oath or

affirmation to each witness, who shall testify subject to the applicable laws of perjury.

"(16) VERDICT ON EACH CHARGE.—At the conclusion of all the evidence, and after oral argument from both sides, the hearing officer or board shall deliberate and render a verdict on each charge.

"(17) BURDEN OF PERSUASION.—The burden of persuasion of the prosecutor shall be by clear and convincing evidence as to each charge involving false representation, fraud, dishonesty, deceit, or criminal behavior and by a preponderance of the evidence as to all other charges.

"(18) FINDING OF NOT GUILTY.—If the law enforcement officer is found not guilty of the disciplinary violations, the matter is concluded and no disciplinary action may be taken.

"(19) FINDING OF GUILTY.—If the law enforcement officer is found guilty, the hearing officer or board shall make a written recommendation of a penalty. The sentencing authority may not impose greater than the penalty recommended by the hearing officer or board.

"(20) APPEAL.—A law enforcement officer may appeal from a final decision of a law enforcement agency to a court to the extent available in any other administrative proceeding, in accordance with the applicable State law.

"(g) WAIVER OF RIGHTS.—A law enforcement officer may waive any of the rights guaranteed by this section subsequent to the time that the officer has been notified that the officer is under investigation. Such a waiver shall be in writing and signed by the officer.

"(h) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—

"(1) IN GENERAL.—This section does not preclude a State from providing for summary punishment or emergency suspension.

"(2) HEALTH BENEFITS.—An emergency suspension shall not affect or infringe on the health benefits of a law enforcement officer or any dependent of the officer.

"(i) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the rights of the officer under this section.

"(j) OTHER REMEDIES NOT IMPAIRED.—Nothing in this section shall be construed to impair any other legal right or remedy that a law enforcement officer may have as a result of a constitution, statute, ordinance, regulation, collective bargaining agreement or other sources of rights.

"(k) DECLARATORY OR INJUNCTIVE RELIEF.—A law enforcement officer who is being denied any right afforded by this section may petition a State court for declaratory or injunctive relief to prohibit the law enforcement agency from violating such right.

"(l) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into the file of any law enforcement officer, or possess or maintain control over any adverse material in any form within the law enforcement agency, unless the officer has had an opportunity to review and comment in writing on the adverse material.

"(m) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, sources of income, debts, or personal or domestic expenditures (including those of any member of the officer's household), unless—

"(1) the information is necessary to the investigation of a violation of any Federal,

State or local law, rule, or regulation with respect to the performance of official duties; and

"(2) such disclosure is required by Federal, State, or local law.

"(n) STATES' RIGHTS.—This section does not preempt State laws in existence on the effective date of this section that confer rights that equal or exceed the rights and coverage afforded by this section. This section shall not be a bar to the enactment of a police officer's bill of rights, or similar legislation, by any State. A State law that confers fewer rights or provides less protection to law enforcement officers than this section shall be preempted by this section.

"(o) MUTUALLY AGREED UPON COLLECTIVE BARGAINING AGREEMENTS.—This section does not preempt any mutually agreed upon collective bargaining agreement in existence on the effective date of this section that is substantially similar to the rights and coverage afforded under this section.

"(p) EFFECTIVE DATE.—This section shall take effect with respect to each State on the earlier of—

"(1) 2 years after the date of enactment of the Law Enforcement Officers' Bill of Rights Act of 1997; or

"(2) upon the conclusion of the second legislative session of the State that begins on or after the date of enactment of the Law Enforcement Officers' Bill of Rights Act of 1997."

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. preceding 3701) is amended by inserting after the item relating to section 819 the following:

"Sec. 820. Rights of law enforcement officers." •

• Mr. BIDEN. Mr. President, today, we renew our call for the congress to pass the "law enforcement officers' bill of rights act." For 6 years, I have been working with Senator MCCONNELL, other Senators, and the Nation's police officers to pass into law a bill protecting the rights of law enforcement officers on the front line of this Nation's fight against violent crime and drug trafficking.

Before addressing the specifics of this legislation, I want to discuss the reality of law enforcement today. The simple fact is that as Federal, State, and local officials push to expand "community" or "problem-solving" policing we are necessarily requiring police officers to move away from standard procedures and towards more creative approaches.

Of course, as we encourage creativity, there is always the need to guarantee the highest standards of police conduct.

Unfortunately, because police department's internal disciplinary procedures vary so widely across the Nation, we are literally moving at cross-purposes. On the one hand, we are calling on police officers to take more creative approaches—which naturally raises the chances of technical violations of department procedures.

While, on the other hand, we subject police officers to varying, often ad hoc,

disciplinary procedures which do make clear what specific conduct is appropriate, nor what will happen should the conduct turn out to be a mistake.

In fact, the practices that many departments use to guide internal investigations frequently allow police executives to take arbitrary and unfair actions against innocent police officers, while allowing culpable officers to avoid any punishment at all.

The law enforcement officers' bill of rights is designed to replace the ad hoc nature of many internal police investigations by encouraging States to provide minimum procedural standards to guide such investigations. The standards and protections offered by this bill are modeled on the standards for law enforcement agencies developed by the National Commission on Accreditation for Law Enforcement.

As the preface to the commission's standards on internal affairs notes:

"The internal affairs function is important for the maintenance of professional conduct in a law enforcement agency. The integrity of the agency depends on the personal integrity and discipline of each employee. To a large degree, the public image of the agency is determined by the quality of the internal affairs function in responding to allegations of misconduct by the agency or its employees."

The specific standards and rights guaranteed by the law enforcement officers bill of rights are designed to improve and enhance the quality of the internal affairs function, including: The right to be informed by a written statement of the charges brought against an officer; The right to be free from undue coercion or harassment during an investigation; and The right to counsel during an investigation.

The provisions of this bill will take effect at the end of the second full legislative term of each State. After such time, a law enforcement officer whose rights have been abridged may sue in state court for pecuniary and other damages, including full reinstatement.

Although the bill provides certain procedural rights, it gives States considerable discretion in implementing these safeguards, including the flexibility to provide for summary punishment and emergency suspensions of law enforcement officers.

It is also important to note what the bill does not do. The bill explicitly provides that the standards and protections governing internal investigations shall not apply to investigations of criminal misconduct by law enforcement officers. As a result, criminal investigations of law enforcement officers would not be affected by this bill.

Moreover, the protections in this bill do not apply to minor violations of departmental rules or regulations, nor to actions taken on the basis of an officers' employment-related performance.

I would also like to acknowledge the hard work of several of the Nation's leading law enforcement organizations

on this important bill. The real leaders behind this effort—and they have been the leaders since the police officers' bill of rights won passage in the Senate in 1991—are the Fraternal Order of Police, the National Association of Police Organizations, the International Brotherhood of Police Officers, and the National Troopers Coalition. No one should be confused about where the force behind the law enforcement officers bill of rights lies—it lies with these organizations. •

• Mr. LEAHY. Mr. President, I join as an original sponsor of the Law Enforcement Officers' Bill of Rights Act of 1997.

Our State and local law enforcement officers are the backbone of our nation's anticrime, antigang and antidrug efforts. Together with local prosecutors and an energized public, our local law enforcement officers are responsible for much of the good news we have had over the last few years, as crime rates across the country have declined. The President's community policing program, which is assisting local law enforcement to add 100,000 additional cops on the beat, is paying off. More police officers are patrolling our neighborhoods, towns, cities, and rural areas, and it is helping communities across America.

On the first day of this Congress, I joined in sponsoring S. 15 with the minority leader and other Democrats. With that bill, we hope to take the next step against crime by redoubling our efforts against youth gangs and drugs. State and local officers are essential participants in these initiatives.

When I was privileged to serve as state's attorney for Chittenden County, I had the good fortune to work alongside a number of dedicated State and local officers. These public servants literally put their lives on the line each day to protect all of us. Since coming to the Senate, I have tried to do my best to support local law enforcement. Their responsibilities require split-second judgment, dedication, timing, and guts. We hold the men and women who serve in law enforcement to the highest standards because public respect for the law is so critical.

This legislation is an effort to spell out what the Constitution's guarantee of due process means to law enforcement officers subjected to administrative disciplinary proceedings. It is our hope that these standards will serve the public by helping specify fair, prompt procedures for determining whether a rule relating to an officer's service has been violated. This measure should make unnecessary prolonged litigation challenging whether disciplinary procedures were sufficient to satisfy officers' constitutional rights to due process. These kinds of fair processes should provide the public and law

enforcement officers with confidence in both the outcome of such administrative proceedings as well as the fairness of the procedures used to determine questions of possible misconduct.

When a law enforcement officer engages in wrongdoing, it reflects badly on all law enforcement. No one is harder on those few officers who go bad than fellow law enforcement officers. This bill will do nothing to protect those wrongdoers. Officers under criminal investigation or those subject to immediate suspension because there is probable cause to believe they committed a felony or pose a threat to public safety will find no comfort here. This bill should not affect criminal investigations, nor for that matter, civil lawsuits against officers.

The procedural protections provided by this bill attach in administrative proceedings. They provide officers with a minimum threshold of due process protection by requiring that the officers be informed of charges against them, have a right to a fair hearing, be allowed representation, be advised of the results of internal investigations and be afforded an opportunity to review and comment on adverse actions.

I hope that we can make progress on this bill and look forward to working with representatives of State and local government, police chiefs, sheriffs, troopers, and other interested parties as we proceed. As a cosponsor, I will work to improve this bill. For example, I would like to be able to provide greater privacy protection for officers' medical records as well as for the financial information already included in the bill. At the same time, I remain concerned that disciplinary actions be open to the public. When a hearing is justifiably closed, its results should nonetheless be made public. I am confident that we can work out such details in a consensus, bipartisan effort.

I am convinced that it is worth the effort to reassure those who serve us that we respect their rights and reputations. While no one is above the law, everyone is entitled to be treated fairly.●

By Mrs. BOXER (for herself, Mr. KENNEDY and Mr. HOLLINGS):

S. 349. A bill to amend the Public Health Service Act to provide for expanding, intensifying, and coordinating activities of the National Heart, Lung, and Blood Institute with respect to heart attack, stroke, and other cardiovascular diseases in women; to the Committee on Labor and Human Resources.

THE WOMEN'S CARDIOVASCULAR DISEASES RESEARCH AND PREVENTION ACT

● Mrs. BOXER. Mr. President, today I am introducing the Women's Cardiovascular Diseases Research and Prevention Act, a bill to expand and intensify research and educational outreach programs regarding cardiovascular dis-

eases in women. This bill will aid our Nation's doctors and scientists in developing a coordinated and comprehensive strategy for fighting this terrible disease.

Cardiovascular disease is the No. 1 killer of women in the United States. Over 479,000 women die from cardiovascular disease each year and 1 in 5 women has some form of the disease. Research is our best hope for averting this national tragedy which strikes so many of our grandmothers, mothers, aunts, and daughters.

The Women's Cardiovascular Diseases Research and Prevention Act authorizes \$140 million to the National Heart, Lung and Blood Institute to expand and intensify research, prevention, and educational outreach programs for heart attack, stroke, and other cardiovascular diseases in women.

This bill will educate women and doctors about the dire threat heart disease poses to women's health. It will help train doctors to better recognize symptoms of cardiovascular disease which are unique to women. It would also teach women about risk factors, such as smoking, obesity, and physical inactivity, which greatly increase their chances of developing coronary heart disease.

For years, women have been underrepresented in studies conducted on heart disease and stroke. Models and tests for detection have been conducted largely on men. This legislation will help ensure that women are well represented in future heart and stroke research studies.

The Women's Cardiovascular Diseases Research and Prevention Act is being introduced in the House today by Representative MAXINE WATERS.

I urge my colleagues to commit to combating cardiovascular disease by supporting this bill.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 349

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Cardiovascular Diseases Research and Prevention Act".

SEC. 2. FINDINGS.

The Congress finds as follows with respect to women in the United States:

- (1) Heart attack, stroke, and other cardiovascular diseases are the leading causes of death in women.
- (2) Heart attacks and strokes are leading causes of disability in women.
- (3) Cardiovascular diseases claim the lives of more women each year than does cancer. Each year more than 479,000 females die of cardiovascular diseases, while approximately 246,000 females die of cancer. Heart attack

kills more than 5 times as many females as breast cancer. Stroke kills twice as many females as breast cancer.

(4) One in 5 females has some form of cardiovascular disease. Of females under age 65, each year more than 20,000 die of heart attacks. In the case of African-American women, from ages 35 to 74 the death rate from heart attacks is approximately twice that of white women and 3 times that of women of other races.

(5) Each year since 1984, cardiovascular diseases have claimed the lives of more females than males. In 1992, of the number of individuals who died of such diseases, 52 percent were females and 48 percent were males.

(6) The clinical course of cardiovascular diseases is different in women than in men, and current diagnostic capabilities are less accurate in women than in men. Once a woman develops a cardiovascular disease, she is more likely than a man to have continuing health problems, and she is more likely to die.

(7) Of women who have had a heart attack, approximately 44 percent die within 1 year of the attack. Of men who have had such an attack, 27 percent die within 1 year. At older ages, women who have had a heart attack are twice as likely as men to die from the attack within a few weeks. Women are more likely than men to have a stroke during the first 6 years following a heart attack. More than 60 percent of women who suffer a stroke die within 8 years. Long-term survivorship of stroke is better in women than in men. Of individuals who die from a stroke, each year approximately 61 percent are females. In 1992, 87,124 females died from strokes. Women have unrecognized heart attacks more frequently than men. Of women who died suddenly from heart attack, 63 percent had no previous evidence of disease.

(8) More than half of the annual health care costs that are related to cardiovascular diseases are attributable to the occurrence of the diseases in women, each year costing this Nation hundreds of billions of dollars in health care costs and lost productivity.

SEC. 3. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING HEART ATTACK, STROKE, AND OTHER CARDIOVASCULAR DISEASES IN WOMEN.

Subpart 2 of part C of title IV of the Public Health Service Act (42 U.S.C. 285b et seq.) is amended by inserting after section 424 the following:

"HEART ATTACK, STROKE, AND OTHER CARDIOVASCULAR DISEASES IN WOMEN

"SEC. 424A. (a) IN GENERAL.—The Director of the Institute shall expand, intensify, and coordinate research and related activities of the Institute with respect to heart attack, stroke, and other cardiovascular diseases in women.

"(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate activities under subsection (a) with similar activities conducted by the other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to heart attack, stroke, and other cardiovascular diseases in women.

"(c) CERTAIN PROGRAMS.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the causes of, and to develop methods for preventing, cardiovascular diseases in women. Activities under such subsection shall include conducting and supporting the following:

"(1) Research to determine the reasons underlying the prevalence of heart attack,

stroke, and other cardiovascular diseases in women, including African-American women and other women who are members of racial or ethnic minority groups.

"(2) Basic research concerning the etiology and causes of cardiovascular diseases in women.

"(3) Epidemiological studies to address the frequency and natural history of such diseases and the differences among men and women, and among racial and ethnic groups, with respect to such diseases.

"(4) The development of safe, efficient, and cost-effective diagnostic approaches to evaluating women with suspected ischemic heart disease.

"(5) Clinical research for the development and evaluation of new treatments for women, including rehabilitation.

"(6) Studies to gain a better understanding of methods of preventing cardiovascular diseases in women, including applications of effective methods for the control of blood pressure, lipids, and obesity.

"(7) Information and education programs for patients and health care providers on risk factors associated with heart attack, stroke, and other cardiovascular diseases in women, and on the importance of the prevention or control of such risk factors and timely referral with appropriate diagnosis and treatment. Such programs shall include information and education on health-related behaviors that can improve such important risk factors as smoking, obesity, high blood cholesterol, and lack of exercise.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated \$140,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 to 2000. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriations that is available for such purpose."•

By Mr. THURMOND:

S. 350. A bill to authorize payment of special annuities to surviving spouses of deceased members of the uniformed services who are ineligible for a survivor annuity under transition laws relating to the establishment of the Survivor Benefit Plan under chapter 73 of title 10, United States Code; to the Committee on Armed Services.

ANNUITY LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce a bill that would authorize a modest annuity of \$165 a month for a group of surviving spouses of former service members who died before March 21, 1974, and were retired from active duty. The bill would also apply to surviving spouses of service members retired from the Reserves between September 21, 1972 and October 1, 1978.

At the time these service members retired from the military, there was no plan to take care of these widows as we have today. The same concerns that moved the Congress to authorize the current survivor benefit plan are true for this group of forgotten widows. The beneficiaries of this plan are all seniors now. For some, this small annuity will make the difference between a life of dependency and a life of dignity and

independence. Let us correct this situation and take care of the service members spouses who had the courage to serve their Nation in the troubling time periods of the Korean and Vietnam wars.

I have tried to get this legislation passed in previous Congresses only to be frustrated by budget rules and CBO scoring.

Mr. President, we must not allow bureaucratic rules to stand in our way because, one fact remains true. The longer we delay, the fewer of these widows there are to benefit from the legislation. I do not want to be remembered as one who forgot this group who have become known as the Forgotten Widows. I urge my colleagues to join me and support this important legislation.

By Mrs. MURRAY:

S. 351. A bill to provide for teacher technology training; to the Committee on Labor and Human Resources.

THE TEACHER TECHNOLOGY TRAINING ACT OF 1997

Mrs. MURRAY. Mr. President, technology is changing our world. It affects the way we communicate, the way we conduct commerce, and the way our children learn in school. Young people today are in the midst of a technology explosion that has really opened up limitless possibilities in the classroom. In order for our students to tap into this potential and be prepared for the 21st century, they have to learn how to use technology. But all too often today, teachers are expected to incorporate technology into their instruction without being given the training to do so.

A recent study by the Office of Technology Assessment shows that a majority of teachers feel they need additional training in order to adequately use a personal computer. In fact, school districts across the country spend less than 15 percent of their technology budgets on teacher training. Hardware, software, access to the Internet are only helpful to the educational process if teachers are equipped with the knowledge to use that technology.

That is why I am introducing today the Teacher Technology Training Act of 1997, which will add technology to the areas of professional development and teacher training on the Elementary and Secondary Schools Act of 1994. My legislation will require States to incorporate technology requirements in teacher training content and performance standards. School districts and local educational agencies that receive Federal funding for professional development have to include technology classes in their programs. In addition, institutions of higher education will be strongly encouraged to include technology in their education programs.

There are two parts to providing students access to technology: putting

computers into the schools, and training teachers in how to use them. Last year, I authored and we passed two amendments that would allow surplus computers from Government agencies to be made available to educational institutions across this country. In addition, Congress provided the E-rate in the telecommunications legislation we passed last year that will provide Internet connections to schools at discounted rates. I also fought for a five-fold increase in appropriations for new technology and classrooms.

These are steps toward ensuring that all schools have computer technology. Now I want to work to make sure that teachers are properly trained to use these computers.

Recently, the Department of Education reported that only one in five of our Nation's teachers currently use computers in our classrooms—one out of five. Since technology training today focuses primarily on the mechanics of operating equipment, not on integrating technology into the curriculum, this is not surprising.

Washington State, my home State, has become a State synonymous with Microsoft, Boeing, and thousands of other leading high-technology companies. The Information Technology Association of America reports that these information technology companies are short 190,000 employees today. These are employees dependent upon a technology curriculum and trained teachers in our schools.

When I toured my State of Washington last week, I was astounded by the advances made within our classrooms. At Seattle's Nathan Hale High School, I saw a science class that utilized computers to track weather patterns and chart the effects on their region. They have created their own web pages and are able to hourly tap into the National Weather Service. Their final grade was then based on their ability to produce an accurate 5-day weather forecast.

I also saw physically challenged students openly communicate with their teacher through enhanced computer technology. In the city of Bellingham, I spoke with a student-teacher who was concerned that when she and others went out into the field, there would be teachers who did not know how to use the technology. She felt that many of the students are far ahead of the teachers in their ability to use technology. In Grays Harbor County, I toured a facility supported by a public-private partnership. This lifelong learning center takes surplus computers and teaches students how to repair them and maintain their technology. The possibilities for learning are limitless.

Having technology available for instructors does not directly change teaching or learning. What matters is how successfully teachers can incorporate technology into their classrooms.

We know that technology is only one tool the teachers need to be effective in their jobs. My bill seeks to promote technology training. I have received support for this legislation from the National Education Association, the Washington Software and Digital Alliance, University Presidents and Deans, Washington School Principals, and many corporate and educational institutions.

Mr. President, as a former preschool teacher, a parent education instructor, a former school board member, and as a parent, I know the needs of students and teachers have changed dramatically in recent years. My own children have benefitted from the use of technology in their classrooms. But a school full of computers is useless if teachers don't have the necessary training to show students how to use them.

As a member of the Labor and Human Resources Committee, I intend to fight for this legislation in Congress. I urge my colleagues' support for this bill so that we can provide teachers with the tools necessary to teach in today's changing classrooms and tomorrow's working force.

By Mr. BIDEN:

S. 352. A bill to require the United States Sentencing Commission to amend the Federal sentencing guidelines to provide an enhanced penalty for follow-on bombings; to the Committee on the Judiciary.

THE POLICE AND RESCUE SQUAD PROTECTION ACT

• Mr. BIDEN. Mr. President, the bombings in Atlanta over the past 2 months—the second of which occurred last weekend—have marked the opening of yet another unfortunate new chapter in the escalation of domestic terrorism.

While the magnitude of these attacks were far less than the World Trade Center and Oklahoma City bombings, they were noteworthy for the pernicious technique this criminal—or criminal organization—used:

First, the terrorists attracted police, firefighters, and rescue workers to the scene by detonating one bomb,

And then, with the unmistakable intent to injure the public safety officers responding to the first explosion, detonated a second explosive device in the parking lot outside the location of the first bombing.

According to the experts, this tactic is one imported from the hotbed of terrorist activity—the Middle East.

On two occasions last year, follow-on bombs were detonated in Southern Lebanon. One almost killed Israel's northern commander—Maj. Gen. Amiram Levine.

Then this January, only 6 days before the Atlanta abortion clinic bombing, two bombs were detonated only 10 minutes apart near a bus station in Tel

Aviv. Thirteen people were injured, including one police officer who came to the scene in response to the first bomb and was wounded by the second.

Last month in Atlanta, the first bomb injured no one, but the "follow-on" bomb wounded seven people, including two FBI agents, one ATF agent, and two local firefighters. Experts have stated that many more rescue workers would have been injured had the force of the second blast not been deflected by a car, which just happened to be parked in the right spot.

Five people were injured by the bomb that exploded in an Atlanta restaurant last Friday, but fortunately, the police found the second bomb and detonated it with a remote-controlled robot.

Of course, all terrorist acts are horrific. But this follow-on bombing tactic is especially heinous because the technique is designed to do one thing—kill the police, firefighters, paramedics, and all the other professionals who unhesitatingly rush to the scene of a bombing to provide aid to the wounded.

Mark my words: now that this tactic has been employed in Atlanta, covered by the national media, and probably communicated across the country through the Internet, some other deviant, sick, individual, somewhere in the United States, will do it again. Mark my words.

I believe that those who employ tactics aimed exclusively at injuring the police, firefighters, and other public safety officers should be punished above and beyond whatever punishment they would receive for destroying property or causing injury.

That is why today I am introducing the Police and Rescue Squad Protection Act.

The bill will increase the punishment for anyone who plants a follow-on bomb with the intent to injure public safety officers. And it clearly states that anyone who detonates, or attempts to detonate one bomb right after another bomb in the same location is acting with the criminal intent to injure law enforcement and emergency medical officials.

In my view, this legislation will send a strong message that we will not tolerate the grotesque tactics that we've seen in the streets of Tel Aviv, and now, in Atlanta.

More importantly, this legislation honors those who, without fear or hesitation, put themselves in jeopardy at a time of crisis.

If this bill deters one terrorist from planting a follow-on bomb and saves the life of one police officer, firefighter, ambulance driver, or paramedic that rushes to the scene of a crime, then it will have been well worth the energy expended to enact it.

I hope my colleagues will join me in this effort.●

By Mr. KENNEDY:

S. 353. A bill to amend title XXVII of the Public Health Service Act and part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to establish standards for protection of consumers in managed care plans and other health plans; to the Committee on Labor and Human Resources.

THE HEALTH INSURANCE BILL OF RIGHTS OF 1997

Mr. KENNEDY. Mr. President, I am introducing today the Health Insurance Bill of Rights Act to provide quality assurance and patient protection. Companion legislation is being introduced in the House of Representatives by Congressman DINGELL, Congressman WAXMAN, Congressman CARDIN, and others.

This legislation is a needed response to the surging growth of managed care and the rapid changes taking place in the health insurance market—changes that too often put insurance industry profits ahead of patients' health needs.

Managed care has mushroomed over the past decade. In 1987, only 13 percent of privately insured Americans were enrolled in HMOs. Today, that figure is 75 percent. At its best, managed care offers the opportunity to achieve both greater efficiency and higher quality in health care. In too many cases, however, the pressure for profits leads to lesser care—not better care. Too many managed care firms and other insurance companies have decided that the shortest route to higher profits and a competitive edge is by denying patients the care they need and deserve.

Some of the most flagrant abuses by insurance plans have been documented in recent months:

Just last year Congress enacted legislation to block drive-by deliveries and prevent new mothers and their babies from being evicted from hospitals in less than 48 hours.

Breast cancer patients are being forced to undergo mastectomies on an outpatient basis, when sound medical advice requires a reasonable hospital stay.

Children are being permanently injured or even losing their lives because their parents are forced to drive past the nearest emergency room to a more distant hospital because it has the contract with their health plan.

Doctors are being subjected to gag rules that keep them from giving their patients their best medical advice.

People with rare and dangerous diseases are being denied access to specialists to treat their conditions.

Patients can't get needed pharmaceutical drugs, because the particular drug they need is not on the list of drugs approved for coverage by their insurance plan; sometimes such lists are developed and administered by pharmaceutical companies bent on selling their own drugs and blocking competition.

Patients are being misdiagnosed, sometimes with fatal results, because

insurance plans cut corners on diagnostic tests.

Victims of cancer and other serious diseases are being denied participation in quality clinical trials offering the only hope of cure for otherwise incurable conditions.

Children afflicted with serious, chronic conditions are being denied access to the medical centers with the only available expertise to treat their conditions effectively.

These abuses are not typical of most insurance companies. But they are common enough that an overwhelming 80 percent of Americans now believe that their quality of care is often compromised by their insurance plan to save money. It is time to deal with these festering problems. Good business practices can improve health care, but health care must be more than just another business.

The legislation we are introducing today establishes basic standards for insurance plans in six specific areas:

First, access to care, including specialty care, emergency care, and clinical trials.

Second, standards for quality of care.

Third, information that must be available to patients.

Fourth, expeditious and fair appeal procedures when physicians or patients disagree with plan decisions.

Fifth, protection of the doctor-patient relationship, by banning gag rules and objectionable compensation arrangements.

Sixth, a requirement that plan guidelines may not override good medical practice.

These steps will not eliminate every abuse that occurs in the insurance industry, but they will go a long way to addressing the major problems patients confront.

At the most basic level, the legislation establishes a right to needed care. A patient facing a health emergency should not be required to go to a distant emergency room, or to obtain prior authorization for care. Someone suffering from a serious condition requiring specialty care should not be denied that care because an insurance company thinks it is too expensive. Someone with a condition that cannot be addressed by conventional therapies should have a reasonable opportunity to participate in a quality clinical trial that offers the hope of effective treatment. Plans should set up clear, fair, and timely appeal procedures for cases in which the plan fails to fulfill its obligations.

Historically, patients have relied on their personal physician to be the best source of impartial advice on needed care. This legislation maintains that critical role by prohibiting plans from restricting doctor-patient communications or from establishing compensation plans that bribe or penalize doctors into representing the plan's inter-

est at the expense of their patients' health.

To maintain and improve quality of care, all managed care plans will be required to set up a separate unit dedicated to quality, and to collect data to verify that the plan, in fact, is providing care that meets objective quality standards.

Patients will be guaranteed full information about plan coverage, appeal rights, access to primary care doctors and other specialists, and other needed information. Plans will be required to collect and make available standardized data for consumers to compare plans.

These provisions add up to a health insurance bill of rights that will protect millions of Americans.

I look forward to working with a broad range of physician, patient, and industry groups as Congress considers this legislation. Action is essential and overdue to provide these needed protections. The bottom line in health care must be patient needs, not industry profits. Concerned citizens in all parts of the country are demanding action, and Congress owes them a response.

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:

S. 353

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 "Health Insurance Bill of Rights Act of 1997".

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

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to the Public Health Service Act.

"PART C—PATIENT PROTECTION STANDARDS
"Sec. 2770. Notice; additional definitions.

"SUBPART 1—ACCESS TO CARE

"Sec. 2771. Access to emergency care.

"Sec. 2772. Access to specialty care.

"Sec. 2773. Continuity of care.

"Sec. 2774. Choice of provider.

"Sec. 2775. Coverage for individuals participating in approved clinical trials.

"Sec. 2776. Access to needed prescription drugs.

"SUBPART 2—QUALITY ASSURANCE

"Sec. 2777. Internal quality assurance program.

"Sec. 2778. Collection of standardized data.

"Sec. 2779. Process for selection of providers.

"Sec. 2780. Drug utilization program.

"Sec. 2781. Standards for utilization review activities.

"SUBPART 3—PATIENT INFORMATION

"Sec. 2782. Patient information.

"Sec. 2783. Protection of patient confidentiality.

"SUBPART 4—GRIEVANCE PROCEDURES

"Sec. 2784. Establishment of complaint and appeals process.

"Sec. 2785. Provisions relating to appeals of utilization review determinations and similar determinations.

"Sec. 2786. State health insurance ombudsmen.

"SUBPART 5—PROTECTION OF PROVIDERS AGAINST INTERFERENCE WITH MEDICAL COMMUNICATIONS AND IMPROPER INCENTIVE ARRANGEMENTS

"Sec. 2787. Prohibition of interference with certain medical communications.

"Sec. 2788. Prohibition against transfer of indemnification or improper incentive arrangements.

"SUBPART 6—PROMOTING GOOD MEDICAL PRACTICE AND PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

"Sec. 2789. Promoting good medical practice.

Sec. 3. Amendments to the Employee Retirement Income Security Act of 1974.

"Sec. 713. Patient protection standards.

SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) **PATIENT PROTECTION STANDARDS.**—Title XXVII of the Public Health Service Act is amended—

(1) by redesignating part C as part D, and
(2) by inserting after part B the following new part:

"PART C—PATIENT PROTECTION STANDARDS

"SEC. 2770. NOTICE; ADDITIONAL DEFINITIONS.

"(a) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this part as if such section applied to such issuer and such issuer were a group health plan.

"(b) ADDITIONAL DEFINITIONS.—For purposes of this part:

"(1) NONPARTICIPATING PHYSICIAN OR PROVIDER.—The term "nonparticipating physician or provider" means, with respect to health care items and services furnished to an enrollee under health insurance coverage, a physician or provider that is not a participating physician or provider for such services.

"(2) PARTICIPATING PHYSICIAN OR PROVIDER.—The term "participating physician or provider" means, with respect to health care items and services furnished to an enrollee under health insurance coverage, a physician or provider that furnishes such items and services under a contract or other arrangement with the health insurance issuer offering such coverage.

"SUBPART 1—ACCESS TO CARE

"SEC. 2771. ACCESS TO EMERGENCY CARE.

"(a) PROHIBITION OF CERTAIN RESTRICTIONS ON COVERAGE OF EMERGENCY SERVICES.

"(1) IN GENERAL.—If health insurance coverage provides any benefits with respect to emergency services (as defined in paragraph (2)(B)), the health insurance issuer offering such coverage shall cover emergency services furnished to an enrollee—

"(A) without the need for any prior authorization determination,

"(B) subject to paragraph (3), whether or not the physician or provider furnishing such services is a participating physician or provider with respect to such services, and

"(C) subject to paragraph (3), without regard to any other term or condition of such coverage (other than an exclusion of benefits, or an affiliation or waiting period, permitted under section 2701).

“(2) EMERGENCY SERVICES; EMERGENCY MEDICAL CONDITION.—For purposes of this section—

“(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON.—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, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

“(i) 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,

“(ii) serious impairment to bodily functions, or

“(iii) serious dysfunction of any bodily organ or part.

“(B) EMERGENCY SERVICES.—The term ‘emergency services’ means—

“(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department, to evaluate an emergency medical condition (as defined in subparagraph (A)), and

“(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of the Social Security Act to stabilize the patient.

“(C) TRAUMA AND BURN CENTERS.—The provisions of clause (ii) of subparagraph (B) apply to a trauma or burn center, in a hospital, that—

“(i) is designated by the State, a regional authority of the State, or by the designee of the State, or

“(ii) is in a State that has not made such designations and meets medically recognized national standards.

“(3) APPLICATION OF NETWORK RESTRICTION PERMITTED IN CERTAIN CASES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), if a health insurance issuer in relation to health insurance coverage denies, limits, or otherwise differentiates in coverage or payment for benefits other than emergency services on the basis that the physician or provider of such services is a nonparticipating physician or provider, the issuer may deny, limit, or differentiate in coverage or payment for emergency services on such basis.

“(B) NETWORK RESTRICTIONS NOT PERMITTED IN CERTAIN EXCEPTIONAL CASES.—The denial or limitation of, or differentiation in, coverage or payment of benefits for emergency services under subparagraph (A) shall not apply in the following cases:

“(i) CIRCUMSTANCES BEYOND CONTROL OF ENROLLEE.—The enrollee is unable to go to a participating hospital for such services due to circumstances beyond the control of the enrollee (as determined consistent with guidelines and subparagraph (C)).

“(ii) LIKELIHOOD OF AN ADVERSE HEALTH CONSEQUENCE BASED ON LAYPERSON’S JUDGMENT.—A prudent layperson possessing an average knowledge of health and medicine could reasonably believe that, under the circumstances and consistent with guidelines, the time required to go to a participating hospital for such services could result in any of the adverse health consequences described in a clause of subsection (a)(2)(A).

“(iii) PHYSICIAN REFERRAL.—A participating physician or other person authorized by the plan refers the enrollee to an emer-

gency department of a hospital and does not specify an emergency department of a hospital that is a participating hospital with respect to such services.

“(C) APPLICATION OF ‘BEYOND CONTROL’ STANDARDS.—For purposes of applying subparagraph (B)(i), receipt of emergency services from a nonparticipating hospital shall be treated under the guidelines as being ‘due to circumstances beyond the control of the enrollee’ if any of the following conditions are met:

“(i) UNCONSCIOUS.—The enrollee was unconscious or in an otherwise altered mental state at the time of initiation of the services.

“(ii) AMBULANCE DELIVERY.—The enrollee was transported by an ambulance or other emergency vehicle directed by a person other than the enrollee to the nonparticipating hospital in which the services were provided.

“(iii) NATURAL DISASTER.—A natural disaster or civil disturbance prevented the enrollee from presenting to a participating hospital for the provision of such services.

“(iv) NO GOOD FAITH EFFORT TO INFORM OF CHANGE IN PARTICIPATION DURING A CONTRACT YEAR.—The status of the hospital changed from a participating hospital to a nonparticipating hospital with respect to emergency services during a contract year and the plan or issuer failed to make a good faith effort to notify the enrollee involved of such change.

“(v) OTHER CONDITIONS.—There were other factors (such as those identified in guidelines) that prevented the enrollee from controlling selection of the hospital in which the services were provided.

“(b) ASSURING COORDINATED COVERAGE OF MAINTENANCE CARE AND POST-STABILIZATION CARE.—

“(1) IN GENERAL.—In the case of an enrollee who is covered under health insurance coverage issued by a health insurance issuer and who has received emergency services pursuant to a screening evaluation conducted (or supervised) by a treating physician at a hospital that is a nonparticipating provider with respect to emergency services, if—

“(A) pursuant to such evaluation, the physician identifies post-stabilization care (as defined in paragraph (3)(B)) that is required by the enrollee,

“(B) the coverage provides benefits with respect to the care so identified and the coverage requires (but for this subsection) an affirmative prior authorization determination as a condition of coverage of such care, and

“(C) the treating physician (or another individual acting on behalf of such physician) initiates, not later than 30 minutes after the time the treating physician determines that the condition of the enrollee is stabilized, a good faith effort to contact a physician or other person authorized by the issuer (by telephone or other means) to obtain an affirmative prior authorization determination with respect to the care, then, without regard to terms and conditions specified in paragraph (2) the issuer shall cover maintenance care (as defined in paragraph (3)(A)) furnished to the enrollee during the period specified in paragraph (4) and shall cover post-stabilization care furnished to the enrollee during the period beginning under paragraph (5) and ending under paragraph (6).

“(2) TERMS AND CONDITIONS WAIVED.—The terms and conditions (of coverage) described in this paragraph that are waived under paragraph (1) are as follows:

“(A) The need for any prior authorization determination.

“(B) Any limitation on coverage based on whether or not the physician or provider furnishing the care is a participating physician or provider with respect to such care.

“(C) Any other term or condition of the coverage (other than an exclusion of benefits, or an affiliation or waiting period, permitted under section 2701 and other than a requirement relating to medical necessity for coverage of benefits).

“(3) MAINTENANCE CARE AND POST-STABILIZATION CARE DEFINED.—In this subsection:

“(A) MAINTENANCE CARE.—The term ‘maintenance care’ means, with respect to an individual who is stabilized after provision of emergency services, medically necessary items and services (other than emergency services) that are required by the individual to ensure that the individual remains stabilized during the period described in paragraph (4).

“(B) POST-STABILIZATION CARE.—The term ‘post-stabilization care’ means, with respect to an individual who is determined to be stable pursuant to a medical screening examination or who is stabilized after provision of emergency services, medically necessary items and services (other than emergency services and other than maintenance care) that are required by the individual.

“(4) PERIOD OF REQUIRED COVERAGE OF MAINTENANCE CARE.—The period of required coverage of maintenance care of an individual under this subsection begins at the time of the request (or the initiation of the good faith effort to make the request) under paragraph (1)(C) and ends when—

“(A) the individual is discharged from the hospital;

“(B) a physician (designated by the issuer involved) and with privileges at the hospital involved arrives at the emergency department of the hospital and assumes responsibility with respect to the treatment of the individual; or

“(C) the treating physician and the issuer agree to another arrangement with respect to the care of the individual.

“(5) WHEN POST-STABILIZATION CARE REQUIRED TO BE COVERED.—

“(A) WHEN TREATING PHYSICIAN UNABLE TO COMMUNICATE REQUEST.—If the treating physician or other individual makes the good faith effort to request authorization under paragraph (1)(C) but is unable to communicate the request directly with an authorized person referred to in such paragraph within 30 minutes after the time of initiating such effort, then post-stabilization care is required to be covered under this subsection beginning at the end of such 30-minute period.

“(B) WHEN ABLE TO COMMUNICATE REQUEST, AND NO TIMELY RESPONSE.—

“(1) IN GENERAL.—If the treating physician or other individual under paragraph (1)(C) is able to communicate the request within the 30-minute period described in subparagraph (A), the post-stabilization care requested is required to be covered under this subsection beginning 30 minutes after the time when the issuer receives the request unless a person authorized by the plan or issuer involved communicates (or makes a good faith effort to communicate) a denial of the request for the prior authorization determination within 30 minutes of the time when the issuer receives the request and the treating physician does not request under clause (i) to communicate directly with an authorized physician concerning the denial.

“(i) REQUEST FOR DIRECT PHYSICIAN-TO-PHYSICIAN COMMUNICATION CONCERNING

DENIAL.—If a denial of a request is communicated under clause (i), the treating physician may request to communicate respecting the denial directly with a physician who is authorized by the issuer to deny or affirm such a denial.

“(C) WHEN NO TIMELY RESPONSE TO REQUEST FOR PHYSICIAN-TO-PHYSICIAN COMMUNICATION.—If a request for physician-to-physician communication is made under subparagraph (B)(ii), the post-stabilization care requested is required to be covered under this subsection beginning 30 minutes after the time when the issuer receives the request from a treating physician unless a physician, who is authorized by the issuer to reverse or affirm the initial denial of the care, communicates (or makes a good faith effort to communicate) directly with the treating physician within such 30-minute period.

“(D) DISAGREEMENTS OVER POST-STABILIZATION CARE.—If, after a direct physician-to-physician communication under subparagraph (C), the denial of the request for the post-stabilization care is not reversed and the treating physician communicates to the issuer involved a disagreement with such decision, the post-stabilization care requested is required to be covered under this subsection beginning as follows:

“(i) DELAY TO ALLOW FOR PROMPT ARRIVAL OF PHYSICIAN ASSUMING RESPONSIBILITY.—If the issuer communicates that a physician (designated by the plan or issuer) with privileges at the hospital involved will arrive promptly (as determined under guidelines) at the emergency department of the hospital in order to assume responsibility with respect to the treatment of the enrollee involved, the required coverage of the post-stabilization care begins after the passage of such time period as would allow the prompt arrival of such a physician.

“(ii) OTHER CASES.—If the issuer does not so communicate, the required coverage of the post-stabilization care begins immediately.

“(6) NO REQUIREMENT OF COVERAGE OF POST-STABILIZATION CARE IF ALTERNATE PLAN OF TREATMENT.—

“(A) IN GENERAL.—Coverage of post-stabilization care is not required under this subsection with respect to an individual when—

“(i) subject to subparagraph (B), a physician (designated by the plan or issuer involved) and with privileges at the hospital involved arrives at the emergency department of the hospital and assumes responsibility with respect to the treatment of the individual; or

“(ii) the treating physician and the issuer agree to another arrangement with respect to the post-stabilization care (such as an appropriate transfer of the individual involved to another facility or an appointment for timely followup treatment for the individual).

“(B) SPECIAL RULE WHERE ONCE CARE INITIATED.—Required coverage of requested post-stabilization care shall not end by reason of subparagraph (A)(i) during an episode of care (as determined by guidelines) if the treating physician initiated such care (consistent with a previous paragraph) before the arrival of a physician described in such subparagraph.

“(7) CONSTRUCTION.—Nothing in this subsection shall be construed as—

“(A) preventing an issuer from authorizing coverage of maintenance care or post-stabilization care in advance or at any time; or

“(B) preventing a treating physician or other individual described in paragraph

(1)(C) and an issuer from agreeing to modify any of the time periods specified in paragraphs (5) as it relates to cases involving such persons.

“(c) LIMITS ON COST-SHARING FOR SERVICES FURNISHED IN EMERGENCY DEPARTMENTS.—If health insurance coverage provides any benefits with respect to emergency services, the health insurance issuer offering such coverage may impose cost sharing with respect to such services only if the following conditions are met:

“(1) LIMITATIONS ON COST-SHARING DIFFERENTIAL FOR NONPARTICIPATING PROVIDERS.—

“(A) NO DIFFERENTIAL FOR CERTAIN SERVICES.—In the case of services furnished under the circumstances described in clause (i), (ii), or (iii) of subsection (a)(3)(B) (relating to circumstances beyond the control of the enrollee, the likelihood of an adverse health consequence based on layperson's judgment, and physician referral), the cost-sharing for such services provided by a nonparticipating provider or physician does not exceed the cost-sharing for such services provided by a participating provider or physician.

“(B) ONLY REASONABLE DIFFERENTIAL FOR OTHER SERVICES.—In the case of other emergency services, any differential by which the cost-sharing for such services provided by a nonparticipating provider or physician exceeds the cost-sharing for such services provided by a participating provider or physician is reasonable (as determined under guidelines).

“(2) ONLY REASONABLE DIFFERENTIAL BETWEEN EMERGENCY SERVICES AND OTHER SERVICES.—Any differential by which the cost-sharing for services furnished in an emergency department exceeds the cost-sharing for such services furnished in another setting is reasonable (as determined under guidelines).

“(3) CONSTRUCTION.—Nothing in paragraph (1)(B) or (2) shall be construed as authorizing guidelines other than guidelines that establish maximum cost-sharing differentials.

“(d) INFORMATION ON ACCESS TO EMERGENCY SERVICES.—A health insurance issuer, to the extent a health insurance issuer offers health insurance coverage, shall provide education to enrollees on—

“(1) coverage of emergency services (as defined in subsection (a)(2)(B)) by the issuer in accordance with the provisions of this section,

“(2) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent,

“(3) any cost sharing applicable to emergency services,

“(4) the process and procedures of the plan for obtaining emergency services, and

“(5) the locations of—

“(A) emergency departments, and

“(B) other settings,

in which participating physicians and hospitals provide emergency services and post-stabilization care.

“(e) GENERAL DEFINITIONS.—For purposes of this section:

“(1) COST SHARING.—The term ‘cost sharing’ means any deductible, coinsurance amount, copayment or other out-of-pocket payment (other than premiums or enrollment fees) that a health insurance issuer offering health insurance issuer imposes on enrollees with respect to the coverage of benefits.

“(2) GOOD FAITH EFFORT.—The term ‘good faith effort’ has the meaning given such term in guidelines and requires such appro-

prate documentation as is specified under such guidelines.

“(3) GUIDELINES.—The term ‘guidelines’ means guidelines established by the Secretary after consultation with an advisory panel that includes individuals representing emergency physicians, health insurance issuers, including at least one health maintenance organization, hospitals, employers, the States, and consumers.

“(4) PRIOR AUTHORIZATION DETERMINATION.—The term ‘prior authorization determination’ means, with respect to items and services for which coverage may be provided under health insurance coverage, a determination (before the provision of the items and services and as a condition of coverage of the items and services under the coverage) of whether or not such items and services will be covered under the coverage.

“(5) STABILIZE.—The term ‘to stabilize’ means, with respect to an emergency medical condition, to provide (in complying with section 1867 of the Social Security Act) such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from the facility.

“(6) STABILIZED.—The term ‘stabilized’ means, with respect to an emergency medical condition, that no material deterioration of the condition is likely, within reasonable medical probability, to result from or occur before an individual can be transferred from the facility, in compliance with the requirements of section 1867 of the Social Security Act.

“(7) TREATING PHYSICIAN.—The term ‘treating physician’ includes a treating health care professional who is licensed under State law to provide emergency services other than under the supervision of a physician.

“SEC. 2772. ACCESS TO SPECIALTY CARE.

“(a) OBSTETRICAL AND GYNECOLOGICAL CARE.—

“(1) IN GENERAL.—If a health insurance issuer, in connection with the provision of health insurance coverage, requires or provides for an enrollee to designate a participating primary care provider—

“(A) the issuer shall permit a female enrollee to designate a physician who specializes in obstetrics and gynecology as the enrollee's primary care provider; and

“(B) if such an enrollee has not designated such a provider as a primary care provider, the issuer—

“(i) may not require prior authorization by the enrollee's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating physician who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

“(ii) may treat the ordering of other gynecological care by such a participating physician as the prior authorization of the primary care provider with respect to such care under the coverage.

“(2) CONSTRUCTION.—Nothing in paragraph (1)(B)(i) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

“(b) SPECIALTY CARE.—

“(1) REFERRAL TO SPECIALTY CARE FOR ENROLLEES REQUIRING TREATMENT BY SPECIALISTS.—

“(A) IN GENERAL.—In the case of an enrollee who is covered under health insurance

coverage offered by a health insurance issuer and who has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, the issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

“(B) SPECIALIST DEFINED.—For purposes of this subsection, the term ‘specialist’ means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

“(C) CARE UNDER REFERRAL.—Care provided pursuant to such referral under subparagraph (A) shall be—

“(i) pursuant to a treatment plan (if any) developed by the specialist and approved by the issuer, in consultation with the designated primary care provider or specialist and the enrollee (or the enrollee’s designee), and

“(ii) in accordance with applicable quality assurance and utilization review standards of the issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an enrollee from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

“(D) REFERRALS TO PARTICIPATING PROVIDERS.—An issuer is not required under subparagraph (A) to provide for a referral to a specialist that is not a participating provider, unless the issuer does not have an appropriate specialist that is available and accessible to treat the enrollee’s condition and that is a participating provider with respect to such treatment.

“(E) TREATMENT OF NONPARTICIPATING PROVIDERS.—If an issuer refers an enrollee to a nonparticipating specialist, services provided pursuant to the approved treatment plan shall be provided at no additional cost to the enrollee beyond what the enrollee would otherwise pay for services received by such a specialist that is a participating provider.

“(2) SPECIALISTS AS PRIMARY CARE PROVIDERS.—

“(A) IN GENERAL.—A health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which a new enrollee upon enrollment, or an enrollee upon diagnosis, with an ongoing special condition (as defined in subparagraph (C)) may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the enrollee’s primary and specialty care. If such an enrollee’s care would most appropriately be coordinated by such a specialist, the issuer shall refer the enrollee to such specialist.

“(B) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the enrollee without a referral from the enrollee’s primary care provider and may authorize such referrals, procedures, tests, and other medical services as the enrollee’s primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

“(C) ONGOING SPECIAL CONDITION DEFINED.—In this paragraph, the term ‘special condition’ means a condition or disease that—

“(i) is life-threatening, degenerative, or disabling, and

“(ii) requires specialized medical care over a prolonged period of time.

“(D) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) shall apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

“(3) STANDING REFERRALS.—

“(A) IN GENERAL.—A health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an enrollee who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the issuer, or the primary care provider in consultation with the medical director of the issuer and the specialist (if any), determines that such a standing referral is appropriate, the issuer shall make such a referral to such a specialist.

“(C) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) shall apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

“SEC. 2773. CONTINUITY OF CARE.

“(a) IN GENERAL.—If a contract between a health insurance issuer, in connection with the provision of health insurance coverage, and a health care provider is terminated (other than by the issuer for failure to meet applicable quality standards or for fraud) and an enrollee is undergoing a course of treatment from the provider at the time of such termination, the issuer shall—

“(1) notify the enrollee of such termination, and

“(2) subject to subsection (c), permit the enrollee to continue the course of treatment with the provider during a transitional period (provided under subsection (b)).

“(b) TRANSITIONAL PERIOD.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend for at least—

“(A) 60 days from the date of the notice to the enrollee of the provider’s termination in the case of a primary care provider, or

“(B) 120 days from such date in the case of another provider.

“(2) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and shall include reasonable follow-up care related to the institutionalization and shall also include institutional care scheduled prior to the date of termination of the provider status.

“(3) PREGNANCY.—If—

“(A) an enrollee has entered the second trimester of pregnancy at the time of a provider’s termination of participation, and

“(B) the provider was treating the pregnancy before date of the termination, the transitional period under this subsection with respect to provider’s treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

“(4) TERMINAL ILLNESS.—

“(A) IN GENERAL.—If—

“(i) an enrollee was determined to be terminally ill (as defined in subparagraph (B)) at the time of a provider’s termination of participation, and

“(ii) the provider was treating the terminal illness before the date of termination, the transitional period under this subsection shall extend for the remainder of the enrollee’s life for care directly related to the treatment of the terminal illness.

“(B) DEFINITION.—In subparagraph (A), an enrollee is considered to be ‘terminally ill’ if the enrollee has a medical prognosis that the enrollee’s life expectancy is 6 months or less.

“(c) PERMISSIBLE TERMS AND CONDITIONS.—An issuer may condition coverage of continued treatment by a provider under subsection (a)(2) upon the provider agreeing to the following terms and conditions:

“(1) The provider agrees to continue to accept reimbursement from the issuer at the rates applicable prior to the start of the transitional period as payment in full.

“(2) The provider agrees to adhere to the issuer’s quality assurance standards and to provide to the issuer necessary medical information related to the care provided.

“(3) The provider agrees otherwise to adhere to the issuer’s policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan approved by the issuer.

“SEC. 2774. CHOICE OF PROVIDER.

“(a) PRIMARY CARE.—A health insurance issuer that offers health insurance coverage shall permit each enrollee to receive primary care from any participating primary care provider who is available to accept such enrollee.

“(b) SPECIALISTS.—

“(1) IN GENERAL.—Subject to paragraph (2), a health insurance issuer that offers health insurance coverage shall permit each enrollee to receive medically necessary specialty care, pursuant to appropriate referral procedures, from any qualified participating health care provider who is available to accept such enrollee for such care.

“(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the issuer clearly informs enrollees of the limitations on choice of participating providers with respect to such care.

“(c) LIST OF PARTICIPATING PROVIDERS.—For disclosure of information about participating primary care and specialty care providers, see section 2782(b)(3).

“SEC. 2775. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

“(a) IN GENERAL.—If a health insurance issuer offers health insurance coverage to a qualified enrollee (as defined in subsection (b)), the issuer—

“(1) may not deny the enrollee participation in the clinical trial referred to in subsection (b)(2);

“(2) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

“(3) may not discriminate against the enrollee on the basis of the enrollee’s participation in such trial.

“(b) QUALIFIED ENROLLEE DEFINED.—For purposes of subsection (a), the term ‘qualified enrollee’ means an enrollee under health insurance coverage who meets the following conditions:

“(1) The enrollee has a life-threatening or serious illness for which no standard treatment is effective.

“(2) The enrollee is eligible to participate in an approved clinical trial with respect to treatment of such illness.

“(3) The enrollee and the referring physician conclude that the enrollee’s participation in such trial would be appropriate.

“(4) The enrollee’s participation in the trial offers potential for significant clinical benefit for the enrollee.

“(c) PAYMENT.—

"(1) IN GENERAL.—Under this section an issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

"(2) PAYMENT RATE.—In the case of covered items and services provided by—

"(A) a participating provider, the payment rate shall be at the agreed upon rate, or

"(B) a nonparticipating provider, the payment rate shall be at the rate the issuer would normally pay for comparable services under subparagraph (A).

"(d) APPROVED CLINICAL TRIAL DEFINED.—In this section, the term 'approved clinical trial' means a clinical research study or clinical investigation approved and funded by one or more of the following:

"(1) The National Institutes of Health.

"(2) A cooperative group or center of the National Institutes of Health.

"(3) The Department of Veterans Affairs.

"(4) The Department of Defense.

"SEC. 2776. ACCESS TO NEEDED PRESCRIPTION DRUGS.

"If a health insurance issuer offers health insurance coverage that provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the issuer shall—

"(1) ensure participation of participating physicians in the development of the formulary;

"(2) disclose the nature of the formulary restrictions; and

"(3) provide for exceptions from the formulary limitation when medical necessity, as determined by the enrollee's physician subject to reasonable review by the issuer, dictates that a non-formulary alternative is indicated.

"SUBPART 2—QUALITY ASSURANCE

"SEC. 2777. INTERNAL QUALITY ASSURANCE PROGRAM.

"(a) REQUIREMENT.—A health insurance issuer that offers health insurance coverage shall establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

"(b) PROGRAM REQUIREMENTS.—The requirements of this subsection for a quality improvement program of an issuer are as follows:

"(1) ADMINISTRATION.—The issuer has a separate identifiable unit with responsibility for administration of the program.

"(2) WRITTEN PLAN.—The issuer has a written plan for the program that is updated annually and that specifies at least the following:

"(A) The activities to be conducted.

"(B) The organizational structure.

"(C) The duties of the medical director.

"(D) Criteria and procedures for the assessment of quality.

"(E) Systems for ongoing and focussed evaluation activities.

"(3) SYSTEMATIC REVIEW.—The program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

"(4) QUALITY CRITERIA.—The program—

"(A) uses criteria that are based on performance and clinical outcomes where feasible and appropriate, and

"(B) includes criteria that are directed specifically at meeting the needs of at-risk populations and enrollees with chronic or severe illnesses.

"(5) SYSTEM FOR REPORTING.—The program has procedures for reporting of possible qual-

ity concerns by providers and enrollees and for remedial actions to correct quality problems, including written procedures for responding to concerns and taking appropriate corrective action.

"(6) DATA COLLECTION.—The program provides for the collection of systematic, scientifically based data to be used in the measure of quality.

"(c) DEEMING.—For purposes of subsection (a), the requirements of subsection (b) are deemed to be met with respect to a health insurance issuer if the issuer—

"(1) is a qualified health maintenance organization (as defined in section 1310(d)), or

"(2) is accredited by a national accreditation organization that is certified by the Secretary.

"SEC. 2778. COLLECTION OF STANDARDIZED DATA.

"(a) IN GENERAL.—A health insurance issuer that offers health insurance coverage shall collect uniform quality data that include—

"(1) a minimum uniform data set described in subsection (b), and

"(2) additional data that are consistent with the requirements of a nationally recognized body identified by the Secretary.

"(b) MINIMUM UNIFORM DATA SET.—The Secretary shall specify the data required to be included in the minimum uniform data set under subsection (a)(1) and the standard format for such data. Such data shall include at least—

"(1) aggregate utilization data;

"(2) data on the demographic characteristics of enrollees;

"(3) data on disease-specific and age-specific mortality rates of enrollees;

"(4) data on enrollee satisfaction, including data on enrollee disenrollment and grievances; and

"(5) data on quality indicators.

"(c) AVAILABILITY.—A summary of the data collected under subsection (a) shall be disclosed under section 2782(b)(4).

"SEC. 2779. PROCESS FOR SELECTION OF PROVIDERS.

"(a) IN GENERAL.—A health insurance issuer that offers health insurance coverage shall have a written process for the selection of participating health care professionals, including minimum professional requirements.

"(b) VERIFICATION OF BACKGROUND.—Such process shall include verification of a health care provider's license, a history of suspension or revocation, and liability claim history.

"(c) RESTRICTION.—Such process shall not use a high-risk patient base or location of a provider in an area with residents with poorer health status as a basis for excluding providers from participation.

"SEC. 2780. DRUG UTILIZATION PROGRAM.

"A health insurance issuer that provides health insurance coverage that includes benefits for prescription drugs shall establish and maintain a drug utilization program which—

"(1) encourages appropriate use of prescription drugs by enrollees and providers,

"(2) monitors illnesses arising from improper drug use or from adverse drug reactions or interactions, and

"(3) takes appropriate action to reduce the incidence of improper drug use and adverse drug reactions and interactions.

"SEC. 2781. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES.

"(a) COMPLIANCE WITH REQUIREMENTS.—

"(1) IN GENERAL.—A health insurance issuer shall conduct utilization review activities in connection with the provision of

health insurance coverage only in accordance with a utilization review program that meets the requirements of this section.

"(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

"(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms 'utilization review' and 'utilization review activities' mean procedures used to monitor or evaluate the clinical necessity, appropriateness, efficiency, or efficiency of health care services, procedures or settings, and includes ambulatory review, prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

"(b) WRITTEN POLICIES AND CRITERIA.—

"(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

"(2) USE OF WRITTEN CRITERIA.—

"(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians.

"(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

"(C) NO ADVERSE DETERMINATION BASED ON REFUSAL TO OBSERVE SERVICE.—Such a program shall not base an adverse determination on—

"(1) a refusal to consent to observing any health care service, or

"(ii) lack of reasonable access to a health care provider's medical or treatment records, unless the program has provided reasonable notice to the enrollee.

"(c) CONDUCT OF PROGRAM ACTIVITIES.—

"(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions. In this subsection, the term 'health care professional' means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

"(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

"(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and, to the extent required, who have received appropriate training in the conduct of such activities under the program.

"(B) PEER REVIEW OF ADVERSE CLINICAL DETERMINATIONS.—Such a program shall provide that clinical peers shall evaluate the clinical appropriateness of adverse clinical determinations. In this subsection, the term 'clinical peer' means, with respect to a review, a physician or other health care professional who holds a non-restricted license in a State and in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review.

"(C) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall

not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that—

“(1) provides incentives, direct or indirect, for such persons to make inappropriate review decisions, or

“(ii) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

“(D) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who provides health care services to an enrollee to perform utilization review activities in connection with the health care services being provided to the enrollee.

“(3) TOLL-FREE TELEPHONE NUMBER.—Such a program shall provide that—

“(A) appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone not less than 40 hours per week during normal business hours to discuss patient care and allow response to telephone requests, and

“(B) the program has a telephone system capable of accepting, recording, or providing instruction to incoming telephone calls during other than normal business hours and to ensure response to accepted or recorded messages not less than one business day after the date on which the call was received.

“(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an enrollee more frequently than is reasonably required to assess whether the services under review are medically necessary.

“(5) LIMITATION ON INFORMATION REQUESTS.—Under such a program, information shall be required to be provided by health care providers only to the extent it is necessary to perform the utilization review activity involved.

“(d) DEADLINE FOR DETERMINATIONS.—

“(1) PRIOR AUTHORIZATION SERVICES.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the enrollee or the enrollee's designee and the enrollee's health care provider by telephone and in writing, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 3 business days after the date of receipt of the necessary information respecting such determination.

“(2) CONTINUED CARE.—In the case of a utilization review activity involving authorization for continued or extended health care services, or additional services for an enrollee undergoing a course of continued treatment prescribed by a health care provider, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the enrollee or the enrollee's designee and the enrollee's health care provider by telephone and in writing, within 1 business day of the date of receipt of the necessary information respecting such determination. Such notice shall include, with respect to continued or extended health care services, the number of extended services approved, the new total of approved services, the date of onset of services, and the next review date.

“(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care

services previously provided, the utilization review program shall make a the determination concerning such services, and provide notice of the determination to the enrollee or the enrollee's designee and the enrollee's health care provider by telephone and in writing, within 30 days of the date of receipt of the necessary information respecting such determination.

“(4) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see sections 2771(a)(1)(A) and 2771(a)(2)(A), respectively.

“(e) NOTICE OF ADVERSE DETERMINATIONS.—

“(1) IN GENERAL.—Notice of an adverse determination under a utilization review program (including as a result of a reconsideration under subsection (f)) shall be in writing and shall include—

“(A) the reasons for the determination (including the clinical rationale);

“(B) instructions on how to initiate an appeal under section 2785; and

“(C) notice of the availability, upon request of the enrollee (or the enrollee's designee) of the clinical review criteria relied upon to make such determination.

“(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, person making the determination in order to make a decision on such an appeal.

“(f) RECONSIDERATION.—

“(1) AT REQUEST OF PROVIDER.—In the event that a utilization review program provides for an adverse determination without attempting to discuss such matter with the enrollee's health care provider who specifically recommended the health care service, procedure, or treatment under review, such health care provider shall have the opportunity to request a reconsideration of the adverse determination under this subsection.

“(2) TIMING AND CONDUCT.—Except in cases of retrospective reviews, such reconsideration shall occur as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 1 business day after the date of receipt of the request and shall be conducted by the enrollee's health care provider and the health care professional making the initial determination or a designated qualified health care professional if the original professional cannot be available.

“(3) NOTICE.—In the event that the adverse determination is upheld after reconsideration, the utilization review program shall provide notice as required under subsection (e).

“(4) CONSTRUCTION.—Nothing in this subsection shall preclude the enrollee from initiating an appeal from an adverse determination under section 2785.

“SUBPART 3—PATIENT INFORMATION

“SEC. 2782. PATIENT INFORMATION.

“(a) DISCLOSURE REQUIREMENT.—A health insurance issuer in connection with the provision of health insurance coverage shall submit to the applicable State authority, provide to enrollees (and prospective enrollees), and make available to the public, in writing the information described in subsection (b).

“(b) INFORMATION.—The information described in this subsection includes the following:

“(1) DESCRIPTION OF COVERAGE.—A description of coverage provisions, including health

care benefits, benefit limits, coverage exclusions, coverage of emergency care, and the definition of medical necessity used in determining whether benefits will be covered.

“(2) ENROLLEE FINANCIAL RESPONSIBILITY.—An explanation of an enrollee's financial responsibility for payment of premiums, coinsurance, copayments, deductibles, and any other charges, including limits on such responsibility and responsibility for health care services that are provided by nonparticipating providers or are furnished without meeting applicable utilization review requirements.

“(3) INFORMATION ON PROVIDERS.—A description—

“(A) of procedures for enrollees to select, access, and change participating primary and specialty providers,

“(B) of the rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers, and

“(C) in the case of each participating provider, of the name, address, and telephone number of the provider, the credentials of the provider, and the provider's availability to accept new patients.

“(4) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and rights to reconsideration and appeal) under any utilization review program under section 2781 or any drug utilization program under section 2780, as well as a summary of the minimum uniform data collected under section 2778(a)(1).

“(5) GRIEVANCE PROCEDURES.—Information on the grievance procedures under sections 2784 and 2785, including information describing—

“(A) the grievance procedures used by the issuer to process and resolve disputes between the issuer and an enrollee (including method for filing grievances and the time frames and circumstances for acting on grievances);

“(B) written complaints and appeals, by type of complaint or appeal, received by the issuer relating to its coverage; and

“(C) the disposition of such complaints and appeals.

“(6) PAYMENT METHODOLOGY.—A description of the types of methodologies the issuer uses to reimburse different classes of providers and, as specified by the Secretary, the financial arrangements or contractual provisions with providers.

“(7) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by enrollees in seeking information or authorization for treatment.

“(8) ASSURING COMMUNICATIONS WITH ENROLLEES.—A description of how the issuer addresses the needs of non-English-speaking enrollees and others with special communications needs, including the provision of information described in this subsection to such enrollees.

“(c) FORM OF DISCLOSURE.—

“(1) UNIFORMITY.—Information required to be disclosed under this section shall be provided in accordance with uniform, national reporting standards specified by the Secretary, after consultation with applicable State authorities, so that prospective enrollees may compare the attributes of different issuers and coverage offered within an area.

“(2) INFORMATION INTO HANDBOOK.—Nothing in this section shall be construed as preventing an issuer from making the information under subsection (b) available to enrollees through an enrollee handbook or similar publication.

“(3) UPDATING.—The information on participating providers described in subsection (a)(3)(C) shall be updated not less frequently than monthly. Nothing in this section shall prevent an issuer from changing or updating other information made available under this section.

“(4) CONSTRUCTION.—Nothing in subsection (a)(6) shall be construed as requiring disclosure of individual contracts or financial arrangements between an issuer and any provider. Nothing in this subsection shall be construed as preventing the information described in subsection (a)(3)(C) from being provided in a separate document.

“SEC. 2783. PROTECTION OF PATIENT CONFIDENTIALITY.

“A health insurance issuer that offers health insurance coverage shall establish appropriate policies and procedures to ensure that all applicable State and Federal laws to protect the confidentiality of individually identifiable medical information are followed.

“SUBPART 4—GRIEVANCE PROCEDURES

“SEC. 2784. ESTABLISHMENT OF COMPLAINT AND APPEALS PROCESS.

“(a) ESTABLISHMENT OF SYSTEM.—A health insurance issuer in connection with the provision of health insurance coverage shall establish and maintain a system to provide for the presentation and resolution of complaints and appeals brought by enrollees, designees of enrollees, or by health care providers acting on behalf of an enrollee and with the enrollee's consent, regarding any aspect of the issuer's health care services, including complaints regarding quality of care, choice and accessibility of providers, network adequacy, and compliance with the requirements of this part.

“(b) COMPONENTS OF SYSTEM.—Such system shall include the following components (which shall be consistent with applicable requirements of section 2785):

“(1) Written notification to all enrollees and providers of the telephone numbers and business addresses of the issuer employees responsible for resolution of complaints and appeals.

“(2) A system to record and document, over a period of at least 3 years, all complaints and appeals made and their status.

“(3) The availability of an enrollee services representative to assist enrollees, as requested, with complaint and appeal procedures.

“(4) Establishment of a specified deadline (not to exceed 30 days after the date of receipt of a complaint or appeal) for the issuer to respond to complaints or appeals.

“(5) A process describing how complaints and appeals are processed and resolved.

“(6) Procedures for follow-up action, including the methods to inform the complainant or appellant of the resolution of a complaint or appeal.

“(7) Notification to the continuous quality improvement program under section 2777(a) of all complaints and appeals relating to quality of care.

“(c) NO REPRISAL FOR EXERCISE OF RIGHTS.—A health insurance issuer shall not take any action with respect to an enrollee or a health care provider that is intended to penalize the enrollee, a designee of the enrollee, or the health care provider for discussing or exercising any rights provided under this part (including the filing of a complaint or appeal pursuant to this section).

“SEC. 2785. PROVISIONS RELATING TO APPEALS OF UTILIZATION REVIEW DETERMINATIONS AND SIMILAR DETERMINATIONS.

“(a) RIGHT OF APPEAL.—

“(1) IN GENERAL.—An enrollee in health insurance coverage offered by a health insurance issuer, and any provider acting on behalf of the enrollee with the enrollee's consent, may appeal any appealable decision (as defined in paragraph (2)) under the procedures described in this section and (to the extent applicable) section 2784. Such enrollees and providers shall be provided with a written explanation of the appeal process upon the conclusion of each stage in the appeal process and as provided in section 2782(a)(5).

“(2) APPEALABLE DECISION DEFINED.—In this section, the term ‘appealable decision’ means any of the following:

“(A) An adverse determination under a utilization review program under section 2781.

“(B) Denial of access to specialty and other care under section 2772.

“(C) Denial of continuation of care under section 2773.

“(D) Denial of a choice of provider under section 2774.

“(E) Denial of coverage of routine patient costs in connection with an approval clinical trial under section 2775.

“(F) Denial of access to needed drugs under section 2776(3).

“(G) The imposition of a limitation that is prohibited under section 2789.

“(H) Denial of payment for a benefit.

“(b) INFORMAL INTERNAL APPEAL PROCESS (STAGE 1).—

“(1) IN GENERAL.—Each issuer shall establish and maintain an informal internal appeal process (an appeal under such process in this section referred to as a ‘stage 1 appeal’) under which any enrollee or any provider acting on behalf of an enrollee with the enrollee's consent, who is dissatisfied with any appealable decision has the opportunity to discuss and appeal that decision with the medical director of the issuer or the health care professional who made the decision.

“(2) TIMING.—All appeals under this paragraph shall be concluded as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 72 hours in the case of appeals from decisions regarding urgent care and 5 days in the case of all other appeals.

“(3) FURTHER REVIEW.—If the appeal is not resolved to the satisfaction of the enrollee at this level by the deadline under paragraph (2), the issuer shall provide the enrollee and provider (if any) with a written explanation of the decision and the right to proceed to a stage 2 appeal under subsection (c).

“(c) FORMAL INTERNAL APPEAL PROCESS (STAGE 2).—

“(1) IN GENERAL.—Each issuer shall establish and maintain a formal internal appeal process (an appeal under such process in this section referred to as a ‘stage 2 appeal’) under which any enrollee or provider acting on behalf of an enrollee with the enrollee's consent, who is dissatisfied with the results of a stage 1 appeal has the opportunity to appeal the results before a panel that includes a physician or other health care professional (or professionals) selected by the issuer who have not been involved in the appealable decision at issue in the appeal.

“(2) AVAILABILITY OF CLINICAL PEERS.—The panel under subparagraph (A) shall have available either clinical peers (as defined in section 2781(c)(2)(B)) who have not been involved in the appealable decision at issue in the appeal or others who are mutually

agreed upon by the parties. If requested by the enrollee or enrollee's provider with the enrollee's consent, such a peer shall participate in the panel's review of the case.

“(3) TIMELY ACKNOWLEDGMENT.—The issuer shall acknowledge the enrollee or provider involved of the receipt of a stage 2 appeals upon receipt of the appeal.

“(4) DEADLINE.—

“(A) IN GENERAL.—The issuer shall conclude each stage 2 appeal as soon as possible after the date of the receipt of the appeal in accordance with medical exigencies of the case involved, but in no event later than 72 hours in the case of appeals from decisions regarding urgent care and (except as provided in subparagraph (B)) 20 business days in the case of all other appeals.

“(B) EXTENSION.—An issuer may extend the deadline for an appeal that does not relate to a decision regarding urgent or emergency care up to an additional 20 business days where it can demonstrate to the applicable State authority reasonable cause for the delay beyond its control and where it provides, within the original deadline under subparagraph (A), a written progress report and explanation for the delay to such authority and to the enrollee and provider involved.

“(5) NOTICE.—If an issuer denies a stage 2 appeal, the issuer shall provide the enrollee and provider involved with written notification of the denial and the reasons therefore, together with a written notification of rights to any further appeal.

“(d) DIRECT USE OF FURTHER APPEALS.—In the event that the issuer fails to comply with any of the deadlines for completion of appeals under this section or in the event that the issuer for any reason expressly waives its rights to an internal review of an appeal under subsection (b) or (c), the enrollee and provider involved shall be relieved of any obligation to complete the appeal stage involved and may, at the enrollee's or provider's option, proceed directly to seek further appeal through any applicable external appeals process.

“(e) EXTERNAL APPEAL PROCESS IN CASE OF USE OF EXPERIMENTAL TREATMENT TO SAVE LIFE OF PATIENT.—

“(1) IN GENERAL.—In the case of an enrollee described in paragraph (2), the health insurance issuer shall provide for an external independent review process respecting the issuer's decision not to cover the experimental therapy (described in paragraph (2)(B)(i)).

“(2) ENROLLEE DESCRIBED.—An enrollee described in this paragraph is an enrollee who meets the following requirements:

“(A) The enrollee has a terminal condition that is highly likely to cause death within 2 years.

“(B) The enrollee's physician certifies that—

“(i) there is no standard, medically appropriate therapy for successfully treating such terminal condition, but

“(ii) based on medical and scientific evidence, there is a drug, device, procedure, or therapy (in this section referred to as the ‘experimental therapy’) that is more beneficial than any available standard therapy.

“(C) The issuer has denied coverage of the experimental therapy on the basis that it is experimental or investigational.

“(3) DESCRIPTION OF PROCESS AND DECISION.—The process under this subsection shall provide for a determination on a timely basis, by a panel of independent, impartial physicians appointed by a State authority or by an independent review organization certified by the State, of the medical appropriateness of the experimental therapy. The

decision of the panel shall be in writing and shall be accompanied by an explanation of the basis for the decision. A decision of the panel that is favorable to the enrollee may not be appealed by the issuer except in the case of misrepresentation of a material fact by the enrollee or a provider. A decision of the panel that is not favorable to the enrollee may be appealed by the enrollee.

"(4) ISSUER COVERING PROCESS COSTS.—Direct costs of the process under this subsection shall be borne by the issuer, and not by the enrollee.

"(f) OTHER INDEPENDENT OR EXTERNAL REVIEW.—

"(1) IN GENERAL.—In the case of appealable decision described in paragraph (2), the health insurance issuer shall provide for—

"(A) an external review process for such decisions consistent with the requirements of paragraph (3), or

"(B) an internal independent review process for such decisions consistent with the requirements of paragraph (4).

"(2) APPEALABLE DECISION DESCRIBED.—An appealable decision described in this paragraph is decision that does not involve a decision described in subsection (e)(1) but involves—

"(A) a claim for benefits involving costs over a significant threshold, or

"(B) assuring access to care for a serious condition.

"(3) EXTERNAL REVIEW PROCESS.—The requirements of this subsection for an external review process are as follows:

"(A) The process is established under State law and provides for review of decisions on stage 2 appeals by an independent review organization certified by the State.

"(B) If the process provides that decisions in such process are not binding on issuers, the process must provide for public methods of disclosing frequency of noncompliance with such decisions and for sanctioning issuers that consistently refuse to take appropriate actions in response to such decisions.

"(C) Results of all such reviews under the process are disclosed to the public, along with at least annual disclosure of information on issuer compliance.

"(D) All decisions under the process shall be in writing and shall be accompanied by an explanation of the basis for the decision.

"(E) Direct costs of the process shall be borne by the issuer, and not by the enrollee.

"(F) The issuer shall provide for publication at least annually of information on the numbers of appeals and decisions considered under the process.

"(4) INTERNAL, INDEPENDENT REVIEW PROCESS.—The requirements of this subsection for an internal, independent review process are as follows:

"(A)(i) The process must provide for the participation of persons who are independent of the issuer in conducting reviews and (ii) the Secretary must have found (through reviews conducted no less often than biannually) the process to be fair and impartial.

"(B) If the process provides that decisions in such process are not binding on issuers, the process must provide for public methods of disclosing frequency of noncompliance with such decisions and for sanctioning issuers that consistently refuse to take appropriate actions in response to such decisions.

"(C) Results of all such reviews under the process are disclosed to the public, along with at least annual disclosure of information on issuer compliance.

"(D) All decisions under the process shall be in writing and shall be accompanied by an explanation of the basis for the decision.

"(E) Direct costs of the process shall be borne by the issuer, and not by the enrollee.

"(F) The issuer shall provide for publication at least annually of information on the numbers of appeals and decisions considered under the process.

The Secretary may delegate the authority under subparagraph (A)(ii) to applicable State authorities.

"(5) OVERSIGHT.—The Secretary (and applicable State authorities in the case of delegation of Secretarial authority under paragraph (4)) shall conduct reviews not less often than biannually of the fairness and impartiality issuers who desired to use an internal, independent review process described in paragraph (4) to satisfy the requirement of paragraph (1).

"(6) REPORT.—The Secretary shall provide for periodic reports on the effectiveness of this subsection in assuring fair and impartial reviews of stage 2 appeals. Such reports shall include information on the number of stage 2 appeals (and decisions), for each of the types of review processes described in paragraph (2), by health insurance coverage.

"(g) CONSTRUCTION.—Nothing in this part shall be construed as removing any legal rights of enrollees under State or Federal law, including the right to file judicial actions to enforce rights.

"SEC. 2786. STATE HEALTH INSURANCE OMBUDSMEN.

"(a) IN GENERAL.—Each State that obtains a grant under subsection (c) shall establish and maintain a Health Insurance Ombudsman. Such Ombudsman may be part of a independent, nonprofit entity, and shall be responsible for at least the following:

"(1) To assist consumers in the State in choosing among health insurance coverage.

"(2) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurance issuers in regard to such coverage and in the filing of complaints and appeals regarding determinations under such coverage.

"(3) To investigate instances of poor quality or improper treatment of enrollees by health insurance issuers in regard to such coverage and to bring such instances to the attention of the applicable State authority.

"(b) FEDERAL ROLE.—In the case of any State that does not establish and maintain such an Ombudsman under subsection (a), the Secretary shall provide for the establishment and maintenance of such an official as will carry out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such amounts as may be necessary to provide for grants to States to establish and operate Health Insurance Ombudsmen under subsection (a) or for the operation of Ombudsmen under subsection (b).

"SUBPART 5—PROTECTION OF PROVIDERS AGAINST INTERFERENCE WITH MEDICAL COMMUNICATIONS AND IMPROPER INCENTIVE ARRANGEMENTS

"SEC. 2787. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

"(a) PROHIBITION.—

"(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a health insurance issuer in relation to health insurance coverage (including any partnership,

association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with the provider's patient.

"(2) NULLIFICATION.—Any contract provision or agreement described in paragraph (1) shall be null and void.

"(3) PROHIBITION ON PROVISIONS.—A contract or agreement described in paragraph (1) shall not include a provision that violates paragraph (1).

"(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a health insurance issuer to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

"(2) to permit a health care provider to misrepresent the scope of benefits covered under health insurance coverage or to otherwise require a health insurance issuer to reimburse providers for benefits not covered under the coverage.

"(c) PROTECTION OF RELIGIOUS OR MORAL EXPRESSION.—

"(1) IN GENERAL.—An health insurance issuer may fully advise—

"(A) licensed or certified health care providers at the time of their employment with the issuer or at any time during such employment, or

"(B) enrollees at the time of their enrollment for health insurance coverage with the issuer or at any time during which such enrollees have such coverage,

of the coverage's limitations on providing particular medical services (including limitations on referrals for care provided outside of the coverage) based on the religious or moral convictions of the issuer.

"(2) HEALTH CARE PROVIDERS.—Nothing in this section shall be construed to alter the rights and duties of a health care provider to determine what medical communications are appropriate with respect to each patient, except as provided for in subsection (a).

"(d) MEDICAL COMMUNICATION DEFINED.—

"(1) IN GENERAL.—In this section, the term 'medical communication' means any communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) with respect to—

"(A) the patient's health status, medical care, or treatment options;

"(B) any utilization review requirements that may affect treatment options for the patient; or

"(C) any financial incentives that may affect the treatment of the patient.

"(2) MISREPRESENTATION.—The term 'medical communication' does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

"SEC. 2788. PROHIBITION AGAINST TRANSFER OF INDEMNIFICATION OR IMPROPER INCENTIVE ARRANGEMENTS.

"(a) PROHIBITION OF TRANSFER OF INDEMNIFICATION.—No contract or agreement between a health insurance issuer (or any agent acting on behalf of such an issuer) and a health care provider shall contain any clause purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the issuer or agent (as opposed to the provider).

"(b) PROHIBITION OF IMPROPER PHYSICIAN INCENTIVE PLANS.—

"(1) IN GENERAL.—A health insurance issuer offering health insurance coverage may not operate any physician incentive plan unless the following requirements are met:

"(A) No specific payment is made directly or indirectly by the issuer to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the issuer.

"(B) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the issuer—

"(i) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the issuer who receive services from the physician or the physician group, and

"(ii) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the issuer to determine the degree of access of such individuals to services provided by the issuer and satisfaction with the quality of such services.

"(C) The issuer provides the applicable State authority (or the Secretary if such authority is implementing this section) with descriptive information regarding the plan, sufficient to permit the authority (or the Secretary in such case) to determine whether the plan is in compliance with the requirements of this paragraph.

"(2) PHYSICIAN INCENTIVE PLAN DEFINED.—In this section, the term 'physician incentive plan' means any compensation arrangement between a health insurance issuer and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the issuer.

"(3) APPLICATION OF MEDICARE RULES.—The Secretary shall provide for the application of rules under this subsection that are substantially the same as the rules established to carry out section 1876(i)(8) of the Social Security Act.

"SUBPART 6—PROMOTING GOOD MEDICAL PRACTICE AND PROTECTING THE DOCTOR-PATIENT RELATIONSHIP**"SEC. 2789. PROMOTING GOOD MEDICAL PRACTICE.**

"(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—A health insurance issuer, in connection with the provision of health insurance coverage, may not impose limits on the manner in which particular services are delivered if the services are medically necessary and appropriate for the treatment or diagnosis of an illness or injury to the extent that such treatment or diagnosis is otherwise a covered benefit.

"(b) MEDICAL NECESSITY AND APPROPRIATENESS DEFINED.—In subsection (a), the term 'medically necessary and appropriate' means, with respect to a service or benefit, a service or benefit determined by the treating physician participating in the health insurance coverage after consultation with the enrollee, to be required, accordingly to generally accepted principles of good medical practice, for the diagnosis or direct care and treatment of an illness or injury of the enrollee.

"(c) CONSTRUCTION.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the coverage."

(b) APPLICATION TO GROUP HEALTH INSURANCE COVERAGE.—

(1) Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2706. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under part C with respect to group health insurance coverage it offers.

"(b) ASSURING COORDINATION.—The Secretary of Health and Human Services and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding between such Secretaries, that—

"(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under part C (and this section) and section 713 of the Employee Retirement Income Security Act of 1974 are administered so as to have the same effect at all times; and

"(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement."

(2) Section 2792 of such Act (42 U.S.C. 300gg-92) is amended by inserting "and section 2706(b)" after "of 1996".

(c) APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2751 the following new section:

"SEC. 2752. PATIENT PROTECTION STANDARDS.

"Each health insurance issuer shall comply with patient protection requirements under part C with respect to individual health insurance coverage it offers."

(d) MODIFICATION OF PREEMPTION STANDARDS.—

(1) GROUP HEALTH INSURANCE COVERAGE.—Section 2723 of such Act (42 U.S.C. 300gg-23) is amended—

(A) in subsection (a)(1), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULES IN CASE OF PATIENT PROTECTION REQUIREMENTS.—Subject to subsection (a)(2), the provisions of section 2706 and part C (other than section 2771), and part D insofar as it applies to section 2706 or part C, shall not prevent a State from establishing requirements relating to the subject matter of such provisions (other than section 2771) so long as such requirements are at least as stringent on health insurance issuers as the requirements imposed under such provisions. Subsection (a) shall apply to

the provisions of section 2771 (and section 2706 insofar as it relates to such section)."

(2) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Section 2762 of such Act (42 U.S.C. 300gg-62), as added by section 605(b)(3)(B) of Public Law 104-204, is amended—

(A) in subsection (a), by striking "subsection (b), nothing in this part" and inserting "subsections (b) and (c)", and

(B) by adding at the end the following new subsection:

"(c) SPECIAL RULES IN CASE OF MANAGED CARE REQUIREMENTS.—Subject to subsection (b), the provisions of section 2752 and part C (other than section 2771), and part D insofar as it applies to section 2752 or part C, shall not prevent a State from establishing requirements relating to the subject matter of such provisions so long as such requirements are at least as stringent on health insurance issuers as the requirements imposed under such section. Subsection (a) shall apply to the provisions of section 2771 (and section 2752 insofar as it relates to such section)."

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 2723(a)(1) of such Act (42 U.S.C. 300gg-23(a)(1)) is amended by striking "part C" and inserting "parts C and D".

(2) Section 2762(b)(1) of such Act (42 U.S.C. 300gg-62(b)(1)) is amended by striking "part C" and inserting "part D".

(f) EFFECTIVE DATES.—(1)(A) Subject to subparagraph (B), the amendments made by subsections (a), (b), (d)(1), and (e) shall apply with respect to group health insurance coverage for group health plan years beginning on or after July 1, 1998 (in this subsection referred to as the "general effective date") and also shall apply to portions of plan years occurring on and after January 1, 1999.

(B) In the case of group health insurance coverage provided pursuant to a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by subsections (a), (b), (d)(1), and (e) shall not apply to plan years beginning before the later of—

(i) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(ii) the general effective date.

For purposes of clause (i), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) or (b) shall not be treated as a termination of such collective bargaining agreement.

(2) The amendments made by subsections (a), (c), (d)(2), and (e) shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 713. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan)

shall comply with the requirements of part C (other than section 2786) of title XXVII of the Public Health Service Act.

"(b) APPLICATION.—In applying subsection (a) under this part, any reference in such subpart C—

"(1) to a health insurance issuer and health insurance coverage offered by such an issuer is deemed to include a reference to a group health plan and coverage under such plan, respectively;

"(2) to the Secretary is deemed a reference to the Secretary of Labor;

"(3) to an applicable State authority is deemed a reference to the Secretary of Labor; and

"(4) to an enrollee with respect to health insurance coverage is deemed to include a reference to a participant or beneficiary with respect to a group health plan.

"(c) GROUP HEALTH PLAN OMBUDSMAN.—With respect to group health plans that provide benefits other than through health insurance coverage, the Secretary shall provide for the establishment and maintenance of such a Federal Group Health Plan Ombudsman that will carry out with respect to such plans the functions described in section 2786(a) of the Public Health Service Act with respect to health insurance issuers that offer group health insurance coverage.

"(d) ASSURING COORDINATION.—The Secretary of Health and Human Services and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding between such Secretaries, that—

"(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under such part C (and section 2706 of the Public Health Service Act) and this section are administered so as to have the same effect at all times; and

"(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement."

(b) MODIFICATION OF PREEMPTION STANDARDS.—Section 731 of such Act (42 U.S.C. 1191) is amended—

(1) in subsection (a)(1), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULES IN CASE OF PATIENT PROTECTION REQUIREMENTS.—Subject to subsection (a)(2), the provisions of section 713 and part C of title XXVII of the Public Health Service Act (other than section 2771 of such Act), and subpart C insofar as it applies to section 713 or such part, shall not prevent a State from establishing requirements relating to the subject matter of such provisions (other than section 2771 of such Act) so long as such requirements are at least as stringent on health insurance issuers as the requirements imposed under such provisions. Subsection (a) shall apply to the provisions of section 2771 of such Act (and section 713 of this Act insofar as it relates to such section)."

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 713".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Patient protection standards."

(3) Section 734 of such Act (29 U.S.C. 1187) is amended by inserting "and section 713(d)" after "of 1996".

(d) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendments made by this section shall apply with respect to group health plans for plan years beginning on or after July 1, 1998 (in this subsection referred to as the "general effective date") and also shall apply to portions of plan years occurring on and after January 1, 1999.

(2) In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

SUMMARY OF THE QUALITY ASSURANCE AND PATIENT PROTECTION ACT

Subpart 1: Access to care.

Subpart 2: Quality Assurance.

Subpart 3: Patient Information.

Subpart 4: Grievance Procedures.

Subpart 5: Protection of providers against interference with medical communications and improper incentive arrangements.

Subpart 6: Promoting good medical practice and protecting the doctor-patient relationship.

SUBPART 1: ACCESS TO CARE

Emergency care.—A plan may not deny coverage for emergency care assessment and stabilization if a prudent layperson would seek such care given the symptoms experienced. Prior authorization for such care is not required. After assessment and stabilization, further needed care is covered if medically necessary.

Access to specialty care.—Obstetrician/gynecologist care.—If a plan requires patients to designate a primary care physician, women have the right to choose an obstetrician/gynecologist as their primary care provider. In any case, they have the right to direct access to an obstetrician/gynecologist for routine gynecological care and pregnancy services without prior authorization from their primary care provider.

Other specialty care.—Enrollees with life-threatening, chronic, degenerative or other serious conditions which require specialty care must be provided access to the appropriate specialists or centers of excellence capable of providing quality care for the condition. If a plan does not have a participating specialist for a condition covered under the plan, the plan must refer the patient to a non-participating specialist at no additional cost.

A plan must have a procedure to allow individuals with a serious illness and ongoing need for specialty care to receive care from a specialist who will coordinate all care for that individual.

A plan must have a procedure for standing referrals for individuals requiring on-going specialty care if a primary care provider, in

consultation with the patient, the medical director of the plan and specialist (if any) determine that a standing referral is needed.

Continuity of Care.—If a plan or provider terminates a contract for reasons other than failure to meet quality requirements, the plan must allow an enrollee continued treatment with the provider for a transitional period. Time frames vary depending upon type of care being provided (e.g. primary, institutional, pregnancy, terminal, etc.)

Participation in clinical trials.—If an enrollee has a serious condition for which there is no effective standard treatment and is eligible for an approved clinical trial that offers the potential for substantial clinical benefit, the plan must pay for the routine patient costs of participation in the trial.

Choice of Provider.—A plan must provide an updated list of all participating providers and their ability to accept additional patients. Enrollees must be permitted to obtain services from any provider within the plan identified in the plan documents as available to the enrollee.

Prescription Drugs.—If a plan provides benefits for prescription drugs within a formulary, the plan must allow physicians to participate in the development of the plan formulary, disclose the nature of formulary restrictions, and provide for exceptions when medically necessary.

SUBPART 2: QUALITY ASSURANCE

Internal quality assurance program.—Every plan is required to establish and maintain a quality assurance and improvement program that uses data based on both performance and patient outcomes.

Collection of standardized data.—Plans must report certain standard information to state agencies and the public. The information must be reported in accordance with uniform national standards to be specified by the Secretary. This information will include at least utilization data, demographic data, mortality rates, disenrollment statistics and satisfaction surveys, and quality indicators.

Selection of providers.—The plan must have a written process for selection of providers including a listing of the professional requirements. The process must include verification of the provider's credentials. Plans may not use a high risk patient base or a provider's location in an area serving residents with poor health status as a basis for exclusion.

Drug utilization program.—If the plan covers prescription medications, it must have a plan to encourage appropriate drug use and monitor and reduce illness arising from improper use.

Standards for utilization review activities.—Utilization review refers to the plan's review of requests for care. It is defined as evaluation of clinical necessity and efficacy. Written clinical review criteria are required. Utilization review must be supervised by a licensed physician. Its activities must be executed by appropriately qualified staff. There can be no incentives to render adverse determinations. Deadlines for response to requests for authorization of care are established. Adverse determinations must be in writing and include the reasons for the determination. Such notices must also include instructions for making an appeal.

SUBPART 3: PATIENT INFORMATION

Patient Information.—Plans must describe and make available to current and prospective enrollees procedures for providing emergency care and care outside normal business hours, for selecting and changing physicians,

and for obtaining consultations. They must also list participating providers by category and make clear which members of that list are available to a prospective or current enrollee. The plan must provide information which describes coverage, financial responsibilities of enrollees, methods of obtaining referrals, utilization review processes, and grievance procedures and must include a description of how the plan addresses the needs of non-English speaking enrollees and others with special communication needs. It must describe how providers are paid.

Protection of patient confidentiality.—A program to assure compliance with state and federal confidentiality requirements must be in place.

SUBPART 4: GRIEVANCE PROCEDURES

Provisions relating to appeals of utilization review determination and similar determinations.—A plan must establish and maintain a system to handle and resolve complaints brought against the plan by enrollees and providers. The system should address all aspects of the plan's services, including complaints regarding quality of care, choice and accessibility of providers, and network adequacy. The legislation specifies several components of such a system, including provisions for staffing and staff accessibility, information about appeal procedures, and the time frame within which the plan must respond to complaints. The bill provides for a two stage appeal process, with requirements for a review panel of non-involved providers and consultants employed by the plan in the second phase. Written explanation of each stage of an appeal must be provided. Timely decisions are required. Examples of adverse determinations include denial for emergency care, access to specialists, choice of provider, continuity of care, or payment for routine costs in connection with an approved clinical trial. In the case of experimental therapy to save the life of a patient, an external independent review process with mandatory decision powers is available if the plan chooses not to provide coverage for the treatment. For appeals of other important issues, the plan must either (1) participate in an independent review process established by the state (or the Secretary of Labor for self-insured plans) to make advisory determinations; or (2) establish a third stage of appeal within the plan certified by the Secretary as fair, impartial, and involving independent reviewers to make advisory decisions.

Health Insurance Ombudsman.—A Health Insurance Ombudsman will be established in each state to assist consumers in choosing health insurance, and to provide assistance to patients dissatisfied with their treatment. Assistance includes aiding enrollees in filing complaints and appeals, investigating poor quality or improper treatment, and bringing such instances to the attention of the applicable state authority or, in the case of self-insured insurance plans, to the attention of the Secretary of Labor. The legislation authorizes funds to be appropriated to the Secretary to provide grants to state authorities to establish the program.

SUBPART 5: PROTECTION OF PROVIDERS AGAINST INTERFERENCE WITH MEDICAL COMMUNICATIONS AND IMPROPER INCENTIVES

Prohibition of interference with certain medical communications.—The plan may not prohibit or restrict the provider from engaging in medical communications with the enrollee. Such communications may include discussion of the enrollee's health status, medical care, or treatment options; provi-

sions of the plan's utilization review requirements; or any financial incentives that may affect the treatment of the enrollee.

Ban on improper incentive arrangements.—There may be no incentives to limit medically necessary services. Provider risk is limited. The Secretary shall apply the same rules which apply to the Medicare program. The plan may not have a contract which requires transfer of liability for malpractice caused by the plan from the plan to the provider.

SUBPART 6: PROMOTING GOOD MEDICAL PRACTICE AND PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

Plans are prohibited from denying coverage for medically necessary and appropriate care otherwise covered by the plan, as determined by the treating physician and consistent with generally accepted principles of good medical practice. This provision would prohibit plans from arbitrarily limiting care provided, for example, by requiring that mastectomies be provided on an outpatient basis.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 354. A bill to amend the Federal Property and Administrative Services Act of 1949 to prohibit executive agencies from awarding contracts that contain a provision allowing for the acquisition by the contractor, at Government expense, of certain equipment or facilities to carry out the contract if the principal purpose of such provision is to increase competition by establishing an alternative source of supply for property or services; to the Committee on Governmental Affairs.

THE FAIR COMPETITION IN FEDERAL PROCUREMENT ACT OF 1997

Mr. KENNEDY. Mr. President, Senator KERRY and I are offering legislation today to present a serious injustice in Federal procurement. Congressman JOHN OLVER is introducing identical legislation in the House of Representatives. This issue has come to our attention in the context of the Bureau of Engraving and Printing's contract for U.S. currency paper production, but it could arise in other contexts that would pose similar inequities.

A respected, long-standing family-owned business in Dalton, MA, Crane and Company, has supplied currency paper for the Treasury for the past 117 years. Crane has been a trusted supplier to the Federal Government, providing high quality products on a time-y basis. It has negotiated reasonable terms with the Government, keeping its price increases below the rate of inflation. And it has made substantial investments over the years to ensure that it has the sophisticated equipment needed to produce the currency, including the special security features now built into the paper itself.

This year, however, the Bureau of Engraving and Printing has proposed to go to extraordinary lengths to create alternate sources for currency paper production. The Bureau has pro-

posed subsidies to other companies to help them become competitive and buy the state-of-the-art equipment that Crane bought on its own. This is not fair competition. It's a misguided policy that will give other companies an unfair advantage and create an unlevel playing field.

Our legislation is straightforward. It amends section 303 of the Federal Property and Administrative Services Act of 1949 to prohibit nondefense agencies in the executive branch from financing equipment or facilities to help a contractor compete against an existing contractor in Federal procurement. With all the pressures of the deficit, we should not be spending taxpayer money on this sort of sham competition. It's unfair to leading-edge firms like Crane that have invested their own resources to obtain Government contracts, and it's hard to see how any taxpayers will benefit. Crane is in a class by itself. There is no suggestion of antitrust problems. Crane wins these contracts fair and square against potential competitors, and it should not have to compete with Uncle Sam.

I urge the Congress to enact this legislation and prevent an extremely unfair and unwise policy from moving forward at the Treasury Department or other Federal agencies.

By Mr. GRAMM (for himself, and Mrs. HUTCHISON):

S. 355. A bill to amend the Internal Revenue Code of 1986 to make the research credit permanent; to the Committee on Finance.

RESEARCH CREDIT LEGISLATION

• Mr. GRAMM. Mr. President, today Senator HUTCHISON and I are introducing a bill to permanently extend the research and development tax credit. The R&D tax credit was originally enacted as a part of President Reagan's Economic Recovery and Tax Act of 1981 in order to encourage greater private sector investment in research and development. Since its creation, the credit has been extended seven times, and it is currently set to expire on May 31, 1997.

Since its enactment in 1981, the benefits of the R&D credit have been enormous. Studies show that in the short run, every dollar of the R&D credit stimulates a dollar of additional private R&D spending, and in the long run, each dollar of the credit yields up to \$2 in additional private R&D spending. Furthermore, the rate of return from R&D spending to society as a whole is estimated to be as high as 60 percent.

Given these facts, we can easily expect that the benefits of the credit will only be enhanced if it is extended permanently. A permanent extension of the R&D credit would encourage companies to take on additional research and development projects by allowing them to be certain that the credit will

be in effect during these long-run initiatives. In fact, the ratio of R&D spending to output rose over 40 percent in the 1980's when the R&D credit was in effect for the longest period of time.

The R&D credit is an effective and proven incentive for companies to increase investment in U.S.-based research and development. The continued existence of the R&D credit is particularly important given the substantial tax incentives provided by many of our international competitors to their domestic R&D industries. The jobs created by R&D expenditures are exactly the kind of jobs we all claim to vote for. In my home State of Texas alone, the average high-technology job pays \$47,019 a year—almost \$20,000 more per year than the average private sector salary of \$27,147.

The need to make the credit permanent is only further highlighted by the fact that in 1996, for the first time in its history, the R&D credit was allowed to lapse—there was a gap in the law between July 1, 1995, through July 1, 1996. Haphazard and unpredictable temporary extensions of the credit, combined with this recent lapse, have set a negative precedent for the research community.

Businesses cannot and do not ignore the possibility of future gaps in the R&D credit, and will be understandably driven to scale back new long-term projects if they cannot be certain that the credit will continue. We should permanently extend the R&D tax credit to finally remove this unnecessary barrier to long-term research and development which has been created by the stop-and-go extension process.

Finally, Mr. President, I want to point out that the R&D credit has a long history of bipartisan support. The President has signaled his support for the credit, not only by signing last year's extension as a part of the Small Business Job Protection Act, but also by proposing a further extension as a part of his fiscal year 1998 budget. Unfortunately, his proposal follows the ill-advised precedent of merely temporarily extending the credit.

I believe that this credit must be made permanent, and I am proud to have joined 17 members of the Texas delegation in a letter to Chairman ARCHER and Chairman ROTH calling for a permanent extension of the R&D tax credit. I ask unanimous consent that the text of this letter and the text of the bill be printed in the RECORD at the conclusion of my remarks. The time has come for us to demonstrate our long-term commitment to research and development, and I urge my colleagues to join me and Senator HUTCHISON in sponsoring this bill.

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:

S. 355

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

SECTION 1. EXTENSION OF RESEARCH CREDIT.

(a) CREDIT MADE PERMANENT.—

(1) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 is amended by striking subsection (h).

(2) CONFORMING AMENDMENT.—Section 45C(b)(1) of such Code is amended by striking subparagraph (D).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after May 31, 1997, in taxable years ending after such date.

CONGRESS OF THE UNITED STATES,
Washington, DC, February 13, 1997.

Hon. WILLIAM ROTH,
U.S. Senate, Washington, DC.
Hon. BILL ARCHER,
Washington, DC.

DEAR GENTLEMEN: We want to thank you for your leadership last year in extending the Research and Development (R&D) tax credit, and to solicit your further support. As you know, the R&D credit will expire on May 31, 1997. We would like to express our strong support for a prompt, permanent extension of the credit.

There are a number of excellent reasons why Congress should permanently extend the credit. According to a recent study, each dollar of tax benefits generates as much as two dollars of long-term investment spending by the private sector. Also, the "spillover effects" of R&D are outstanding; the rate of return derived by society generally from R&D spending is estimated to be as much as sixty percent.

The R&D credit enjoys broad, bipartisan support and provides a critical, effective and proven incentive for companies to increase their investment in U.S.-based research and development. The continued encouragement of private sector led R&D is particularly important in light of the substantial tax and other financial incentives offered by many of our major foreign trade competitors. Moreover, targeted almost exclusively at wages and salaries paid to employees engaged in direct U.S.-based research and development, the credit promotes the creation of new, high-skilled jobs.

Texas companies lead the nation in many areas of research and development and the growth of high wage jobs. Continued growth of our economy is closely tied to the ability of our companies to make a sustained commitment to long-term high cost research. Again, thank you for your outstanding effort on Texas' behalf in the past, and we look forward to working with you to continue our shared commitment in research and development.

Sincerely,

PHIL GRAMM
(and 17 other Members)•

By Mr. GRAHAM (for himself,
Mr. HUTCHINSON, Ms. MIKULSKI,
and Mr. CHAFEE):

S. 356. A bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the Medicare and Medicaid

Programs; to the Committee on Finance.

THE ACCESS TO EMERGENCY MEDICAL SERVICES
ACT

Ms. MIKULSKI. Mr. President, I am proud to join Senator GRAHAM in introducing the Access to Emergency Medical Services Act of 1997. This bill prohibits health plans from denying coverage and payment for emergency room visits. I support this bill for three reasons. It protects patients and patients' pocketbooks. It respects medical decisions made by doctors and nurses. It gives HMO's the opportunity to do the right thing.

Personal health is not something to take chances with. That's why many people seek emergency assistance when they think something may be seriously wrong with their health. They go to the emergency room thinking their insurance company covers emergency room treatment. But when the problem turns out to be a nonemergency, the insurance company denies payment. This is called retrospective denial. I want to end retrospective denials. No family should have to second guess getting the care they need because they are worried about being stuck with an enormous bill.

Last week my office received a phone call from a woman in Frederick, MD. She was distraught. She had begged her husband not to take her to the emergency room when she complained of serious chest pains. She knew their insurance company wouldn't pay. It had happened before. But her husband insisted she go. He was worried about her and wanted her to see a doctor. She cried all the way to the hospital. A few weeks later she got the notice—her claim was denied. She was stuck with the bill.

She was right to go to the emergency room. There are approximately 200 medical problems that could cause the type of chest pain she experienced ranging from a heart attack to pulmonary emboli to simple indigestion. The point is, no one knows for sure what problem they are having until they get treatment from an emergency room physician.

Maryland already has laws in place to guarantee that HMO's will cover to emergency services. But we can't practice good emergency medicine one patient, one ER room, or one State at a time. That's why we need a national law that ensures that medical decisions are made in the ER room, not the corporate boardroom.

This bill will set a new national definition for the term "emergency" without preempting stronger State laws. The "Prudent Layperson Standard" means that a person with average knowledge of health and medicine can seek emergency treatment when they think they have a serious medical condition. Quite often, patients do not know when they go to an emergency

room whether their illness is life-threatening or not. With this standard, they are not required to know—they can use their own best judgment. After all, we can't expect the average person to be able to diagnose like a doctor.

I am proud that the State of Maryland was the first State to enact legislation to counter these unfair practices. They passed their first law in 1993. But it took two follow-up laws to clarify the intent of the first one. Work still needs to be done to make sure the law is enforced. I salute the Maryland emergency physicians who took this issue on, and continue to fight for fair play on behalf of their patients.

I want to see managed care, but I don't want to see doctors managed. There is a fundamental distinction. We have to start getting our priorities straight and decide where we are going to be making our decisions. And in the case of emergencies—I believe the decisions need to be made in the emergency room and not the boardroom.

By Mr. BENNETT (for himself, Mr. HATCH, Mr. MURKOWSKI, Mr. CRAIG, Mr. BURNS, and Mr. THOMAS):

S. 357. A bill to authorize the Bureau of Land Management to manage the Grand Staircase-Escalante National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

THE GRAND STAIRCASE-ESCALANTE RESOURCE PROTECTION ACT

Mr. BENNETT. Mr. President, in the last Congress, by coincidence, on my birthday, President Clinton announced the creation of the Grand Staircase-Escalante National Monument, taking 1.7 million acres in the State of Utah and creating a national monument under the authority of the Antiquities Act of 1906. This, frankly, caught a number of us by complete surprise—well, maybe not complete surprise, because we had seen reports in the newspaper that this might be coming. But whenever we spoke to anybody in the administration about it, we were constantly told that no decision has been made.

Congressman Orton, the Democratic Congressman in the district in which this land was located, was told "nothing is imminent." Even 24 hours before the announcement was made, people in the White House were insisting that nothing was coming down on this particular subject. And then, as I say, on the morning of my birthday, I received a phone call from Leon Panetta, not to wish me happy birthday, but to inform me that the President would indeed be creating a new national monument in Utah under his authority as outlined in the Antiquities Act.

The process by which the monument was put together was entirely closed to any elected official. No one from the State of Utah who holds elected

office—not the Governor, neither of the Members of this body, not the Members of the other body, no one—was allowed to make comments or be involved in the process of creating the monument. We now know, however, from press reports that members of what is called the environmental community were involved in writing this proclamation. They had access to the White House, to the Department of Interior, and to administration officials that the rest of us were denied.

Out of this closed process came the national monument and, with it, frankly, Mr. President, considerable antagonism and disappointment on the part of many people in Utah—if polls can be believed, a large majority of the people of Utah—at the way they were treated in this matter. "Not to worry," we were assured by the President at the Grand Canyon. And I was assured personally on the phone by Leon Panetta that there would be protections of the rights of ordinary citizens written into the pattern of the way this monument would be managed.

Mr. Panetta outlined those to me, and I wrote them down. Then, when the President appeared on national television, I followed my list and saw that the President was going down the same list. That is, he made exactly the same promises that Mr. Panetta had made as to the way things would be handled in the monument.

Mr. President, today I am introducing a bill. It will be known as the Grand Staircase-Escalante Resource Protection Act. Its sole purpose is to codify the promises the President made when he created the monument. I said to my staff, "Do not put everything in this bill you think we must have. Just make sure the act is entirely just what the President promised he would do."

Let me give you some examples of what I mean. On this chart we have the President's statement made on September 18 when he said: "Families will be able to use this canyon as they always have. The land will remain open for multiple uses, including hunting, fishing, hiking, camping, and grazing."

Many of the people who have reacted to the creation of the monument have made it clear that there should never be multiple uses on this land. They say that this would be incompatible with its designation as "wilderness." But the President did not designate the land as wilderness. He designated it as a national monument, and he specifically promised—these are his words—that "The land will remain open for multiple use . . ." This was taken off the transcript that was available to us the day the President made his statement.

Another promise the President made is on this chart. It is a little bit longer, but to the people in Utah it may be even more important. He said, "Mining revenues from Federal and State land help to support your schools."

He was speaking to the people of Utah.

I know the children of Utah have a big stake in school lands located within the boundaries of the monument that I am designating today . . . creating this national monument should not and will not come at the expense of Utah's children.

That is a very important commitment made by the President. It has to do with the fact that almost 200,000 acres in this monument are owned by a trust that administers these lands for the benefit of Utah's schoolchildren. Under the monument designation, conceivably the trust would lose that ownership unless there can be a pattern of swapping out school acres for other acres outside the boundaries of the monument.

These are a few of the President's promises.

There was another one which I do not have on the chart but that struck me personally. The President said, "We will appoint an exchange working group, including Congressman Orton and the two Senators as well as the Governor and others, that will examine this issue of school trust land."

It has now been 6 months since the President made that statement, and no such group has been proposed by anybody. It has been 6 months since the President made that proclamation, and we don't see any indication that he intends to instruct people to follow through on the promise that the people will be able to use the canyon as they always have. And we see no indication that the people in the administration are taking any steps to make Utah's schoolchildren whole for the income that they will lose as a result of the creation of this monument.

If I were to pick up the phone and call the White House today and ask for Leon Panetta to remind him of the pledge he made to me, I would be told, "Mr. Panetta doesn't work here anymore." So I have decided to take the promises that the President made in this speech, which was before the entire country on national television, and write those promises into law. Many people have said, "Oh, you are going to do terrible things if you write those into law. You are going to undo every protection that is important to this monument." To them I say, if you do not like these promises, argue with William Jefferson Clinton. Don't argue with me because they were his pledges; not mine.

Some groups have seized on some language that I have in the bill describing what will be permitted in the monument and say, "You go far beyond the President in the things you allow. Where did you get the idea that mining and timber and those kinds of things should be allowed?" My answer is, I took the definition of "multiple use" that is in the FLPMA handbook produced by the Department of the Interior and reproduced it, neither subtracting nor adding anything. I made

no attempt to put my judgment as to what "multiple use" means. I used the manual that is produced by the Department of the Interior to define what "multiple use" means.

By virtue of the introduction of this bill, we will now have hearings. There will be hearings both in the House and the Senate. I am told that a companion bill will be introduced on the other side of the Capitol.

I myself point out that these hearings are open, unlike the process the President followed, which was closed. These hearings will allow those who disagree with me—and I heard from some people this afternoon who disagreed with me quite vehemently—an opportunity to come before the Congress and tell the Congress what they think the President meant when he used these words. These hearings will give the Department of the Interior the opportunity to come before the Congress and tell the Congress what they think the President meant when he used these words. If they can make a plausible case to the Congress, I am perfectly willing to amend the bill and accept changes. The thing I am not willing to do is to accept, as some have said, that "This was merely a campaign speech. The President should not be held to honor any commitment he made in that speech because it was in the heat of the campaign."

We are talking, Mr. President, about 1.7 million acres of land in my State. That is a land mass bigger than some of the States represented by Senators who sit here in this Chamber. We are talking about a major action that impacts the future of the people of southern Utah. That being the case, we must codify what the President said so that these commitments are kept whether they were made in a campaign speech or not.

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. 357

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Grand Staircase-Escalante Resource Protection Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the designation of the Grand Staircase-Escalante National Monument applies only to Federal land within the boundary of the Monument;

(2) multiple use has been and continues to be the guiding principle in the management of public land;

(3) in accordance with Proclamation 6920, issued by the President on September 18, 1996 (61 Fed. Reg. 50223 (1996)), Federal land within the Monument should remain open for multiple uses;

(4) the United States should not lay claim to Federal water rights in lands within the

Monument except in accordance with the substantive and procedural requirements of the State of Utah, and designation of the Monument and enactment of this Act should not impair exercise of water rights by the State of Utah;

(5) mining revenues from Federal and State School and Institutional Trust Lands have generated considerable revenues for Utah schools;

(6) an estimated 176,000 acres of surface land containing significant coal and other resources managed by the School and Institutional Trust Lands Administration for the benefit of Utah's school children are located within the boundary of the Monument;

(7) the creation of the Monument must not come at the expense of Utah's school children;

(8) designation of the Monument will produce a considerable loss of future Federal royalties, State royalties, and school trust royalties resulting in significant revenue loss to Utah's school children; and

(9) the lack of congressional, State, and local consultation prior to designation of the Monument and the failure of the Proclamation to establish a specific boundary for the Monument are certain to give rise to disputes that will require boundary adjustments.

SEC. 3. DEFINITIONS.

In this Act:

(1) **ADVISORY COMMITTEE.**—The term "advisory committee" means the Grand Staircase-Escalante National Monument Advisory Committee established under section 12.

(2) **DIRECTOR.**—The term "Director" means the Director of the Bureau of Land Management.

(3) **EXISTING.**—The term "existing" means in existence as of September 18, 1996.

(4) **MANAGEMENT PLAN.**—The term "management plan" means the management plan for the Monument submitted to Congress under section 9.

(5) **MONUMENT.**—The term "Monument" means the Grand Staircase-Escalante National Monument established by Proclamation of the President on September 18, 1996.

(6) **MULTIPLE USE.**—The term "multiple use" has the meaning given in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(7) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(8) **SPECIAL MANAGEMENT AREA.**—The term "special management area" means an area that is managed by the Secretary in accordance with the principles of multiple use and sustained yield in accordance with this Act.

(9) **SUSTAINED YIELD.**—The term "sustained yield" has the meaning given in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

SEC. 4. MANAGEMENT OF THE MONUMENT.

(a) **SPECIAL MANAGEMENT AREA.**—

(1) **IN GENERAL.**—The Monument shall be managed by the Secretary as a special management area in accordance with this Act.

(2) **MULTIPLE USE AND SUSTAINED YIELD.**—The Secretary shall manage the resources within the Monument in accordance with the principles of multiple use and sustained yield (including recreation, range, timber, minerals, oil and gas, watershed, wildlife, fish, and natural scenic, scientific, and historical values), using principles of economic and ecologic sustainability.

(3) **PROTECTION OF RESOURCES.**—The Secretary shall provide for the protection, interpretation, and responsible use of Monument resources.

(4) **ECONOMIC SUSTAINABILITY.**—The Secretary shall manage the Monument resources in a way that provides for economic sustainability of local communities.

(b) **MANAGEMENT AUTHORITY.**—

(1) **DELEGATION TO THE DIRECTOR.**—The Secretary shall delegate authority to manage the Monument to the Director.

(2) **LEAD AGENCY.**—The Bureau of Land Management shall be the lead agency in all management decisions concerning the Monument, pursuant to all applicable legal authorities, and shall act in consultation with other Federal agencies, State and local government authorities, and the advisory committee.

(c) **FUTURE ACTION.**—Nothing in this Act precludes the revocation of the Proclamation 6920 by Act of Congress or by Executive order, but, so long as land within the Monument remains subject to designation as a national monument under Proclamation 6920, any successor proclamation, or an Act of Congress, the Monument shall be managed in accordance with this Act.

SEC. 5. VALID EXISTING RIGHTS AND USES.

(a) **EXERCISE OF VALID EXISTING RIGHTS.**—

(1) **IN GENERAL.**—The Secretary shall recognize and give due deference to the exercise of any valid existing right, lease, permit, or authorization under any law, including—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(B)(i) sections 2319-28, 2331, 2333-2337, and 2344 of the Revised Statutes (commonly known as the "General Mining Law of 1872") (30 U.S.C. 22-24, 26-28, 29-30, 33-35, 37, 39-42, 47); and

(ii) the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (commonly known as the "Mineral Lands Leasing Act of 1920") (30 U.S.C. 181 et seq.);

(C) section 2477 of the Revised Statutes (43 U.S.C. 932) (to the extent of any rights-of-way existing on October 21, 1976);

(D) the Act of June 28, 1934 (48 Stat. 1269, chapter 865; 43 U.S.C. 315 et seq.) (commonly known as the "Taylor Grazing Act");

(E) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); and

(F) any other applicable law.

(2) **NO RESTRICTION.**—Neither designation of the Monument nor adoption and implementation of the applicable management plan shall restrict or prevent the exercise of valid existing rights by persons that exercise those rights in compliance with all applicable laws.

(b) **ROADS AND RIGHTS-OF-WAY.**—The Secretary shall permit routine maintenance and improvement of roads and rights-of-way within Monument boundaries to ensure public safety and a high-quality visitor experience.

(c) **TAKINGS.**—Any valid existing right determined to be taken as a result of designation of the Monument shall be subject to compensation by the Secretary.

SEC. 6. RANGE MANAGEMENT.

(a) **GRAZING OF LIVESTOCK.**—Grazing of livestock within the Monument shall continue and shall not be curtailed by reason of designation of the Monument. Designation of the Monument shall not affect existing grazing leases, grazing permits, and levels of livestock grazing within the Monument.

(b) **WATER RIGHTS.**—The Secretary shall not require a grazing permittee or grazing lessee to transfer or relinquish any part of the permittee's or lessee's water right to another person (including the United States) as

a condition of granting, renewing, or transferring a grazing permit or grazing lease.

SEC. 7. WITHDRAWALS.

No existing withdrawal, reservation, or appropriation shall be revoked except in accordance with section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

SEC. 8. NO FEDERAL RESERVATION OF WATER RIGHT.

(a) NO FEDERAL RESERVATION.—Nothing in this Act, any other Act, or any action taken under any Act creates an expressed or implied reservation of water rights in the United States for any purpose.

(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER UTAH LAW.—

(1) ACQUISITION.—The United States may acquire such water rights as the Secretary considers to be necessary to carry out responsibilities of the Secretary with respect to any land within the Monument only in accordance with the substantive and procedural requirements of the law of the State of Utah.

(2) EXERCISE.—Any rights to water granted under the law of the State of Utah may be exercised only in accordance with the substantive and procedural requirements of the law of the State of Utah.

(3) EMINENT DOMAIN.—Nothing in this Act authorizes the use of the power of eminent domain by the United States to acquire water rights on land within the Monument.

(c) FACILITIES NOT AFFECTED.—Nothing in this Act or any other Act relating to management of land within the Monument authorizes any action to be taken that may affect the capacity, operation, repair, construction, maintenance, modification, or repair of municipal, agricultural, livestock, or wildlife water facilities within or outside the Monument or water resources that flow through the Monument.

(d) WATER RESOURCE PROJECTS.—Nothing in this Act or any other Act relating to management of land within the Monument limits, or establishes any matter to be taken into consideration in connection with approval or denial by any Federal official of access to, or use of, the Federal land within or outside the Monument for development and operation of water resource projects (including reservoir projects).

SEC. 9. MANAGEMENT PLAN.

(a) MANAGEMENT IN ACCORDANCE WITH FLPPA.—

(1) IN GENERAL.—Not later than September 18, 1999, the Secretary shall submit to Congress a management plan for the Monument.

(2) MULTIPLE USE AND SUSTAINED YIELD.—In the development and revision of the management plan, the Secretary shall use and observe the principles of multiple use and sustained yield and shall use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences.

(b) REQUIREMENTS.—In the management plan, the Secretary shall specifically address—

(1) the multiple uses of all of the resources of the Monument (including recreation, range, timber, mineral, oil and gas, watershed, wildlife, fish, and natural scenic, scientific, and historical resources) in a responsible manner, under all applicable laws and authorities; and

(2) the economic impacts of the Monument on the economies of local communities.

(c) NOTICE AND COMMENT.—The management plan shall be made available for public review and comment as required by law.

(d) UTILIZATION OF MONUMENT RESOURCES.—Development and utilization of re-

sources within the Monument shall be authorized if—

(1) the President or Congress determines it to be in the interests of the United States; or

(2) in case of a national emergency.

(e) INTERIM MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Secretary shall modify any guidelines in existence on the date of enactment of this Act regarding management of the Monument to conform to the requirements of this Act.

(2) PENDING APPLICATIONS.—No lease on land within the Monument with respect to which an application of any kind was pending on September 18, 1996, or is pending on the date of enactment of this Act shall expire if the Secretary has not acted on the application.

SEC. 10. STATE JURISDICTION WITH RESPECT TO FISH AND WILDLIFE.

Nothing in this Act—

(1) affects the jurisdiction or responsibilities of the State of Utah with respect to fish and wildlife management activities (including hunting, fishing, trapping, predator control, and the stocking or transplanting of fish and wildlife); or

(2) precludes the State of Utah from developing water resources for fish and wildlife purposes under State law.

SEC. 11. SCHOOL TRUST LANDS EXCHANGE.

(a) EXPEDITION OF EXCHANGES.—The Secretary shall provide necessary resources to expedite all exchanges of school trust lands within the Monument when sought by the School and Institutional Trust Lands Administration of the State of Utah.

(b) VALUATION.—The Secretary shall value school trust land sections as if surrounding unencumbered Federal lands were available for mineral development, and all reasonable differences in valuation shall be resolved in favor of the school trust.

(c) ANALYSIS OF LOST ROYALTIES.—Not later than 45 days after the date of enactment of this Act, the Secretary shall submit to Congress an analysis of the loss of Federal royalties that can be expected to result from designation of the Monument, based on research compiled by the United States Geological Survey.

(d) ACCESS TO STATE SECTIONS.—The Secretary shall not deny access to school trust lands within the Monument by agencies of the State of Utah and designated permittees of those agencies.

SEC. 12. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish and convene a meeting of an advisory committee to be known as the "Grand Staircase-Escalante National Monument Advisory Committee".

(b) DUTIES AND RESPONSIBILITIES.—The advisory committee shall advise the Secretary, the Director, and the Governor of the State of Utah concerning the development, management, and interpretation of Monument resources and the development, exchange, or disposal of State school trust lands.

(c) MEMBERSHIP.—The advisory committee shall consist of—

(1) the Secretary, the Governor of the State of Utah, the member of the House of Representatives from the third congressional district, and the 2 members of the Senate from the State of Utah; and

(2) 10 members appointed by the Secretary of the Interior from among persons recommended by the Governor of Utah, including—

(A) 1 representative of agricultural interests;

(B) 1 representative of mining and oil and gas interests;

(C) 1 representative of recreational interests;

(D) 1 representative of environmental interests;

(E) 1 representative of the School Institutional Trust Lands Administration of the State of Utah;

(F) 1 representative of the Department of Natural Resources of the State of Utah;

(G) 1 representative of other agencies of the State of Utah;

(H) 1 representative of local communities;

(I) 1 representative of Native Americans; and

(J) 1 representative of the public at large.

(d) TERMS.—A member of the advisory committee shall serve for a term not to exceed 5 years, determined by the Secretary in consultation with the Governor of the State of Utah, and may serve more than 1 term.

(e) VACANCIES.—A vacancy on the advisory committee shall be filled in the same manner as the original appointment is made. A member of the advisory committee may serve until a successor is appointed.

(f) CHAIRPERSON.—The advisory committee shall select 1 member to serve as chairperson.

(g) MEETINGS.—The advisory committee shall meet regularly.

(h) QUORUM.—A majority of members shall constitute a quorum.

(i) COMPENSATION.—Members of the advisory committee shall serve without compensation, except that members shall be entitled to reimbursement of travel expenses including per diem while engaged in the business of the advisory committee, in accordance with section 5703 of title 5, United States Code.

SEC. 13. MONUMENT PLANNING TEAM.

The Secretary shall provide that the Monument planning team formed by the Secretary to prepare the management plan for the Monument includes at least 5 persons appointed by the Governor of the State of Utah to represent the State and local governments.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to—

(1) provide for development and implementation of management plans, protection of Monument resources, visitor services and facilities, law enforcement, public safety, additional payments in lieu of taxes to impacted counties, economic mitigation, and the operation of the Monument advisory committee; and

(2) facilitate the exchange of school trust lands.

ADDITIONAL COSPONSORS

S. 5

At the request of Mr. ASHCROFT, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 5, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

S. 6

At the request of Mr. SANTORUM, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 6, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 191

At the request of Mr. HELMS, the name of the Senator from Oklahoma

[Mr. INHOFE] was added as a cosponsor of S. 191, a bill to throttle criminal use of guns.

S. 197

At the request of Mr. ROTH, the names of the Senator from California [Mrs. FEINSTEIN], the Senator from Colorado [Mr. ALLARD], the Senator from Florida [Mr. MACK], the Senator from Missouri [Mr. ASHCROFT], the Senator from Mississippi [Mr. COCHRAN], the Senator from Tennessee [Mr. THOMPSON], the Senator from Nevada [Mr. REID], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 197, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 223

At the request of Mr. THURMOND, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 223, a bill to prohibit the expenditure of Federal funds on activities by Federal agencies to encourage labor union membership, and for other purposes.

S. 242

At the request of Mr. MCCAIN, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 242, a bill to require a 60-vote supermajority in the Senate to pass any bill increasing taxes.

S. 278

At the request of Mr. GRAMM, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Kansas [Mr. BROWNBACK] 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. 293

At the request of Mr. HATCH, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 293, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions.

S. 305

At the request of Mr. KOHL, his name was withdrawn as a cosponsor 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. 306

At the request of Mr. FORD, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 306, a bill to amend the Internal Revenue Code of 1986 to provide a decrease in the maximum rate of tax on capital gains which is based on the

length of time the taxpayer held the capital asset.

S. 318

At the request of Mr. D'AMATO, the names of the Senator from Connecticut [Mr. DODD] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors 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. 328

At the request of Mr. HUTCHINSON, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 328, a bill to amend the National Labor Relations Act to protect employer rights, and for other purposes.

SENATE RESOLUTION 56

At the request of Mr. SPECTER, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. CRAIG], the Senator from Oklahoma [Mr. INHOFE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Wyoming [Mr. THOMAS], the Senator from Florida [Mr. MACK], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Resolution 56, a resolution designating March 25, 1997, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

AMENDMENT NO. 7

At the request of Mr. GRAHAM the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of amendment No. 7 proposed to Senate Joint Resolution 1, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

SENATE RESOLUTION 59—DESIGNATING IRISH AMERICAN HERITAGE MONTH

Mr. KENNEDY (for himself, Mr. MACK, Mr. MOYNIHAN, and Mr. D'AMATO) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 59

Whereas by 1776 nearly 300,000 persons had emigrated to the United States from Ireland; Whereas following the Revolutionary War victory of Washington's troops at Yorktown, a French Major General reported that Congress and America owed its existence, and possibly its preservation, to the support of the Irish;

Whereas at least 8 signers of the Declaration of Independence were of Irish origin;

Whereas more than 200 Irish Americans have been awarded the Congressional Medal of Honor;

Whereas 19 Presidents of the United States proudly claim Irish heritage, including the first President, George Washington;

Whereas 44 million American citizens are of Irish descent; and

Whereas the Irish and their descendants have contributed greatly to the enrichment of all aspects of life in the United States, including military and government service, science, education, art, agriculture, business, industry, and athletics: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of March of each year as "Irish American Heritage Month"; and

(2) requests that the President issue a proclamation designating the month of March of each year as "Irish American Heritage Month" and calling on the people of the United States to observe the month with appropriate ceremonies and activities.

Mr. KENNEDY. Mr. President, on behalf of Senator MACK, Senator MOYNIHAN, Senator D'AMATO, and myself, I am proud to submit a Senate resolution designating the month of March each year as "Irish-American Heritage Month."

Since 1621, when the first Irish settlers arrived on our shores, Americans of Irish descent have made invaluable contributions to all aspects of American life. Between 1840 and 1910, more than 3 million Irish immigrants reached our shores and contributed immensely to the development of our country.

In fact, this year marks the 150th anniversary of the Great Famine in Ireland that led to one of the most tragic migrations in history. The potato crop failed, and hundreds of thousands fled in desperation to the New World. They found hope and opportunity and new lives in America. They powered our industrial revolution. They took jobs as laborers. They dug the canals. They built the railroads that took America to the West. Even today, it is said that under every railroad tie, an Irishman is buried. In a very real sense, their greatest legacy is our modern nation.

Today, over 44 million Americans are of Irish descent. They are proud of America and proud of their Irish heritage, and it is a privilege to introduce this legislation designating the month of March in the years ahead as "Irish-American Heritage Month."

AMENDMENTS SUBMITTED

THE BALANCED BUDGET
CONSTITUTIONAL AMENDMENTHOLLINGS (AND OTHERS)
AMENDMENT NO. 9

Mr. HOLLINGS (for himself, Mr. SPECTER, Mr. BRYAN, Mr. BIDEN, Mr. REID, Mrs. FEINSTEIN, and Mr. DASCHLE) proposed an amendment to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States to require a balanced budget; as follows:

On page 1, beginning on line 3, strike "That the" and all that follows through page

2, line 5, and insert the following: "That the following articles are proposed as amendments to the Constitution, either or both of which articles shall be valid to all intents and purposes as part of the Constitution when ratified by the legislators of three-fourths of the several States within 7 years after the date of its submission for ratification:"

On page 3, after line 16, add the following:

"ARTICLE—

"SECTION 1. Congress shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, Federal office.

"SECTION 2. A State shall have power to set reasonable limits on the amount of contributions that maybe accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, State or local office.

"SECTION 3. Congress shall have power to implement and enforce this article by appropriate legislation."

KENNEDY AMENDMENT NO. 10

Mr. LEAHY (for Mr. KENNEDY) proposed an amendment to the joint resolution, Senate Joint Resolution 1, supra; as follows:

On page 3, at the end of line 14, insert the following: "Unless specifically otherwise provided by such law, Congress shall have exclusive authority to enforce the provisions of this Article."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, February 25, 1997, at 10 a.m. in open session, to receive testimony on the Defense authorization request for fiscal year 1998 and the future years defense program.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, February 25, 1997, at 9 a.m. in SR-328A to discuss the impact of estate taxes on farmers.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, February 25, 1997, to conduct a hearing on S. 318, the Homeowners Protection Act of 1997.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, February 25, 1997, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider the President's proposed budget for fiscal year 1998 for the Department of the Interior and the Forest Service.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ABRAHAM. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, February 25, at 10 a.m. for a nomination hearing on David J. Barram, to be Administrator, General Services Administration.

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

ADDITIONAL STATEMENTS

CHILD LABOR DETERRENCE ACT OF 1997

• Mr. HARKIN. Mr. President, I rise to introduce the Child Labor Deterrence Act of 1997. The bill I'm introducing today prohibits the importation of any product made, whole or in part, by children under the age of 15 who are employed in manufacturing or mining. This is the fourth time I have come to the floor of the Senate to introduce this bill, and I will continue to introduce it until it becomes law.

Mr. President, recently, the International Labor Organization [ILO] released a very grim report about the number of children who toil away in abhorrent conditions. The ILO estimates that over 200 million children worldwide under the age of 15 are working instead of receiving a basic education. Many of these children begin working in factories at the age of 6 or 7, some even younger. They are poor, malnourished, and often forced to work 60-hour weeks for little or no pay.

Child labor is most prevalent in countries with high unemployment rates. According to the ILO, some 61 percent of child workers, nearly 153 million children, are found in Asia; 32 percent, or 80 million, are in Africa and 7 percent, or 17.5 million, live in Latin America. Adult unemployment rates in some nations runs over 20 percent. In Latin America, for example, about 1 in every 10 children are workers. Furthermore, in many nations where child labor is prevalent, more money is spent and allocated for military expenditures than for education and health services.

The situation is as deplorable as it is enormous. In many developing coun-

tries children represent a substantial part of the work force and can be found in such industries as rugs, toys, textiles, mining, and sports equipment manufacturing.

For instance, it is estimated that 65 percent of the wearing apparel that Americans purchase is assembled or manufactured abroad, therefore, increasing the chance that these items were made by abusive and exploitative child labor. In the rug industry, India and Pakistan produce 95 percent of their rugs for export. Some of the worst abuses of child labor have been documented in these countries, including bonded and slave labor.

Venezuela and Colombia exported \$6,084,705 and \$1,385,669 worth of mined products respectively to the United States in 1995. Both were documented by the Department of Labor as using child labor in mining. Mining hazards for children include exposure to harmful dusts, gases, and fumes that cause respiratory diseases that can develop into silicosis, pulmonary fibrosis, asbestosis, and emphysema after some years of exposure. Child miners also suffer from physical strain, fatigue, and musculoskeletal disorders, as well as serious injuries from falling objects.

Children may also be crippled physically by being forced to work too early in life. For example, a large-scale ILO survey in the Philippines found that more than 60 percent of working children were exposed to chemical and biological hazards, and that 40 percent experienced serious injuries or illnesses.

These practices are often underground, but the ILO report points out that children are still being sold outright for a sum of money. Other times, landlords buy child workers from their tenants, or labor contractors pay rural families in advance in order to take their children away to work in carpet weaving, glass manufacturing, or prostitution. Child slavery of this type has long been reported in South Asia, Southeast Asia, and West Africa, despite vigorous official denial of its existence.

Additionally, children are increasingly being bought and sold across national borders by organized networks. The ILO report states that at least five such international networks trafficking in children exist: from Latin America to Europe and the Middle East; from South and Southeast Asia to Northern Europe and the Middle East; a European regional market; an associated Arab regional market; and, a West Africa export market in girls.

In Pakistan, the ILO reported in 1991 that an estimated half of the 50,000 children working as bonded labor in Pakistan's carpet-weaving industry will never reach the age of 12—victims of disease and malnutrition.

I have press reports from India of children freed from virtual slavery in the carpet factories of Northern India.

Twelve-year-old Charitra Chowdhary recounted his story—he said, “If we moved slowly we were beaten on our backs with a stick. We wanted to run away but the doors were always locked.”

Mr. President, that’s what this bill is about, children, whose dreams and childhood are being sold for a pittance to factory owners and in markets around the globe.

It’s about protecting children around the globe and their future. It’s about eliminating a major form of child abuse in our world. It’s about breaking the cycle of poverty by getting these kids out of factories and into schools. It’s about raising the standard of living in the Third World so we can compete on the quality of goods instead of the misery and suffering of those who make them. It’s about assisting Third World governments to enforce their laws by ending the role of the United States in providing a lucrative market for goods made by abusive and exploitative child labor and encouraging other nations to do the same.

Mr. President, unless the economic exploitation of children is eliminated, the potential and creative capacity of future generations will forever be lost to the factory floor.

Mr. President, the Child Labor Deterrence Act of 1997 is intended to strengthen existing U.S. trade laws and help Third World countries enforce their child labor laws. The bill directs the U.S. Secretary of Labor to compile and maintain a list of foreign industries and their respective host countries that use child labor in the production of exports to the United States. Once the Secretary of Labor identifies a foreign industry, the Secretary of the Treasury is instructed to prohibit the importation of a product from an identified industry. The entry ban would not apply if a U.S. importer signs a certificate of origin affirming that they took reasonable steps to ensure that products imported from identified industries are not made by child labor. In addition, the President is urged to seek an agreement with other governments to secure an international ban on trade in the products of child labor. Further, any company or individual who would intentionally violate the law would face both civil and criminal penalties.

This legislation is not about imposing our standards on the developing world. It’s about preventing those manufacturers in the developing world who exploit child labor from imposing their standards on the United States. They are forewarned. If manufacturers and importers insist on investing in child labor, instead of investing in the future of children, I will work to assure that their products are barred from entering the United States.

Mr. President, as I said when I first introduced this bill 4 years ago, it is time to end this human tragedy and

our participation in it. It is time for greater government and corporate responsibility. No longer can officials in the Third World or U.S. importers turn a blind eye to the suffering and misery of the world’s children. No longer do American consumers want to provide a market for goods produced by the sweat and toil of children. By providing a market for goods produced by child labor, U.S. importers have become part of the problem by perpetuating the impoverishment of poor families. Through this legislation, importers now have the opportunity to become part of the solution by ending this abominable practice.

Mr. President, countries do not have to wait until poverty is eradicated or they are fully developed before eliminating the economic exploitation of children. In fact, the path to development is to eliminate child labor and increase expenditures on children such as primary education. In far too many countries, governments spend millions on military expenditures and fail to provide basic educational opportunities to its citizens. As a result, over 130 million children are not in primary school.

In conclusion, Mr. President, my bill places no undue burden on U.S. importers. I know of no importer, company, or department store that would willingly promote the exploitation of children. I know of no importer, company, or department store that would want their products and image tainted by having their products produced by child labor. And I know that no American consumer would knowingly purchase something made with abusive and exploitative child labor. These entities take reasonable steps to ensure the quality of their goods; they should also be willing to take reasonable steps to ensure that their goods are not produced by child labor.

Mr. President, I urge my colleagues to support this legislation.

Mr. President, I ask that the text of the bill be printed in the RECORD.

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

S. 332

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Child Labor Deterrence Act of 1997”.

SEC. 2. FINDINGS, PURPOSE, AND POLICY.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Principle 9 of the Declaration of the Rights of the Child proclaimed by the General Assembly of the United Nations on November 20, 1959, states that “. . . the child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental, or moral development. . .”.

(2) Article 2 of the International Labor Convention No. 138 Concerning Minimum Age For Admission to Employment states that, “The minimum age specified in pursuance of paragraph 1 of this article shall not be less than the age of compulsory schooling and, in any case, shall not be less than 15 years.”.

(3) According to the International Labor Organization, worldwide an estimated 200,000,000 children under the age of 15 are working, many of them in dangerous industries like mining and fireworks.

(4) Children under the age of 15 constitute approximately 11 percent of the workforce in some Asian countries, 17 percent of the workforce in parts of Africa, and a reported 12–26 percent of the workforce in many countries in Latin America.

(5) The number of children under the age of 15 who are working, and the scale of their suffering, increase every year, despite the existence of more than 20 International Labor Organization conventions on child labor and laws in many countries which purportedly prohibit the employment of under age children.

(6) In many countries, children under the age of 15 lack either the legal standing or means to protect themselves from exploitation in the workplace.

(7) The prevalence of child labor in many developing countries is rooted in widespread poverty that is attributable to unemployment and underemployment, precarious incomes, low living standards, and insufficient education and training opportunities among adult workers.

(8) The employment of children under the age of 15 commonly deprives the children of the opportunity for basic education and also denies gainful employment to millions of adults.

(9) The employment of children under the age of 15, often at pitifully low wages, undermines the stability of families and ignores the importance of increasing jobs, aggregated demand, and purchasing power among adults as a catalyst to the development of internal markets and the achievement of broadbased, self-reliant economic development in many developing countries.

(b) **PURPOSE.**—The purpose of this Act is to curtail the employment of children under the age of 15 in the production of goods for export by—

(1) eliminating the role of the United States in providing a market for foreign products made by under age children;

(2) supporting activities and programs to extend primary education, rehabilitation, and alternative skills training to under age child workers, to improve birth registration, and to improve the scope and quality of statistical information and research on the commercial exploitation of children in the workplace; and

(3) encouraging other nations to join in a ban on trade in products described in paragraph (1) and to support those activities and programs described in paragraph (2).

(c) **POLICY.**—It is the policy of the United States—

(1) to discourage actively the employment of children under the age of 15 in the production of goods for export or domestic consumption;

(2) to strengthen and supplement international trading rules with a view to renouncing the use of under age children in production as a means of competing in international trade;

(3) to amend United States law to prohibit the entry into commerce of products resulting from the labor of under age children; and

(4) to offer assistance to foreign countries to improve the enforcement of national laws prohibiting the employment of children under the age of 15 and to increase assistance to alleviate the underlying poverty that is often the cause of the commercial exploitation of children under the age of 15.

SEC. 3. UNITED STATES INITIATIVE TO CURTAIL INTERNATIONAL TRADE IN PRODUCTS OF CHILD LABOR.

In pursuit of the policy set forth in this Act, the President is urged to seek an agreement with the government of each country that conducts trade with the United States for the purpose of securing an international ban on trade in products of child labor.

SEC. 4. DEFINITIONS.

In this Act:

- (1) **CHILD.**—The term “child” means—
 (A) an individual who has not attained the age of 15, as measured by the Julian calendar; or
 (B) an individual who has not attained the age of 14, as measured by the Julian calendar, in the case of a country identified under section 5 whose national laws define a child as such an individual.
- (2) **EFFECTIVE IDENTIFICATION PERIOD.**—The term “effective identification period” means, with respect to a foreign industry or host country, the period that—
 (A) begins on the date of that issue of the Federal Register in which the identification of the foreign industry or host country is published under section 5(e)(1)(A); and
 (B) terminates on the date of that issue of the Federal Register in which the revocation of the identification referred to in subparagraph (A) is published under section 5(e)(1)(B).
- (3) **ENTERED.**—The term “entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.
- (4) **EXTRACTION.**—The term “extraction” includes mining, quarrying, pumping, and other means of extraction.
- (5) **FOREIGN INDUSTRY.**—The term “foreign industry” includes any entity that produces, manufactures, assembles, processes, or extracts an article in a host country.
- (6) **HOST COUNTRY.**—The term “host country” means any foreign country and any possession or territory of a foreign country that is administered separately for customs purposes (and includes any designated zone within such country, possession, or territory) in which a foreign industry is located.
- (7) **MANUFACTURED ARTICLE.**—The term “manufactured article” means any good that is fabricated, assembled, or processed. The term also includes any mineral resource (including any mineral fuel) that is entered in a crude state. Any mineral resource that at entry has been subjected to only washing, crushing, grinding, powdering, levigation, sifting, screening, or concentration by flotation, magnetic separation, or other mechanical or physical processes shall be treated as having been processed for the purposes of this Act.
- (8) **PRODUCTS OF CHILD LABOR.**—An article shall be treated as being a product of child labor—
 (A) if, with respect to the article, a child was engaged in the manufacture, fabrication, assembly, processing, or extraction, in whole or in part; and
 (B) if the labor was performed—
 (i) in exchange for remuneration (regardless to whom paid), subsistence, goods, or services, or any combination of the foregoing;
 (ii) under circumstances tantamount to involuntary servitude; or

(iii) under exposure to toxic substances or working conditions otherwise posing serious health hazards.

(9) **SECRETARY.**—The term “Secretary”, except for purposes of section 5, means the Secretary of the Treasury.

SEC. 5. IDENTIFICATION OF FOREIGN INDUSTRIES AND THEIR RESPECTIVE HOST COUNTRIES THAT UTILIZE CHILD LABOR IN EXPORT OF GOODS.

(a) **IDENTIFICATION OF INDUSTRIES AND HOST COUNTRIES.**—

(1) **IN GENERAL.**—The Secretary of Labor (in this section referred to as the “Secretary”) shall undertake periodic reviews using all available information, including information made available by the International Labor Organization and human rights organizations (the first such review to be undertaken not later than 180 days after the date of enactment of this Act), to identify any foreign industry that—

(A) does not comply with applicable national laws prohibiting child labor in the workplace;

(B) utilizes child labor in connection with products that are exported; and

(C) has on a continuing basis exported products of child labor to the United States.

(2) **TREATMENT OF IDENTIFICATION.**—For purposes of this Act, the identification of a foreign industry shall be treated as also being an identification of the host country.

(b) **PETITIONS REQUESTING IDENTIFICATION.**—

(1) **FILING.**—Any person may file a petition with the Secretary requesting that a particular foreign industry and its host country be identified under subsection (a). The petition must set forth the allegations in support of the request.

(2) **ACTION ON RECEIPT OF PETITION.**—Not later than 90 days after receiving a petition under paragraph (1), the Secretary shall—

(A) decide whether or not the allegations in the petition warrant further action by the Secretary in regard to the foreign industry and its host country under subsection (a); and
 (B) notify the petitioner of the decision under subparagraph (A) and the facts and reasons supporting the decision.

(c) **CONSULTATION AND COMMENT.**—Before identifying a foreign industry and its host country under subsection (a), the Secretary shall—
 (1) consult with the United States Trade Representative, the Secretary of State, the Secretary of Commerce, and the Secretary of the Treasury regarding such action;
 (2) hold at least 1 public hearing within a reasonable time for the receipt of oral comment from the public regarding such a proposed identification;

(3) publish notice in the Federal Register—
 (A) that such an identification is being considered;
 (B) of the time and place of the hearing scheduled under paragraph (2); and
 (C) inviting the submission within a reasonable time of written comment from the public; and

(4) take into account the information obtained under paragraphs (1), (2), and (3).

(d) **REVOCATION OF IDENTIFICATION.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary may revoke the identification of any foreign industry and its host country under subsection (a) if information available to the Secretary indicates that such action is appropriate.

(2) **REPORT OF SECRETARY.**—No revocation under paragraph (1) may take effect earlier than the 60th day after the date on which the

Secretary submits to the Congress a written report—

(A) stating that in the opinion of the Secretary the foreign industry and host country concerned do not utilize child labor in connection with products that are exported; and

(B) stating the facts on which such opinion is based and any other reason why the Secretary considers the revocation appropriate.

(3) **PROCEDURE.**—No revocation under paragraph (1) may take effect unless the Secretary—

(A) publishes notice in the Federal Register that such a revocation is under consideration and inviting the submission within a reasonable time of oral and written comments from the public on the revocation; and
 (B) takes into account the information received under subparagraph (A) before preparing the report required under paragraph (2).

(e) **PUBLICATION.**—The Secretary shall—
 (1) promptly publish in the Federal Register—
 (A) the name of each foreign industry and its host country identified under subsection (a);
 (B) the text of the decision made under subsection (b)(2)(A) and a statement of the facts and reasons supporting the decision; and
 (C) the name of each foreign industry and its host country with respect to which an identification has been revoked under subsection (d); and

(2) maintain and publish in the Federal Register a current list of all foreign industries and their respective host countries identified under subsection (a).

SEC. 6. PROHIBITION ON ENTRY.

(a) **PROHIBITION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), during the effective identification period for a foreign industry and its host country no article that is a product of that foreign industry may be entered into the customs territory of the United States.

(2) **EXCEPTION.**—Paragraph (1) shall not apply to the entry of an article—
 (A) for which a certification that meets the requirements of subsection (b) is provided and the article, or the packaging in which it is offered for sale, contains, in accordance with regulations prescribed by the Secretary, a label stating that the article is not a product of child labor;

(B) that is entered under any subheading in subchapter IV or VI of chapter 98 of the Harmonized Tariff Schedule of the United States (relating to personal exemptions); or

(C) that was exported from the foreign industry and its host country and was en route to the United States before the first day of the effective identification period for such industry and its host country.

(b) **CERTIFICATION THAT ARTICLE IS NOT A PRODUCT OF CHILD LABOR.**—

(1) **FORM AND CONTENT.**—The Secretary shall prescribe the form and content of documentation, for submission in connection with the entry of an article, that satisfies the Secretary that the exporter of the article in the host country, and the importer of the article into the customs territory of the United States, have undertaken reasonable steps to ensure, to the extent practicable, that the article is not a product of child labor.

(2) **REASONABLE STEPS.**—For purposes of paragraph (1), “reasonable steps” include—
 (A) in the case of the exporter of an article in the host country—
 (i) having entered into a contract, with an organization described in paragraph (4) in

that country, providing for the inspection of the foreign industry's facilities for the purpose of certifying that the article is not a product of child labor, and affixing a label, protected under the copyright or trademark laws of the host country, that contains such certification; and

(i) having affixed to the article a label described in clause (1); and

(B) in the case of the importer of an article into the customs territory of the United States, having required the certification and label described in subparagraph (A) and setting forth the terms and conditions of the acquisition or provision of the imported article.

(3) WRITTEN EVIDENCE.—The documentation required by the Secretary under paragraph (1) shall include written evidence that the reasonable steps set forth in paragraph (2) have been taken.

(4) CERTIFYING ORGANIZATIONS.—

(A) IN GENERAL.—The Secretary shall compile and maintain a list of independent, internationally credible organizations, in each host country identified under section 5, that have been established for the purpose of—

(i) conducting inspections of foreign industries,

(ii) certifying that articles to be exported from that country are not products of child labor, and

(iii) labeling the articles in accordance with paragraph (2)(A).

(B) ORGANIZATION.—Each certifying organization shall consist of representatives of nongovernmental child welfare organizations, manufacturers, exporters, and neutral international organizations.

SEC. 7. PENALTIES.

(a) UNLAWFUL ACTS.—It shall be unlawful, during the effective identification period applicable to a foreign industry and its host country—

(1) to attempt to enter any article that is a product of that industry if the entry is prohibited under section 6(a)(1); or

(2) to violate any regulation prescribed under section 8.

(b) CIVIL PENALTY.—Any person who commits an unlawful act set forth in subsection (a) shall be liable for a civil penalty not to exceed \$25,000.

(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any person who intentionally commits an unlawful act set forth in subsection (a) shall be, upon conviction, liable for a fine of not less than \$10,000 and not more than \$35,000, or imprisonment for 1 year, or both.

(d) CONSTRUCTION.—The violations set forth in subsection (a) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930, including—

(1) the search, seizure, and forfeiture provisions;

(2) section 592 (relating to penalties for entry by fraud, gross negligence, or negligence); and

(3) section 619 (relating to compensation to informers).

SEC. 8. REGULATIONS.

The Secretary shall prescribe regulations to carry out the provisions of this Act.

SEC. 9. UNITED STATES SUPPORT FOR DEVELOPMENTAL ALTERNATIVES FOR UNDER AGE CHILD WORKERS.

In order to carry out section 2(c)(4), there is authorized to be appropriated to the President the sum of—

(1) \$10,000,000 for each of fiscal years 1998 through 2002 for the United States contribu-

tion to the International Labor Organization for the activities of the International Program on the Elimination of Child Labor; and

(2) \$100,000 for fiscal year 1998 for the United States contribution to the United Nations Commission on Human Rights for those activities relating to bonded child labor that are carried out by the Subcommittee and Working Group on Contemporary Forms of Slavery.●

TRIBUTE TO DR. MARTIN LUTHER KING, JR.

● Mr. SANTORUM. Mr. President, the Philadelphia Martin Luther King, Jr. Association for Nonviolence held its 15th Annual King Day Luncheon on January 20. I wanted to take a few minutes of Senate business today and share this very moving experience with my colleagues.

Mr. President, I had the honor and privilege of participating in the King Day celebration. The annual program in Philadelphia is a very moving tribute to Dr. King and is the largest national celebration of this great civil rights leader. Additionally, the program serves as the most ecumenical and multicultural annual gathering for the city of Philadelphia.

In recent years, this program has featured such special guests as Gen. Colin Powell and Vice President AL GORE. The King Association has also honored such dignitaries as Rosa Parks, Bishop Desmond Tutu, Judge Leon Higginbotham, Attorney Bernard Segal, and one of our colleagues in the U.S. Senate, Senator CAROL MOSELEY-BRAUN.

Under the leadership of the Honorable C. DeLores Tucker, the King Association has the unique mission of promoting and implementing the principle of nonviolence throughout the Northeast. The fact that the association serves as the only affiliate of the King Center in Atlanta, commissioned by Coretta Scott King, reflects the importance of the King Association's mission and services.

For allowing me to be a part of this year's King Day Luncheon, I would like to again express my very sincere and genuine gratitude to the King Association president, the Honorable C. DeLores Tucker, and the executive director, Dr. Teta V. Banks. As we honor and recognize Dr. King, there is no greater living tribute than the thousands upon thousands of national community leaders of all ethnic backgrounds who continue working to make Dr. King's dream a reality.

Mr. President, the work done by the King Association in Philadelphia and the Annual King Day Luncheon certainly embody the legacy of Dr. Martin Luther King, Jr.●

THE 220TH ANNIVERSARY OF THE FOUNDING OF THE U.S. CAVALRY

● Mr. DODD. Mr. President, I rise today to recognize the 220th anniver-

sary of the U.S. Cavalry and the contributions the town of Wethersfield, CT, made to the Revolutionary War effort.

In my home State of Connecticut, the town of Wethersfield is proud to be recognized as the first home and training ground for the Continental Army's first cavalry regiment, known as Sheldon's Horse, the Second Continental Light Dragoons. In a time when armies were slow moving, the Second Continental Dragoons were unique for their swiftness and daring. The Second Dragoons were composed of mounted and dismounted men able to quickly advance on the enemy's flank.

By orders of the First Continental Congress and General Washington, the Second Dragoon Regiment was the first cavalry regiment directly organized by the Continental Army. According to the Connecticut Historical Commission, on December 12, 1776, the Continental Congress appointed Elisha Sheldon of Salisbury as lieutenant colonel commandant of a regiment of the Continental Cavalry, the first such unit of the Continental Army. He was ordered to enlist six troops to form his regiment at Wethersfield. Among the first officers chosen by Colonel Sheldon was Wethersfield resident, Maj. Benjamin Tallmadge. In the late winter and early spring of 1777, Major Tallmadge erected a training ground for the training and breaking of horses for the regiment in Wethersfield.

Under Major Tallmadge's direction and leadership, the Second Regiment fought in the battles of Short Hills, Brandywine, Trenton, Saratoga, and White Plains, and during the harsh winter at Valley Forge, the Dragoons patrolled the area for General Washington.

Currently, the U.S. Cavalry is based in Fort Riley, KS, but it will be forever linked to the town of Wethersfield and Connecticut. I applaud the efforts of the people of Wethersfield to celebrate their history and the contributions they have made to ensuring the independence of America.●

GLENN H. ROTTMANN RETIRES FROM THE GOVERNMENT PRINTING OFFICE

● Mr. WARNER. Mr. President, concluding nearly 53 years of Federal service, Glenn H. Rottmann recently retired from the U.S. Government Printing Office [GPO], where he had risen through the ranks from junior offset platemaker to Director of GPO's Production Services with responsibility for all printing performed at GPO, including many of the essential products needed by Congress for its daily operation such as the CONGRESSIONAL RECORD.

Following 14 months of service in the U.S. Army, Mr. Rottmann began his career at the GPO on July 23, 1945, as a

junior offset platemaker. In 1971, he was made foreman of the offset plate section, and in 1975 he was named Superintendent of the Offset Division. In 1981, Mr. Rottmann was promoted to production manager with overall responsibility for GPO's inplant production facilities, including the Press Division, the Binding Division, and prepress operations under the Electronic Photocomposition, Graphic Systems Development, and Electronic Systems Development Divisions. In 1993, he was promoted to Director of Production Services following an agencywide reorganization.

As one of the Nation's largest printing plants and the largest manufacturing operation in the District of Columbia, GPO produces a wide variety of products, from essential legislative documents for Congress and critical information such as the U.S. Budget, to other important publications such as the daily Federal Register, U.S. passports and postal cards, and a broad variety of other items. Some publications, such as the CONGRESSIONAL RECORD and the Federal Register, are printed on demanding schedules overnight, each containing as much type as four to six metropolitan daily newspapers. Mr. Rottmann's responsibility was to ensure that this essential Government printing was accomplished with the highest possible quality, in the most timely manner, at the lowest possible cost.

During his tenure, Mr. Rottmann oversaw the upgrading of GPO's inplant production operations with modern graphic communications and electronic information technologies. Under his leadership, GPO completed the conversion from hot metal to electronic photocomposition technology, expanded desktop publishing opportunities on Capitol Hill and in Federal agencies through GPO's dialup composition system and MicroComp software package, began the production of CD-ROM products, acquired and installed state-of-the-art offset press technology, expanded the use of environmentally sensitive products such as recycled paper and vegetable-oil inks, and developed the technology and databases supporting GPO Access, GPO's award winning online information dissemination service. As a result of these changes, citizen access to Government information has been substantially improved, and the productivity increases from new technology have permitted substantial staff downsizing and increased savings to the taxpayers. Beyond these achievements, Mr. Rottmann was widely considered an able administrator and a friend by GPO's employees.

Mr. Rottmann earned numerous GPO awards, served as an apprentice training representative, completed several training programs, and is a graduate of the Federal Executive Institute in Charlottesville, VA.

I extend congratulations and sincere appreciation to Mr. Rottmann for his 53 years of dedicated public service to Congress and the Nation, and I wish him a long and happy retirement.●

HONORING THE 150TH ANNIVERSARY OF BUREAU COUNTY REPUBLICAN

● Ms. MOSELEY-BRAUN. Mr. President, I would like to congratulate the Bureau County Republican on its 150th anniversary.

Since 1847, the people of Princeton and Bureau County have turned to the Republican for accurate news and information. What began as a small, weekly paper dedicated to the abolition of slavery is now known as the primary local morning newspaper in the region.

The Bureau County Republican is a great American success story, and Illinois is proud of its long and distinguished history.

In honor of the paper's sesquicentennial, I ask that an article from the January 2, 1997, edition of the Bureau County Republican be printed at this point in the RECORD.

The article follows:

THE TRADITION OF COMMUNITY PUBLISHING GROWS

The Bureau County Advocate was first published on December 2, 1847 by Ebenezer Higgins.

Justin Olds and J.M. Wilkinson purchased the Advocate in the summer of 1851 and changed its name to the Princeton Post. In 1858, the Princeton Post was changed to the Bureau County Republican. John W. Bailey I purchased the Bureau County Republican in 1863. In the early days, he was identified with the Abolition Party and also with the underground railroad.

According to the "Big Bureau and Bright Prairies" edited by Doris Parr Leonard and published by the Bureau County Board of Supervisors, Bailey, 33, had worked in Ohio, Indiana, Tennessee and Washington, D.C. and was directed to Princeton by Joseph Medill of the Chicago Tribune who had heard that a paper was for sale in the county seat of Bureau County. Ironically both the Bureau County Republican and the Chicago Tribune were founded the same year, 1847.

He continued as head of the Republican for 40 years until his death May 28, 1903. He was succeeded by his son, Harry U. Bailey, who also headed the paper for 40 years until his death Sept. 20, 1943.

Third in the line of Baileys to head the newspaper was John W. Bailey III, son of H. U. Bailey. He was publisher from 1943 until his death May 13, 1946, in a fire in his home. His widow, the former Mary Potter of Henry, whose life he had saved in the fire, subsequently became the publisher and continued that role for 31 years.

John W. Bailey III, a graduate of the University of Wisconsin, had become a junior partner in 1935 and had directed his efforts toward a vigorous program to make the Republican a stronger force, enhancing the potential of Princeton as a mercantile, agricultural and small industrial center.

In June 1963, the newspaper which had been a weekly since its inception, became a semi-

weekly. Thursday's paper remained the Republican while the newspaper published on Tuesday was called the Bureau County Record.

On May 12, 1977, the BCR/Record was sold to the B.F. Shaw Printing Co., publishers of the Dixon Evening Telegraph.

Illinois Valley Shopping News was purchased in 1982 replacing the Bureau County Advertiser.

In 1987, the Saturday edition was added and in 1992 the BCR converted to an AM newspaper, making it the only local morning newspaper.

The Bureau County Republican won the distinction of being the best weekly newspaper in the state in 1988 and 1991 as judged by the Illinois Press Association in winning the Will Loomis and Harold and Eva White trophies.

Publishers succeeding Mary Bailey have included William DeLost, William Shaw, Vern Brown, Robert Sorenson and Sam R. Fisher, current publisher.

Editors have included Theodore A. Duffield, Scott Caldwell, James Dunn, Ron DeBrock and James F. Troyer, and current editor, Lori Hamer.●

A HIGH PROBABILITY OF FAILURE

● Mr. MOYNIHAN. Mr. President, we now have a consensus that the year 2000 is going to arrive before the Federal Government has prepared its computers for the date.

Yesterday, in a hearing held by my esteemed colleague Representative STEPHEN HORN, officials from the General Accounting Office [GAO] warned that many of the Government's computers will stop working in 2000 because agencies have failed to take the appropriate precautions. Joel Willemssen, GAO's Director of Information Resources Management, warned: "There is a high probability there will be some failures."

Though widely pronounced in small circles for a year now, this fact is now being heralded by the General Accounting Office—Congress' dutiful investigative arm. To its credit GAO has added the year 2000 problem to its list of "High Risk Government Programs;" promised to report periodically on the status of the agencies' responses; asked agencies to focus on their most critical computer systems; and now, has warned that we must be prepared for some amount of failure.

Are we ready for failure? In Medicare payments? In our air traffic control system? In our national defense system? We must act, and place responsibility in a body to ensure compliance. My bill, S. 22, would set up a commission to do just that. I can only hope that my colleagues and the leaders of the executive agencies take heed of GAO's warnings of probable failure.

I ask that an article from today's Washington Post entitled "Double Zero Will Arrive Before the Fix" be printed in the RECORD.

The article follows:

[From the Washington Post, Feb. 25, 1997]
**DOUBLE ZERO WILL ARRIVE BEFORE THE FIX
 GAO SAYS REPROGRAMMING SOME COMPUTERS
 FOR 2000 IS RUNNING LATE**

(By Rajiv Chandrasekaran)

The General Accounting Office warned for the first time yesterday that some of the government's computers will stop working in 2000 because agencies will not be able to finish reprogramming their equipment to understand years that do not begin with "19."

"There is a high probability there will be some failures," Joel Willemsen, the GAO's director of information resources management, told a House subcommittee. He urged government agencies to focus their efforts on the country's most critical computer systems, including those that handle air traffic control, Medicare and national defense.

Many large computer systems use a two-digit, year-dating system that assumes 1 and 9 are the first two digits of the year. If not reprogrammed, those computers will think the year 2000—or 00—actually is 1900, a glitch that could cripple many systems or lead them to generate erroneous data.

It's a particularly serious problem for the federal government, experts said, because most agencies have older computers that use the two-digit system. Earlier this month, the GAO, the watchdog arm of Congress, added the "Year 2000 problem" to its list of high-risk issues facing the nation.

The GAO does not have any estimates on how many computers—or which systems—might fail in 2000.

Although every Cabinet department has told the Office of Management and Budget that it is aware of the complicated and costly process of fixing its computers, some congressional leaders yesterday questioned whether the agencies were moving fast enough and have allotted enough money to make the changes in time. Some agencies still are studying—and have not yet begun actually reprogramming—their systems, according to a recent OMB report.

"Only a few of them have specific, realistic plans to solve the problem before the stroke of midnight on the last day of 1999," said Rep. Stephen Horn (R-Calif.), chairman of the House subcommittee on government management, information and technology, who oversaw yesterday's hearing before an overflow crowd. Six departmental chief information officers testified before the panel, each trying to describe just how complex the glitch will be to fix.

At the State Department, for example, chief information officer Eliza McClenaghan said there are 141 programs totaling 27.7 million lines of computer code written in 17 programming languages that need to be changed. Almost half of the code cannot be reprogrammed and will have to be replaced, she said.

Others highlighted the fact that many government officials only recently have become aware of the problem.

"I didn't even know there was such a thing as a year 2000 problem until August," said Michael P. Huerta, the acting chief information officer at the Department of Transportation, which last year was given an "F" by Horn for its inattention to the date issue.

Horn and Rep. Thomas M. David III (R-Va.) said they were concerned that some agencies have allotted only six or seven months to test the changes to their computer systems. Yesterday the GAO recommended agencies give themselves at least a year for testing.

"They're pushing the envelope so close to D-Day," Horn said.

The chief information officers, however, promised the subcommittee that their systems would be fixed in time. "You can be confident we'll get the job done," said Emmett Paige Jr., an assistant secretary of defense. He complained that a requirement to report the department's progress regularly to the OMB, the GAO and the subcommittee "stretches our resources [to fix the glitch] a little thinner."

Some computer systems already are experiencing the date problem, said Keith A. Rhodes, a GAO technical director. A Defense Department contractor last month received a 97-year delinquency notice on a three-year contract due to be completed in January 2000, he said.

Horn also questioned the OMB's latest cost estimate for fixing the problem, which it has pegged at about \$2.3 billion. After the hearing, Horn called the figure "way too low" because it does not include devices such as elevators that rely on microprocessors that might need to be reprogrammed. The estimate also does not take into account higher labor costs for computer programmers as December 1999 draws closer, he said.

Yesterday, some department officials stood by their estimates, while others took the opportunity to slightly revise projections. The Department of Transportation, for example, added \$10 million to its estimate, raising it to about \$90 million. At the Defense Department, which faces the largest problem of any federal agency, Paige said its current \$1.2 billion price tag is only temporary.

"I submit that as we continue the assessment [of computer systems], that figure will continue to rise," Paige said. •

POPULATION ASSISTANCE

• Mr. HUTCHINSON. Mr. President, I ask that the following background statement be printed in the RECORD.

The statement follows:

[From the National Right to Life
 Committee, Inc., Jan. 28, 1997]

BACKGROUND ON THE CLINTON ADMINISTRATION'S PROMOTION OF ABORTION THROUGH THE STATE DEPARTMENT AND THE FOREIGN AID PROGRAM FOR "POPULATION ASSISTANCE"

Abortion should not, and need not, be interjected into the "population assistance" program as the Clinton Administration has done. At the end of the Bush Administration, under the pro-life "Mexico City Policy" (described below), the U.S. "population assistance" program provided 45% of the total pool of "family planning" funds contributed by all donor nations. Much of this money went to some 400 private foreign organizations that provided non-abortion services in developing countries.

NRLC takes no position on contraception, or on federal funding of contraceptive services, whether in the U.S. or overseas. Throughout the Reagan and Bush Administration, NRLC testified that it had no objection regarding the increases in "population assistance" funding that were approved during that era, because the Reagan-Bush "Mexico City Policy" governed those funds. The "Mexico City Policy," in effect from 1984 through 1992, provided that U.S. population assistance funds would not support private foreign organizations that perform abortions (except in cases of life endangerment, rape, or incest) or lobby to legalize abortion in foreign nations.

However, President Clinton radically changed the thrust of the program. Upon

taking office, he immediately nullified the Mexico City Policy. Subsequently, the Clinton Administration granted massive funding to certain organizations that are heavily involved in promoting the legalization and provision of abortion in foreign nations, chief among these the London-based International Planned Parenthood Federation (IPPF). (IPPF-London had refused to accept U.S. funds under the Mexico City Policy. However, about half [57] of IPPF's national affiliates did accept U.S. funds under the "Mexico City" conditions.)

IPPF-London has often made it clear that the legalization of abortion and the expansion of abortion networks are among its primary goals. The IPPF's 1992 mission statement, Strategic Plan-Vision 2000, repeatedly and unambiguously instructs IPPF's 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." Precise strategies for accomplishing this end are discussed in the summary of IPPF's Mauritius Conference. (See "Promotion of Abortion in the Developing World by the IPPF," Population Research Institute report, 1996) "Progress" toward abortion legalization that IPPF has recently accomplished in specific nations (including Thailand, Nepal, Sri Lanka, and Uruguay) are described in the IPPF Annual Report Supplement in 1994-95.

Donald P. Warwick of the Harvard Institute for International Development has written the IPPF "has in word and deed been one of the foremost lobbyists for abortion in the developing countries." In a 1996 report, the Population Research Institute observed: "No other organization has done more to spread abortion throughout the world than the International Planned Parenthood Federation . . . the IPPF has forcefully and repeatedly stated its intention to assist in the legalization of abortion in every country of the world . . . and has also voiced its willingness to equip abortion centers and provide the expertise required to perform abortions on a massive scale."

The Clinton Administration has pressured foreign governments to get in line with its forcefully declared doctrine that legal "abortion is a fundamental right of all women." Indeed, on March 16, 1994, Secretary of State Warren Christopher sent an "action cable" to all U.S. diplomats and consular posts. The cable called for "senior level diplomatic interventions" to urge host governments to support U.S. priorities for an upcoming U.N. population conference. The cable read: "The priority issues for the U.S. include assuring . . . access to safe abortion. [. . .] The United States believes that access to safe, legal and voluntary abortion is a fundamental right of all women."

In May, 1993, Under Secretary of State Tim Wirth gave a speech on population control in which he proclaimed, "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." At about the same time, Mr. Wirth said that the Administration goal was to make this "reproductive choice" available to every woman in the world by 2,000 AD. At the 1994 Cairo conference on population control, sponsored by the United Nations Population Fund (UNFPA), and at more recent U.N.-sponsored conferences, the Clinton Administration has zealously promoted this doctrine, and has brought pressures to bear on delegates that resist it.

Groups that support the Administration's abortion doctrine often insist that "U.S. law

already prohibits the use of population assistance funds for abortion." This is a red herring. The "existing law" referred to is the 1973 Helms Amendment to the Foreign Assistance Act, it has been construed very narrowly, as barring the direct use of U.S. funds to pay for abortion procedures overseas. But the real issue is not the direct payment for individual abortion procedures, but the Clinton Administration's perversion of the population assistance program to promote the legalization and expansion of access to abortion as a birth control method in developing nations. It is noteworthy that after less than three months in office, the White House urged Congress to repeal the Helms Amendment, declaring abortion to be "part of the overall approach to population control" (White House press security, April 1, 1993).

The Clinton Administration's extrapolations regarding how many abortions U.S. funds supposedly "prevent" completely ignore the abortion-promoting activities of the Administration and those of its taxpayer-funded surrogates such as IPPF. For example, they completely disregard the vast increases in the number of abortions that result when a nation's laws protecting the unborn are removed. As Stanley Henshaw, deputy director of research for the Alan Guttmacher Institute, a pro-abortion advocacy group, acknowledged in a June 16, 1994 document, "In most countries, it is common after abortion is legalized for abortion rates to rise sharply for several years, then stabilize, just as we have seen in the United States."

The Clinton Administration's overseas abortion crusade is on a collision course with the laws, and the cultural and religious values, that predominate in most developing nations, including nearly all of Latin America, most of Africa, and many places in Asia. About 95 U.N. member states have laws that permit abortion only in narrowly defined circumstances. These laws cover 37 percent of the world's population, or over two billion (2,000,000,000) persons. (Under Secretary Wirth has been quoted as saying that all except 17 U.N. countries "permit" abortion, but this is highly misleading, since he refers only to nations with total bans on abortion. Typical abortion laws in developing nations, permitting abortion only to save the life of the mother or in other narrowly defined circumstances, are far removed from the Administration's "fundamental right," abortion-on-demand doctrine.)

ACTION DURING THE 104TH CONGRESS

During 1995, the House of Representatives repeatedly voted in favor of amendments offered by Congressman Chris Smith (R-NJ), the chairman of the House International Relations Subcommittee on International Operations and Human Rights, to restore the Reagan-Bush policy. The Smith language would deny U.S. "population assistance" funds to foreign private organizations that perform abortions (except life of the mother, rape, or incest), that violate foreign abortion laws, or that lobby to change foreign abortion laws. (Note: neither the Mexico City Policy, nor the Smith amendments, placed any restrictions no counseling regarding legal abortions.) However, the White House threatened to veto any bill that contained Rep. Smith's language, which contributed to the defeat of the House-passed language in the Senate.

Finally in January, 1996, in order to disentangle the foreign operations appropriations bill (HR 1868) from this debate, a compromise was reached under which (1) the Smith policy language was dropped, (2) FY

1996 appropriations for population assistance was reduced by 35%, and (3) a formula was adopted to delay USAID's ability to obligate some of the appropriate money, in order to allow Congress further opportunities to curb the Administration's pro-abortion crusade.

During 1996, the House offered a compromise in the form of a far weaker pro-life provision, the "Callahan 50/50 Amendment." Under this provision, organizations that violated the "Mexico City" conditions would have remained eligible for funding, but at only 50% of the FY 1995 level. (This restriction would have applied only to new, FY 1997 funds—not to the \$303 million carried over from FY 1996.) In a September conference committee, appropriators coupled the Callahan provision to additional language that would have allowed obligation of an additional \$293 million in population-control funding during FY 1997—for a total of as much as \$713 million. But White House Chief of Staff Leon Panetta told the appropriators that President Clinton would veto the entire omnibus funding bill rather than accept this proffered compromise.

Because of this veto threat, the final September funding bill [now PL 104-208] contained no new policy language to constrain the Administration's pro-abortion activities—but again set a population-control funding level about one-third lower than the 1995 figure, and placed "metering" limitations on how soon the Administration can obligate those funds.

This episode perfectly illustrated the White House's ideological commitment to keeping abortion as a fundamental component of the program, at all costs—reflecting its close alliance with organizations such as the Planned Parenthood Federation of America (PPFA), an organization that has openly proclaimed its operating "principal" that "reproductive freedom is indivisible" (i.e., that abortion must not be treated differently from other birth control options). Immediately following the episode described above, Gloria Feldt, president of the Planned Parenthood Federation of America, said her side had won "a moral victory in defeating abortion restrictions," but added, "The cost has been enormous."

The September law also guaranteed the White House a chance to substantially increase the amount of money that it can obligate during FY 1997. Under the law, President Clinton must file a "finding" with Congress no later than February 1, stating his opinion regarding the effects of funding cuts on "the proper functioning of the population planning program." The law further requires that, before the end of February, both the House and the Senate must vote on a joint resolution which, if approved, would release an additional \$123 million in population-control funds during the current fiscal year—without any restrictions on the use of these funds for the Administration's pro-abortion activities.●

MEXICO AND DRUG CERTIFICATION

● Mrs. BOXER. Mr. President, this week, President Clinton must make an important decision regarding our Nation's fight against illegal drug trafficking. He must decide by March 1 whether to certify that Mexico and Colombia have, in the past year, taken all appropriate and necessary actions in the fight against international narcotics trafficking.

Under the international antidrug law, in order for a country which is either a major source of narcotics or a major drug transit country to continue to receive U.S. aid, the President must certify as adequate the performance of that country in cooperating with the United States or taking its own actions in the drug fight.

The law gives the President three choices. First, he can certify that the country is either fully cooperating with the United States or has taken adequate steps on its own to combat the narcotics trade. Second, he can decertify the country, concluding that the country has failed to meet the requirements of cooperation or action. Third, he can provide a vital national interest waiver—essentially a finding that the country has not met the standards of the law, but that our own national interest is best protected by continuing to provide assistance to the country.

With respect to Colombia, I believe the only appropriate course for the President to follow is to decertify Colombia, just as he did last year. There is too much credible evidence that Colombian President Samper has taken millions in campaign contributions from the Cali Cartel and that he has failed to take the antidrug and anticorruption actions that he pledged to us in 1994.

The question of Mexico is more complicated. Mexico is the leading transit country for cocaine coming into the United States: 50 to 70 percent of all cocaine shipped into the United States comes through Mexico. It is also a significant source of heroin, methamphetamines, and marijuana.

President Zedillo seems to be strongly committed to rid the Mexican law enforcement system of corruption and to fight the Mexican drug cartels. However, the reports and events of the past few weeks have made it clear that corruption in police ranks—even up to the very top ranks—is still rampant in Mexico.

Just last week, it was revealed that the man hired only 3 months ago to be Mexico's drug czar—the head of their antinarcotics agency—was fired abruptly after being accused of taking bribes from one of Mexico's most powerful drug lords. It would be as if our own drug czar, Gen. Barry McCaffrey, were found to be in league with drug gangs in our country.

Why didn't the Mexican Government tell us weeks ago that their man was under investigation? Why did they let our own drug agency brief him and give him important intelligence about our antidrug efforts? That is not cooperation by any standard.

Mexico has also failed in the past year to take its own steps to meet the standards of the certification law. It has not acted boldly to root out corruption in its law enforcement establishment; it has acted to extradite to

the United States only a few Mexican nationals suspected of involvement in United States drug activities; it has failed to implement new anticrime laws enacted last year.

Given these facts, I do not believe Mexico should be certified in compliance with the drug law. However, I believe the President would be justified in granting a vital national interest waiver of the requirements of the law. That would send a message to Mexico that its actions in the past year were inadequate; but it would allow the United States to continue joint efforts with President Zedillo and others in his administration who are committed to the drug fight. ●

BLACK HISTORY MONTH

● Mr. SARBANES. Mr. President, for more than 70 years, February has been designated as the month in which we honor the achievements and contributions of African-Americans to our history, our culture and our future. One remarkable African-American leader, W.E.B. DuBois, made an observation in 1903 that bears great significance for this celebration. "Herein lies the tragedy of the age," he said, "that men know so little of men." Since 1926, Black History Month has challenged us to mitigate that tragedy, encouraging us to study the lives of both our most noted heroes and those whose stories have remained untold.

As it does each year, the Association for the Study of Afro-American Life and History has selected a theme for this month's celebration. It's theme for 1997, "African-Americans and Civil Rights: A Reappraisal," focuses on the pioneers, leaders, and venues in the civil rights struggle that are often unrecognized. In light of this, I want to pay tribute to an extraordinary group of African-American artists from my State of Maryland who, despite their undeniably significant contributions to our culture, nevertheless remain relatively unknown. Yet, given their landmark accomplishments, these individuals would be important role models for aspiring artists of all backgrounds. By pushing the limits of their artistic mediums, the international respect earned by these artists advanced the struggle for the equal recognition of all people, both in our society and under its laws. I salute the association for selecting a theme that focuses on more of our Nation's unsung heroes.

At the Shakespeare Memorial Theatre in Stratford-upon-Avon, there sits a memorial chair dedicated to Ira Aldridge, one of the greatest Shakespearean tragedians of his day. Born in Baltimore in 1805, Aldridge's performances were so popular with heads of state that he was the first African American to be knighted. He drew praise from New York to Prussia, with a diverse repertoire of roles that in-

cluded Othello, Macbeth, Shylock, Lear and Richard III. Known as "The Celebrated African Tragedian," Aldridge was called "without doubt the greatest actor that has ever been seen in Europe," by a Viennese critic, and "the most beautiful male artist that one can imagine," by a Prussian. Pioneers like Aldridge made possible careers like those of Sidney Poitier, Lawrence Fishburne and Denzel Washington.

From offstage, inspiring women of every color, we find Frances Ellen Watkins Harper. This poet, writer, and lecturer was the first African-American female novelist to be published in this country. She was born in Baltimore, in 1825, and attended a school for African-Americans on the present site of the Baltimore Convention Center. A writer of paperbacks and pamphlets on topics from abolition to the Bible, her popularity has been well documented. Records show that two of her poetry collections had sold 50,000 copies each by 1878. Her talents and perseverance were such that she was also the first African-American woman to have her work published in the Atlantic Monthly. Without someone like Harper, we may never have seen a Gwendolyn Brooks or an Alice Walker.

Joshua Johnson was the first African-American artist in the United States to earn his living as a professional portrait painter. A freed slave, Johnson worked in Baltimore for more than 30 years and painted more than 80 portraits of Baltimore's sea captains, shopkeepers, and merchants, and their families from 1795 to 1825. Described as a "self-taught genius," Johnson's subjects were mostly white and his style, quite realistic for the age in which he lived. While little is known of Johnson's personal history, the success and historical significance of his professional endeavors are clear. Johnson's portraits are still widely displayed in museums across the Nation, including the Metropolitan Museum of Art in New York and the National Gallery here in Washington.

The Broadway classics, "I'm Just Wild About Harry" and "Memories of You" are the works of another Baltimorean, Eubie Blake. The famous vaudevillian, ragtime pianist and composer of more than 3,000 songs was the cocreator of the first all African-American Broadway musical, "Shuffle Along." After its 1921 debut on Broadway, "Shuffle Along's" successful 2 year run in New York paved the way for a continued African-American presence on Broadway's brightly-lit strip. "Shuffle Along" also influenced other composers, including Gershwin who, many critics say, might never have written "Porgy and Bess" had Blake never written his musical. At age 86, Blake astonished the entertainment world by coming out of retirement to join the ragtime revival of the 1970's,

inspiring a whole new generation of listeners. Two years after receiving the Medal of Freedom from President Reagan in 1981, Blake was honored at galas across the country that marked his 100th birthday with evenings of his own music.

Baltimore is proud to claim another musical legend. Raised as Eleanor Fagen, Billie Holiday rose to outstanding levels of acclaim and popularity for her unique approach to jazz singing: She was as able to alter the rhythm and tone of her voice as the players accompanying her were able to do on their instruments. In the course of her 26-year career, so-called Lady Day recorded with musical giants including Benny Goodman, Count Basie, Artie Shaw and Teddy Wilson. Frequently called the greatest jazz singer ever, she inspired audiences from New York's Cotton Club to Baltimore's Royal theater, with ballads such as "Strange Fruit," a song protesting lynching and discrimination.

Baltimore is also home to the Afro-American newspaper group, the Nation's oldest continuously published African-American newspaper chain. Founded in 1892, the chain has produced as many as 13 editions, and served readers from New Jersey to South Carolina. The pages of the Afro-American have borne the bylines of the paper's many reporters who later became national figures in the struggle for civil rights. One such individual was Clarence Mitchell, Jr., the Baltimore lawyer and activist who ultimately became director of the Washington Bureau of the NAACP. Today, the Afro-American publishes editions in Baltimore and Washington, DC as well as a Wednesday weekly.

First knight, first novelist, first painter, first composer, first lady of jazz, the list goes on and on. Maryland is very proud of these great men and women. In succeeding against enormous odds, only did they inspire us, but they laid the groundwork upon which other African-American actors, painters, writers, and musicians have followed. Like Maryland's history, the history of this country is replete with the contributions of African-Americans, many of which have gone unrecognized. The names I have mentioned today are but a small sample, a reminder that Black History Month is also a time to silently honor those heroes whose names we may never know. It was another writer who often worked in Maryland, Langston Hughes, who wondered,

What happens to a dream deferred?
Does it dry up.

Like a raisin in the sun?

The accomplishments of the African-Americans I have recognized today prove that some dreams can surmount even the most difficult obstacles. A 100 years ago, who could have imagined the success of writers like Hughes and

Toni Morrison? Who would have dreamed of public servants and leaders such as Maryland's own Parren Mitchell, Thurgood Marshall, and Kweisi Mfume? The achievements of these as well as the outstanding individuals who had the courage to take the very first steps, individuals like Joshua Johnson and Frances Ellen Watkins Harper, challenge us to ensure that today's budding artists and leaders will never have to confront the barriers that faced earlier generations. Given the extraordinary achievements of the artists and activists who did overcome those barriers, one can only imagine the wealth of poems, paintings, and compositions that never made it into our libraries, museums, and concert halls. Let us create an America that is America for all Americans, and let us make our history, our culture, and our future that much richer.●

THE UNIVERSITY OF SOUTH DAKOTA PROFESSIONAL DEVELOPMENT CENTER

● Mr. JOHNSON. Mr. President, I would like you to join me in congratulating the accomplishments of a special program that benefits the students, educators, and communities of South Dakota. In 1993, the University of South Dakota [USD] started the Professional Development Center [PDC] with the hope of strengthening the important relationship between rural economic growth and the professional development of teachers. Even those in the PDC had no idea then that, 4 years later, this program would have impacted the State to such a large degree with unlimited potential for the future.

A career in education is subject to a number of barriers including feelings of isolation as a new teacher and a sense of being stuck in a rut as an experienced teacher. These feelings can influence the overall effectiveness of teachers by not allowing them to achieve their potential as professional educators. The PDC is designed to counter these feelings by pairing first year teachers as interns with more experienced teachers as mentors. In addition, a member of the USD faculty is assigned to each pairing. This arrangement allows for the exchange of ideas, materials, teaching demonstrations, and technologies in a supportive social and professional environment. Interns benefit by learning from talented and experienced peers; mentors are rejuvenated with new ideas; and the university faculty provide both parties with a direct link to the resources and opportunities available at USD.

The impact of this relationship is felt outside the classroom walls. By creating an environment of shared learning within a community, the PDC empowers teachers to come up with creative educational opportunities for

their students and, most importantly, to act on these ideas. In the process of enhancing the curriculum, educators enhance their own professional development.

Ultimately, the PDC benefits the children and communities of South Dakota the most. Students receive quality instruction and are challenged to develop their own new ideas from motivated teachers. In addition, students are exposed to positive role models in education, encouraging some to pursue a similar career. For their part, communities reap the rewards of an environment with higher educational standards for students, teachers with a strengthened commitment to their profession, and established links to USD.

Mr. President, the Professional Development Center at the University of South Dakota is a perfect example of a program that enhances communities through education. It is a model for future efforts to improve the overall quality of life in rural America. I invite you to join me in congratulating the following members of the PDC for receiving the Distinguished Program in Teacher Education Award at the recent Association for Teacher Educators conference: University of South Dakota interim president, Dr. Paul Olscamp; dean of the College of Education, Dr. Larry Bright; Dr. Sharon Lee, Dr. Michael Hoadley, Dr. Don Monroe, Dr. Lana Danielson, Dr. Royce Engstrom, Donna Gross, Dr. Sharon Ross, Dr. Rosanne Yost, Dr. Roger Bordeaux, and Mindy Crawford.●

THE URGENT NEED TO OUTLAW POISON GAS

● Mr. BIDEN. Mr. President, today I intend to address one of the most important matters that should come before the Senate in the next several weeks: the Chemical Weapons Convention. This convention—negotiated under Presidents Reagan and Bush—would outlaw poison gas weapons.

The Chemical Weapons Convention represents a significant step forward in our efforts to contend with the greatest immediate threat to our national security—the proliferation of weapons of mass destruction.

The Chemical Weapons Convention will make it illegal under international and domestic laws for a country to use, develop, produce, transfer, or stockpile chemical weapons.

The CWC will help protect our citizens from the use of poison gas weapons by terrorist groups. It will benefit our military by requiring other nations to follow our lead and destroy their chemical weapons. It will improve the ability of our intelligence agencies to monitor chemical weapons threats to our Armed Forces and our Nation. The convention has the strong support of the American chemical industry, which was centrally involved in the negotia-

tion of the CWC. It also takes into account all of the protections afforded Americans under our Constitution.

This is a bipartisan treaty, initiated and negotiated under President Reagan, further negotiated, finalized, and signed under President Bush, and strongly endorsed and submitted for the Senate's advice and consent to ratification by President Clinton.

The costs of the CWC are small, but its benefits are potentially enormous.

At present, international law permits the Libyas and the North Koreans of the world to produce limitless quantities of chemical weapons. That will change when the CWC enters into force.

The CWC will make pariahs out of states that refuse to abide by its provisions. Through the sanctions required by the convention, it will make it more difficult for those pariah states to obtain the precursor chemicals they need to manufacture poison gas. It will create international pressure on these states to sign and ratify the CWC and to abide by its provisions. The CWC will create a standard for good international citizens to meet. It will brand as outlaws those countries that choose to remain outside this regime.

The entry into force of the Chemical Weapons Convention will mark a major milestone in our efforts to enlist greater international support for the important American objective of containing and penalizing rogue states that seek to acquire or transfer weapons of mass destruction.

Ironically, should the Senate fail to give its advice and consent, this milestone will pass with the U.S. On the same side as the rogue states.

CONSEQUENCES OF INACTION

Mr. President, with just over 2 months remaining until entry-into-force, we have reached the eleventh hour.

The convention has been signed by 161 countries and ratified by 68. It will enter into force on April 29 of this year, with or without the participation of the United States. While the United States led the effort to achieve the CWC, the Senate, which received the convention from President Clinton in 1993, has not yet given its advice and consent to ratification.

Our failure to ratify this convention before April 29 will have direct and serious consequences for the security of this country.

First, the CWC mandates trade restrictions that could have a deleterious impact upon the American chemical industry. If the United States has not ratified, American companies will have to supply end-user certificates to purchase certain classes of chemicals from CWC members. After 3 years we will be subject to trade sanctions that will harm American exports and jobs.

Second, an overall governing body known as the Conference of States Parties will meet soon after April 29 to

draw up rules governing the implementation of the convention. If we are not a party to the CWC, we will not be a member of that conference. This body with no American input could make rules that have a serious negative impact on the United States.

Third, there will be a standing executive council of 41 members, on which we are assured of a permanent seat from the start because of the size of our chemical industry—that is, if we have ratified the convention by April 29. If we ratify after the council is already constituted, then a decision on whether to order a requested surprise inspection of an American facility may be taken without an American representative evaluating the validity of the request and looking out for the facility's interests.

Fourth, there will be a technical secretariat with about 150 inspectors, many of whom would be American because of the size and sophistication of our chemical industry. If we fail to ratify this convention in the next 2 months, there will be no American inspectors.

Finally, and most importantly in the long term, by failing to ratify we would align ourselves with those rogue actors who have chosen to defy the CWC. This would do irreparable harm to our global leadership on critical arms control and non-proliferation concerns.

Mr. President, I would now like to address some of the benefits we will derive by joining the CWC.

TERRORISM

One clear benefit of the CWC is that it will help protect us against the threat of terrorist groups acquiring poison gas and using it against our citizens at home or our troops abroad. Imagine for a moment if those responsible for the Oklahoma City bombing or last year's attack on our troops in Saudi Arabia had used poison gas instead of conventional devices. How many more Americans would have been killed?

The CWC will make it more difficult for terrorists to get their hands on chemicals that would allow them to blackmail us with the threat of killing thousands of Americans with a single device. This convention will require countries to destroy their stockpiles of chemical weapons, eliminating the risk that these weapons could fall into the wrong hands. It also will control the transfer of those chemicals that can be used to make chemical weapons, thus restricting and improving the monitoring of chemicals that terrorists need to manufacture weapons.

Most importantly, parties to the convention will be required to pass implementing legislation to place the same prohibitions on persons under their jurisdiction that states themselves accept under the convention. This will mean that states will control strictly all toxic chemicals and their precursors.

Any prohibited activity under the convention will be criminalized.

That was not the case with the 1995 attack on the Tokyo subway in which lethal sarin gas caused thousands of casualties. At that time, there was no Japanese law against the manufacture and possession of chemical weapons. Following that horrible incident, Japan moved swiftly to enact legislation to criminalize chemical weapons activities of the sort banned by the convention. Under the CWC, all parties must do the same.

In conjunction with the legislation we will introduce in our Congress to implement the CWC, the convention will provide American law enforcement officers the tools they need to investigate terrorist groups that are trying to acquire chemical weapons and improve the prospects for early detection and prosecution.

In short, while it cannot entirely eliminate the threat of chemical terrorism—and I would submit that no treaty can—the CWC will make it much harder for terrorists to obtain poison gas and to use it against Americans.

MILITARY

The CWC also has benefits for our Armed Forces.

Let me make two facts absolutely clear. First, the U.S. has fore sworn the use of chemical weapons once the CWC enters into force. Second, the Defense Department is required by law to destroy nearly all U.S. chemical weapons by 2004. Failure to ratify the CWC will not change these two facts.

However, the CWC will require other nations to follow our lead and destroy their chemical weapons.

As the gulf war demonstrated, we do not need chemical weapons to deter potential adversaries like Iraq and Libya from using chemical weapons against our troops. The threat of overwhelming and devastating nonchemical retaliation will serve as a sufficient deterrent. Thus, the Chemical Weapons Convention will enhance, not damage, the capabilities of the U.S. military to carry out its mission.

Several current and former distinguished military officers have spoken to the benefits of this convention.

Gen. Norman Schwarzkopf in his recent testimony before the Senate Veterans' Affairs Committee stated:

We don't need chemical weapons to fight our future warfares. And frankly, by not ratifying that treaty we align ourselves with nations like Libya and North Korea and I'd just as soon not be associated with those thugs in this particular matter.

Gen. John Shalikashvili, Chairman of the Joint Chiefs of Staff, has stated before the Foreign Relations Committee: "From a military perspective, the Chemical Weapons Convention is clearly in our interest."

Adm. Elmo Zumwalt, former Chief of Naval Operations, wrote last month in the Washington Post:

This treaty is entirely about eliminating other people's weapons—weapons that may some day be used against Americans. For the American military, U.S. ratification is high gain and low or no pain. In that light, I find it astonishing that any American opposes ratification.

In addition, several prominent veterans and military groups, including the V.F.W. and the R.O.A., have endorsed the CWC. I will ask that Admiral Zumwalt's op-ed and statements by these groups be printed in the RECORD.

The CWC does not diminish our ability and duty to provide our troops with defenses against those that would contemplate the use of chemical weapons against us. Indeed, the administration plans to maintain a robust program of upgrading defenses against chemical weapons. Should chemical weapons be used against us after the CWC is in force, we will be ready.

Furthermore, the CWC will place the weight of world opinion behind us to take whatever action is necessary to respond to or prevent an adversary using chemical weapons.

I emphasize again that the most important aspect of the CWC from a military perspective is that it will place most of the world in the same situation we are in—not relying upon chemical weapons as a part of military doctrine. This can only be considered a positive development for our military.

VERIFICATION

Another great benefit of the Chemical Weapons Convention is that it increases our ability to detect production of poison gas.

Regardless of whether we ratify this convention, regardless of whether another country has ratified this convention, our intelligence agencies will be monitoring the capabilities of other countries to produce and deploy chemical weapons. The CWC will not change that responsibility.

What this convention does, however, is give our intelligence agencies some additional tools to carry out this task. In short, it will make their job easier.

In addition to on-site inspections, the CWC provides a mechanism to track the movement of sensitive chemicals around the world, increasing the likelihood of detection. This mechanism consists of data declarations that require chemical companies to report production of those precursor chemicals needed to produce chemical weapons. This information will make it easier for the intelligence community to monitor these chemicals and to learn when a country has chemical weapons capability.

In testimony before the Senate Foreign Relations Committee in 1994, R. James Woolsey, then Director of Central Intelligence, stated: "In sum, what the Chemical Weapons Convention provides the intelligence community is a new tool to add to our collection tool kit."

Recently, Acting Director of Central Intelligence, George Tenet, re-emphasized this point before the Senate Select Committee on Intelligence. Mr. Tenet stated: "There are tools in this treaty that as intelligence professionals we believe we need to monitor the proliferation of chemical weapons around the world. . . . I think as intelligence professionals we can only gain."

No one has ever asserted that this convention is 100 percent verifiable. It simply is not possible with this or any other treaty to detect every case of cheating. But I would respectfully submit that this is not the standard by which we should judge the convention. Instead, we should recognize that the CWC will enhance our ability to detect clandestine chemical weapons programs. The intelligence community has said that we are better off with the CWC than without it—that is the standard by which to judge the CWC.

Mr. President, having discussed some of the clear benefits of joining the CWC, I now would like to address some of the costs associated with not joining, as well as some of the objections that have been raised to the convention.

INDUSTRY

Perhaps no single aspect of this debate has seen more misinformation than that having to do with the affect the CWC would have on the U.S. chemical industry.

Mr. President, the chemical industry plays a larger role in the economy of the State of Delaware than it does in any other State. Over half of Delaware's industrial output comes from our 47 chemical plants. Their sales represent more than 10 percent of our State's economic output. The chemical industry employs tens of thousands of Delawareans.

The people who own, manage, and work at chemical plants know they have no greater friend than this Senator. If I for one moment thought that the convention would harm the American chemical industry, as some have alleged, I would raise this issue. But the fact of the matter is that the only thing about the Chemical Weapons Convention that would hurt the American chemical industry would be the Senate's failure to give its advice and consent.

In 1995, the American chemical industry exported \$60 billion around the world, accounting for fully 10 percent of all American exports and making it the single largest exporting industry. More than 1 million Americans are employed by the U.S. chemical industry.

Should we fail to ratify the CWC, we will put a portion of these exports and these good-paying jobs at risk by leaving our chemical manufacturers open to sanctions, the very sanctions that American negotiators insisted should be a part of this convention as a way to

pressure rogue states. In fact, the Chemical Manufacturers Association estimates that failure to ratify the CWC could jeopardize \$600 million of our chemical exports.

The charge that the CWC will harm American business appears all the more preposterous when one considers the fact that the convention was negotiated with the unprecedented input of the U.S. chemical industry.

Thanks to their help, the convention contains thresholds and exemptions that protect businesses, small and large alike, from bearing an undue burden. The American chemical industry helped develop the ground rules under which inspections will occur, including provisions for protecting confidential business information. Chemical company representatives also helped design the brief, three-page form that represents the only reporting obligation for 90 percent of the approximately 2,000 companies that will have obligations under the CWC.

I will ask that a statement by Mr. Fred Webber, the president of the Chemical Manufacturers Association, be printed in the RECORD.

To quote from another statement of Mr. Webber's:

The U.S. Chemical Industry worked hard to help Government negotiators craft a CWC that provides strong protections against future uses of chemical weapons, at a minimum burden and intrusion on commercial chemical facilities. The protection our industry achieved in the CWC can only be realized if the Senate acts quickly to ratify the convention.

U.S. chemical companies recognize that while they produce goods intended for peaceful uses, their products and inputs could be misused for nefarious purposes. That is why they so actively have supported this convention. Their involvement in the CWC has been a model of good corporate citizenship.

Unfortunately, we will reward this responsible behavior with a slap in the face if we fail to ratify the CWC and subject the U.S. chemical industry to international sanctions.

CONSTITUTIONALITY

One of the issues that should not be contentious, and I hope will not continue to be a focus of attention, is whether the convention, and particularly its inspection regime, is constitutional.

Every scholar that has published on the subject, and virtually every scholar that has considered the issue, has concluded that nothing in the convention conflicts in any way with the fourth amendment or any other provision of the U.S. Constitution.

Indeed, to accommodate our special constitutional concerns, the United States insisted that when parties to the convention provide access to international inspection teams, the Government may "[take] into account any constitutional obligations it may have

with regard to proprietary rights or searches and seizures."

In plain English, this means that inspectors enforcing the chemical weapons Convention must comply with our constitution when conducting inspections on U.S. soil.

It also means that the United States will not be in violation of its treaty obligations if it refuses to provide inspectors access to a particular site for legitimate constitutional reasons.

In light of this specific text, inserted at the insistence of U.S. negotiators, I am hard pressed to understand how anyone can seriously contend that the convention conflicts with the constitution.

There is nothing in the convention that would require the United States to permit a warrantless search or to issue a warrant without probable cause. Nor does the convention give any international body the power to compel the U.S. to permit an inspection or issue a warrant.

This is the overwhelming consensus among international law scholars that have studied the convention, two of whom have written to me expressing their opinion that the convention is constitutional. I ask unanimous consent that the letters of Harvard Law Professor Abram Chayes and Columbia Law Professor Louis Henkin be included in the RECORD following my statement.

So let me make this point absolutely clear, despite what opponents of the convention have said, there will be no involuntary warrantless searches of U.S. facilities by foreign inspectors under this convention.

In light of this, I hope that the constitutionality of this convention will not become an issue in this debate.

AMERICAN LEADERSHIP

Mr. President, let me stress that the CWC will go into effect with or without us on April 29. The only way we can ensure fully effective American leadership is to ratify this convention before that date. We will needlessly pay a price if we ratify after that date.

Let us remember that this is not a partisan issue before us. After more than 8 years of negotiation under two Republican administrations, President Bush signed the final version of the CWC in January 1993.

To demonstrate the bipartisan support for the CWC, I ask unanimous consent to insert in the RECORD a statement made earlier this month by former President Bush in which he restated his strong support for ratification of the CWC.

I also ask unanimous consent to insert into the RECORD a recent op-ed by former Secretary of State James Baker.

Many of the strongest supporters of this convention are Republicans. The distinguished senior Senator from Indiana, Senator LUGAR, has led the effort

to ratify the CWC. All of us, Republicans and Democrats alike, need to recognize that this convention is a matter of our national interest.

Mr. President, I fear that our status as the world's non-proliferation leader would be irreversibly compromised by our unwillingness to ratify the CWC.

Already, all of our G-7 partners have ratified the CWC.

What will be their reaction when we try to enlist their support for proliferation initiatives targeting rogue states if we cannot even take the simple step of joining a regime that we led the way in creating?

Make no mistake. If we fail to ratify the CWC, we will forfeit the high ground on global proliferation matters. And that is not something to be taken lightly, for the result will be a far more dangerous world.

CONCLUSION

Mr. President, in conclusion, the burdens of the chemical weapons convention are small, but its benefits are great.

The American chemical industry strongly supports this convention.

Our military is already committed to destroying our poison gas stockpile, and the convention will require the same of every other CWC member state.

The CWC will improve our ability to monitor the chemical weapons capabilities of other states.

In short, Mr. President, the CWC will improve the security of Americans.

The CWC may not be perfect—and no treaty is—but it is considerably better than the alternative of doing nothing. Ultimately, the question we will have to ask is—are we better off with the CWC or without it? I hope that I have demonstrated today why we would be far better off joining a treaty regime that we created, rather than turning our backs in favor of the status quo or worse.

We need to disregard arguments that are superfluous to the core reality of what this convention will accomplish: It bans poison gas, period.

This convention is the best means available to ensure that there will be no more victims of poison gas like the soldiers in the trenches of World War I or the innocent victims of a murderous Iraqi regime.

I understand that a task force of Republican Senators has been working with the White House to address concerns raised by some of our colleagues. I hope that this process soon will yield a resolution of ratification that merits strong bipartisan support.

But I cannot emphasize enough the importance of this convention to our national security. We have a very real deadline hanging over our heads.

I would urge my colleagues to learn more about this convention in the next few weeks so that they can make an informed decision about its necessity for

our national security. Please contact me or my staff if you have questions about the cwc and what it will and will not do.

If we bring this convention to the floor and engage in a full, frank, and open debate on its merits, I am confident that two-thirds of the Senate will be convinced that the Chemical Weapons Convention is good for American business, good for the American military, and good for the American people. Mr. President, we owe it to them to have this debate at the earliest possible time.

I ask that the material to which I referred be printed in the RECORD.

The material follows:

[From the Washington Post, Jan. 6, 1997]

A NEEDLESS RISK FOR U.S. TROOPS

(By E.R. Zumwalt, Jr.)

It has been more than 80 years since poison gas was first used in modern warfare—in April 1915 during the first year of World War I. It is long past time to do something about such weapons.

I am not a dove. As a young naval officer in 1945, I supported the use of nuclear weapons against Japan. As chief of naval operations two decades ago, I pressed for substantially higher military spending than the nation's political leadership was willing to grant. After retiring from the Navy, I helped lead the opposition to the SALT II treaty because I was convinced it would give the Soviet Union a strategic advantage.

Now the Senate is considering whether to approve the Chemical Weapons Convention. This is a worldwide treaty, negotiated by the Reagan administration and signed by the Bush administration. It bans the development, production, possession, transfer and use of chemical weapons. Senate opposition to ratification is led by some with whom I often agree. But in this case, I believe they do a grave disservice to America's men and women in uniform.

To a Third World leader indifferent to the health of his own troops and seeking to cause large-scale pain and death for its own sake, chemical weapons have a certain attraction. They don't require the advanced technology needed to build nuclear weapons. Nor do they require the educated populace needed to create a modern conventional military. But they cannot give an inferior force a war-winning capability. In the Persian Gulf war, the threat of our uncompromising retaliation with conventional weapons deterred Saddam Hussein from using his chemical arsenal against us.

Next time, our adversary may be more berserk than Saddam, and deterrence may fail. If that happens, our retaliation will be decisive, devastating—and no help to the young American men and women coming home dead or bearing grievous chemical injuries. What will help is a treaty removing huge quantities of chemical weapons that could otherwise be used against us.

"Militarily, this treaty will make us stronger. During the Bush administration, our nation's military and political leadership decided to retire our chemical weapons. This wise move was not made because of treaties. Rather, it was based on the fact that chemical weapons are not useful for us.

Politically and diplomatically, the barriers against their use by a First World country are massive. Militarily, they are risky and unpredictable to use, difficult and dangerous

to store. They serve no purpose that can't be met by our overwhelming conventional forces.

So the United States has no deployed chemical weapons today and will have none in the future. But the same is not true of our potential adversaries. More than a score of nations now seeks or possesses chemical weapons. Some are rogue states with which we may some day clash.

This treaty is entirely about eliminating other people's weapons—weapons that may some day be used against Americans. For the American military, U.S. ratification of the Chemical Weapons Convention is high gain and low or no pain. In that light, I find it astonishing that any American opposes ratification.

Opponents argue that the treaty isn't perfect: Verification isn't absolute, forms must be filled out, not every nation will join at first and so forth. This is unpersuasive. Nothing in the real world is perfect. If the U.S. Navy had refused to buy any weapon unless it worked perfectly every time, we would have bought nothing and now would be disarmed. The question is not how this treaty compares with perfection. The question is how U.S. ratification compares with its absence.

If we refuse to ratify, some governments will use our refusal as an excuse to keep their chemical weapons. Worldwide availability of chemical weapons will be higher, and we will know less about other countries' chemical activities. The diplomatic credibility of our threat of retaliation against anyone who uses chemical weapons on our troops will be undermined by our lack of "clean hands." At the bottom line, our failure to ratify will substantially increase the risk of a chemical attack against American service personnel.

If such an attack occurs, the news reports of its victims in our military hospitals will of course produce rapid ratification of the treaty and rapid replacement of senators who enabled the horror by opposing ratification. But for the victims, it will be too late.

Every man and woman who puts on a U.S. military uniform faces possible injury or death in the national interest. They don't complain; risk is part of their job description. But it is also part of the job description of every U.S. senator to see that this risk not be increased unnecessarily.

[Chemical Weapons Convention News Alert, Feb. 20, 1997]

VETERANS, MILITARY GROUPS ENDORSE CWC

Veterans organizations and military associations representing millions of Americans who have served in this nation's armed forces have endorsed the Chemical Weapons Convention.

The Veterans of Foreign Wars Commander in Chief James E. Nier said:

"The treaty will reduce world stockpiles of such weapons and will hopefully prevent our troops from being exposed to poison gases. . . . As combat veterans we support this treaty. . . ."

The Vietnam Veterans of America included in its priorities:

"Ratification of the Chemical Weapons Convention to take a substantive step toward preventing chemical weapons exposure problems for veterans in the future similar to those experienced by Persian Gulf War veterans and the veterans of prior wars."

The Reserved Officers Association of the United States in a Resolution declared:

" . . . failure to ratify the CWC will place us among the great outlaw states of the

world, including Libya, Iran, and North Korea . . .

" . . . United States ratification of the CWC will enable us to play a major role in the development and implementation of CWC policy, as well as providing strong moral leverage to help convince Russia of the desirability of ratifying. . .

" . . . the Reserve Officers Association of the United States, chartered by Congress, urge the Senate to quickly ratify the Chemical Weapons Convention."

American Ex-Prisoners of War National Commander William E. "Sonny" Mottern said:

" . . . I wish to express my support for the ratification of the Chemical Weapons Convention. This is an important step in reducing the price that Americans who serve their country on the field of battle must pay in defense of our freedom.

" . . . America must play a leadership role in international efforts to reduce this price to the extent possible."

Jewish War Veterans of the U.S.A. National Commander Bob Zweiman said:

"There are meaningful provisions in the CWC which will afford an opportunity to impose economic restrictions and sanctions against those who develop chemical weapons.

" . . . We are honor bound to protect our Nation and our troops by minimizing the chances from all obvious or hidden means of chemical attack in the future."

[Chemical Manufacturers Association, Jan. 13, 1997]

RATIFY THE CHEMICAL WEAPONS CONVENTION
(By Fred Webber, President and CEO)

Today marks the fourth anniversary of the Chemical Weapons Convention, an international treaty outlawing poison gas. The treaty is the brainchild of the United States. Since the treaty was opened for signature in Paris, 67 nations have ratified the treaty (China is poised to become the 68th member of the club). The United States is not among the 67. Now, with the Convention poised to become international law on April 29, our nation's continuing absence from a treaty of its making is fast becoming a source of international embarrassment. The Senate should act quickly to rectify this situation by ratifying the treaty at the earliest opportunity.

Opposition to the Convention, led by conservative think tanks, is rooted in longstanding suspicions of arms control agreements. But the critics have taken to embellishing this argument by also claiming the Convention will have a devastating impact on American businesses, large and small.

The critics are simply wrong. The members of our association, large and small, produce over 90 percent of the nation's industrial chemicals and they strongly support the Convention. Ratifying it is the right thing to do.

No American business makes chemical weapons. Chemical companies do, however, make products which can, in the wrong hands, be processed into weapons agents. Some poison gases for example, can be made in part from chemicals designed to treat cancer patients and prevent fires.

Chemical manufacturers have a responsibility to make sure that their products are safely produced and properly used. That's why we support the Chemical Weapons Convention. It's the best way to reduce the threat of future poison gas attacks.

Some advocacy groups, and their allies on Capitol Hill, are trying to scare the business

community into opposing the Convention. It's time to answer the critics and set the record straight.

Here's how the chemical industry answers three commonly-heard criticisms of the treaty:

The treaty will impose a "massive new regulatory burden" on more than 25,000 American businesses, most of which are not chemical companies. The terms of the treaty place most of the private-sector reporting requirements squarely on the shoulders of chemical manufacturers. No more than 2,000 facilities here in the U.S. face treaty obligations. Nearly all are chemical makers, not their customers. And most regulated businesses will be required to do more than fill out a two-page form, once a year.

The treaty threatens vital industry trade secrets by allowing international inspectors free access to manufacturing sites. The chemical industry worked with treaty negotiators for more than a decade to help devise inspection procedures. We tested these procedures during trial inspections held at our commercial facilities. Our top priority was to protect legitimate commercial secrets. The treaty does just that—it does not permit unlimited inspector access to any facility.

The treaty tramples on the U.S. Constitution by voiding Fourth Amendment protections against unreasonable searches and seizures. This argument does not pass the red-face test. A simple reading of the Convention reveals that the treaty respects all constitutional protections.

The chemical industry spent years examining this treaty. We have opened our plants to trial inspections. We have put the treaty to the test—over and over again. Honest businesses have nothing to fear from this treaty. Its benefits far outweigh the costs.

What the critics fail to mention is the price to pay for failing to ratify the Convention. The treaty imposes trade sanctions on countries which don't participate. The price of U.S. non-participation will be paid by the chemical industry and by American workers, for it is our products, and our businesses, that will be hurt. Treaty opponents purport to represent American business interests in the Convention, but they aren't telling business the true story.

The Senate's vote on the treaty will send a powerful signal to the rest of the world. A vote *against* the treaty will surely be perceived as a vote for chemical weapons.

Those who oppose this treaty have yet to offer a credible alternative. Chemical weapons are a serious threat to world security. The Chemical Weapons Convention is a serious response to that threat. The treaty's merits have been debated for years. It's time to stop talking and take action. It's time for the U.S. to ratify the Chemical Weapons Convention *before* it goes into effect in April 1997.

HARVARD LAW SCHOOL,
Cambridge MA, September 9, 1996.

HON. JOSEPH R. BIDEN, JR.,
Ranking Member, Senate Judiciary Committee,
Dirksen Senate Office Building, Washington
DC.

DEAR SENATOR BIDEN: You have asked me to comment on the suggestion that the Chemical Weapons Convention (the Convention), now before the Senate for its advice and consent, conflicts with the provisions of the Fourth Amendment of the Constitution prohibiting unreasonable searches and seizures. In my view, the suggestion is completely without merit.

The Convention expressly provides that:

"In meeting the requirement to provide access . . . the inspected State Party shall be under the obligation to allow the greatest degree of access *taking into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures.*" (Verification Annex, Part X, par. 41) (emphasis supplied).¹

As you know, this provision of the Convention was inserted at the insistence of the United States after earlier drafts, which provided insufficient protection in regard to unreasonable searches and seizures, had been criticized by a number of U.S. scholars. The plain meaning of these words, which seems too clear for argument, is that the United States would have no obligation under the Convention to permit access to facilities subject to its jurisdiction in violation of the provisions of the Fourth Amendment. It was the clear understanding of the negotiators that the purpose of the provision was to obviate any possibility of conflict between the obligations of the United States under the Convention and the mandate of the Fourth Amendment. The Convention in its final form is thus fully consistent with U.S. constitutional requirements.

Inspections required by the Convention will be conducted pursuant to implementing legislation to be adopted by Congress that will define the terms, conditions and scope of the inspections to be conducted in the United States by the Technical Staff of the Organization for the Prohibition of Chemical Weapons (OPCW) established by the Convention. I understand that draft implementing legislation entitled the Chemical Weapons Convention Implementation Act, now before the Congress, specifies the procedures that will be followed in the case of both routine and challenge inspections carried out pursuant to the Convention. The Act requires, at a minimum, an administrative search warrant before an inspection can be conducted, and has elaborate provisions for notice and other protections to the owner of the premises to be searched. These provisions of the Act are modeled on similar administrative inspection regimes already authorized by Acts of Congress such as the Toxic Substances Control Act and upheld by the courts. However, if Congress is concerned that these provisions are constitutionally insufficient, it is free under the Convention to revise the Act to include more stringent requirements that conform to constitutional limitations. Finally, a person subject to inspection may challenge the inspection in a U.S. court, which in turn will be bound to invalidate any inspection that fails to comply with constitutional requirements. In view of the provisions of the Verification Annex quoted above, the United States would not be in violation of any international obligation in such an eventually.

For these reasons I conclude that there is no constitutional objection to the Convention, and that the rights of individuals under the Fourth Amendment will be fully protected under the Convention and implementing legislation of the character presently contemplated.

In addition, I have been involved in the field of arms control as a scholar and practitioner for many years, going back to the Limited Test Ban Treaty in 1963, in connection with which I appeared before the Senate Foreign Relations Committee as Legal Adviser of the State Department. I have also closely followed the negotiations for the

¹The Verification Annex is, of course, an integral part of the convention.

Chemical Weapons Convention. The United States has been a prime mover in the development of the Convention under both Republican and Democratic administrations. I am convinced that the prompt ratification of the Chemical Weapons Convention is overwhelmingly in the security interest of the United States and should not be derailed by constitutional objections that are so plainly without substance.

Sincerely,

ABRAM CHAYES.

COLUMBIA UNIVERSITY,
SCHOOL OF LAW,
New York, NY, September 11, 1996.

DEAR SENATOR BIDEN: As requested, I have considered whether, if the United States adhered to the Convention on Chemical Weapons, the inspection provisions of the Convention would raise serious issues under the United States Constitution. I have concluded that those provisions would not present important obstacles to U.S. adherence to the Convention.

Like domestic laws, treaties of the United States are subject to constitutional restraints. The Fourth Amendment to the United States constitution provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . ." Constitutional jurisprudence has established that the right to be secure applies also to industrial and commercial facilities and to business records, papers and effects.

The Constitution, however, protects the rights of private persons; it does not protect governmental bodies, public officials, public facilities or public papers. As to private persons, the Fourth Amendment protects only against searches and seizures that are "unreasonable." Inspection arrangements, negotiated and approved by the President and consented to by the Senate, designed to give effect to a treaty of major importance to the United States, carry a strong presumption that they are not unreasonable.

The Chemical Convention itself anticipated the constitutional needs of the United States. Part X of the Convention, "Challenge Inspection pursuant to Article IX," provides: "41. In meeting the requirement to provide access as specified in paragraph 38, the inspected State party shall be under the obligation to allow the greatest degree of access taking into account any constitutional obligation it may have with regard to proprietary rights or searches and seizures."

As applied to the United States, that provision is properly interpreted to mean that the United States must provide access required by the Convention, but if the Constitution precludes some access in some circumstances, the United States must provide access to the extent the Constitution permits. And if, because of constitutional limitations, the United States cannot provide full access required by the Convention, the United States is required "to make every reasonable effort to provide alternative means to clarify the possible noncompliance concern that generated the challenge inspection." (Art. 42.)

The United States would be required also to adopt measures to overcome any constitutional obstacles to any inspection or interrogation required by the Convention. If it were determined to be necessary, the United States could satisfy the requirements of the Fourth and Fifth Amendments by arranging for administrative search warrants, by enacting statutes granting immunity from

prosecution for crimes revealed by compelled testimony, by providing just compensation for any "taking" involved.

Sincerely,

LOUIS HENKIN,
University Professor Emeritus.

STATEMENT OF FORMER PRESIDENT GEORGE BUSH

President BUSH. Welcome. Let me just say that we've had a most enjoyable breakfast. Barbara and I are very flattered that the Secretary of State, in what is obviously a busy schedule, took time to come and have breakfast with us.

I told Secretary Albright that she would have my enthusiastic support in her quest for bipartisanship and foreign policy. I think Jim Baker, my esteemed friend and former colleague, told her the same thing, so it's for real from us and I know she feels strongly about that.

I told her I would strongly support her efforts to get this Chemical Weapons Treaty approved. This should be beyond partisanship. I have a certain fatherhood feeling about that. But leaving that out, I think it is vitally important for the United States to be out front, not to be dragged, kicking and screaming to the finish line on that question. We don't need chemical weapons, and we ought to get out front and make clear that we are opposed to others having them. So that's important.

The funding for the State Department: When I heard Madeleine telling me some of the problems that she might face—hopefully, she won't, but she might face—it was *deja vu* because I remember Jim Baker coming to me, as President, and saying "We must keep adequate funding levels for State." I couldn't agree more. There is a stupid feeling in some quarters that we don't have any more concerns on foreign policy, that we don't have any more threat in the world. The Secretary knows so well that we do.

So I hope that Congress will do what's right on a bipartisan basis in terms of proper levels of funding. She can determine what those levels should be. But all I know is, these arguments that we ought to cut back on spending for foreign affairs—I think it's very shortsighted. We do that at our own risk for generations to come, too.

We talked about several others. But, Madeleine, welcome, and I'm so pleased you came to Houston.

OUR BEST DEFENSE

(By James A. Baker 3d)

HOUSTON.—The Chemical Weapons Convention — an international treaty that commits member nations to destroy their chemical weapons and to forswear future production, acquisition or use of them—is before the Senate for approval. Despite the fact that the treaty was negotiated under Presidents Ronald Reagan and George Bush, a number of Republicans have expressed reservations about it. I respect their motives, but their concerns are misplaced.

For instance, some have argued that we shouldn't commit to the treaty because rogue states like Libya, Iraq and North Korea, which have not signed it, will still be able to continue their efforts to acquire chemical weapons. This is obviously true. But the convention, which has been endorsed by 68 countries and will go into effect in April whether or not we have ratified it, will make it more difficult for these states to do so by prohibiting the sale of materials to nonmembers that can be used to make chemical weapons.

In an ideal world, rogue states and terrorist groups would simply give up the use of chemical weapons. But ours is not an ideal world. The Chemical Weapons Convention recognizes that, and so should its opponents. It makes no sense to argue that because a few pariah states refuse to join the convention the United States should line up with them rather than with the rest of the world.

Others have argued that if we ratify the treaty, we will not be able to verify that all members will abide by it. No international agreement, of course, is perfectly verifiable—just as no domestic law is perfectly enforceable. But the treaty sets up a verification system, including international inspections on short notice, that will be far more effective than what we possess today. Moreover, the treaty would strengthen information-sharing among member states. It would increase, not diminish, our understanding of chemical weapons threats.

Some opponents of the treaty claim that it would create yet another costly international bureaucracy and place an onerous regulatory burden on American business. Both assertions are overstated. Our share for administering the treaty would be about \$25 million a year, a truly modest amount in a Federal budget of about \$1.7 trillion. Only about 140 companies would have significant reporting requirements, while some 2,000 others would be asked to fill out a short form.

Moreover, failure to ratify the treaty would actually cost the American chemical industry hundreds of millions of dollars in sales by making United States exporters subject to trade restrictions by convention members. Our joining the convention could help American business—which is why the chemical industry supports ratification.

Other critics assert that the treaty would somehow infringe on our national sovereignty—in particular, the Fourth Amendment ban on unreasonable search and seizure. In fact, it explicitly permits members to abide by their constitutional requirements when providing access to international inspectors. Under the treaty, involuntary inspection of American manufacturing and storage sites would still require legally acquired search warrants. The idea that ratifying the treaty would repeal part of our Bill of Rights is simply wrong.

But by far the most important argument against the treaty is that ratification would somehow undermine our national security.

Nothing could be further from the truth. Let me be blunt: The idea that Ronald Reagan and George Bush would negotiate a treaty detrimental to this nation's security is grotesque.

The United States does not need chemical weapons as a deterrent. Any nation or group contemplating a chemical attack against us must reckon with our overwhelming conventional force and vast nuclear arsenal. Each is more than sufficient to deter a chemical attack.

Chemical weapons are relatively easy to develop and cheap to manufacture, so it is no coincidence that the rogue nations now seeking to build chemical arsenals are economically impoverished and technologically backward. Unlike Iraq or Libya, we don't need such weapons to project our influence. In fact, we are already committed—under a law signed in 1985 by President Reagan—to destroy our existing chemical weapons stockpile by 2004. We will do this whether or not we ratify the treaty.

What we need is a way to limit the risk that American troops or civilians may someday face a chemical weapons attack. The

convention can help do precisely this by controlling the flow of illicit trade materials and by making it easier to marshal international support for the political, diplomatic and economic isolation of countries that refuse to ratify it.

If we fail to ratify the convention, we will not only forgo any influence in the continuing effort against chemical weapons, we will also risk postponing indefinitely any progress on an international ban on the equally dire threat of biological weapons. More generally, we will imperil our leadership in the entire area of nonproliferation perhaps the most vital security issue of the post-cold-war era.

Today we face a monumental choice requiring a bipartisan consensus, just as we did in ratifying the North American Free Trade Act in 1993. Failure to ratify the Chemical Weapons Convention would send a message of American retreat from engagement in the world. For this reason—and because our national interest is better served by joining the convention than by lining up with pariah states outside it—I support the treaty and urge my fellow Republicans to do the same.●

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 6968(a), appoints the Senator from Arizona [Mr. McCAIN], from the Committee on Armed Services, to the Board of Visitors of the U.S. Naval Academy.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 9355(a), appoints the Senator from Idaho [Mr. KEMPTHORNE], from the Committee on Armed Services, to the Board of the U.S. Air Force Academy.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 4355(a), appoints the Senator from Indiana [Mr. COATS], from the Committee on Armed Services, to the Board of Visitors of the U.S. Military Academy.

ORDERS FOR WEDNESDAY, FEBRUARY 26, 1997

Mr. ENZI. 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 Wednesday, February 26. I further ask that immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of Senate Joint Resolution 1, the constitutional amendment requiring a balanced budget.

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

PROGRAM

Mr. ENZI. For the information of all Senators, tomorrow morning, the Senate will begin debate on the Feinstein amendment to the balanced budget resolution, with a vote on or in relation to the Feinstein amendment occurring at

11 a.m. Then Senator TORRICELLI will be recognized to offer an amendment relating to capital budgeting. There is a limitation of 3 hours for debate on that amendment.

I want to remind Senators that under a previous order, Members have until 5 p.m. on Wednesday to offer their amendments to the balanced budget amendment. We appreciate the cooperation of the Democratic leader in working with us for this unanimous-consent agreement outlining the remaining adjustments that will be in order to the constitutional amendment. It is our hope that when we continue to make progress and complete consideration of this important legislation. Also, I want to remind Senators that on Thursday, February 27, His Excellency Eduardo Frei, President of Chile, will address a joint meeting at 10 a.m. All Senators are asked to meet in the Senate Chamber at 9:40 a.m. to proceed as a group to the joint meeting.

ORDER FOR RECESS

Mr. ENZI. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of Senator TORRICELLI, who will be making his initial floor speech, and Senator BENNETT.

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

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I don't mean to intrude upon the Senator from New Jersey, if he is prepared to speak next. I was going to ask unanimous consent for up to 10 minutes to speak as if in morning business.

I ask unanimous consent that I may proceed for up to 10 minutes as in morning business.

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

PRIVILEGE OF THE FLOOR

Mr. BENNETT. Mr. President, I ask unanimous consent that Ricardo Velazquez and Cordell Roy be granted floor privileges for the balance of this session.

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

The Senator from Utah is recognized as in morning business.

(The remarks of Mr. BENNETT pertaining to the introduction of S. 357 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. ENZI). The Senator from New Jersey.

Mr. TORRICELLI. Thank you, Mr. President.

JOURNEY OF GENERATIONS

Mr. TORRICELLI. Mr. President, I rise to address the Senate for the first

time as a Member of this proud institution, and, indeed, it is an important moment in my life and that of my family.

Although I stand where I know preceding generations have often become legends, I also stand tall because I am standing here today on the shoulders of genuine giants—a tailor and his seamstress wife who walked from their native village in Italy for a boat to New York, a German steelworker who settled his young family in my native New Jersey.

Mr. President, a journey of generations brings me to this moment. I understand that I may be bound to some Members of this Senate by little more than a single common thread. Many families are more powerful, and most biographies are genuinely more compelling. But Providence has chosen what we share this moment to help define the future of our people and the Republic that they have chosen to serve them.

The burden of leadership may be greater on some generations, and perhaps it has been less on others. The only certainty for our time is that it is different. The great debates of this Chamber in other times have been framed by events—the threat of conflict in the time of our fathers, the immediate threat of economic dislocation not so many years ago. Previous generations often read the national agenda simply by the history that was presented to them. The choices were fundamental and they were very clear.

The principal issue of governance before us now is very different. The United States is largely without large-scale military strife. The successive defeats of fascism and communism leave the United States with a relative military advantage that is unprecedented. The greatest economic expansion in history has resulted in a standard of living and a scale of economic activity that was unimaginable only a generation ago. This is not to suggest that either providing for the national defense or building the national economy are complete. The world remains a dangerous place in the age of terrorism, and the blessings of America still elude too many.

But our time is different. We inherit no agenda and few national commitments from which we are not freed by the end of the cold war. This opportunity presents an enormous opening, but has also led to an extraordinary national anxiety. As a nation, we have consumed almost a decade since the cold war has subsided without being clear about what we need to achieve to succeed with the reward of peace.

In our domestic affairs, some view the success of civil rights, the completion of universal education for the construction of a national infrastructure as ends in themselves.

In our family lives, many seem uncertain as to our own objectives as people. The comfort of a home, the completion of an education, seem to bring neither the security nor the fulfillment that we once envisioned. It is in short, Mr. President, a time of extraordinary anxiety in our affairs. Across the aisles of this Chamber, the conference tables of our businesses and even the living rooms of our homes, there is need for an honest conversation. It is time to ask the most fundamental questions about the objectives of our times and our goals as a people and as individuals.

No one element of this debate is more fundamental than our new national objectives in our relations with other States around the globe. The foreign policy goals of the United States in the next century can best be explained relative to the experience of our own time. For although the 20th century has not yet concluded, it is already possible to predict that despite all the advances of science and culture this time will best be remembered for our inability to manage relations between nations.

Any discussion of our foreign policy objectives, therefore, must simply begin with this simple commitment: the future must simply be different than the past. This century evolved through the lessons of collective security. A series of States with similar interests, political institutions, compatible military capabilities and goals found common cause. The NATO treaty was the best example and remains the foundation of our policy. But the first principal difference we are likely to face in the 21st century is that American security interests are no longer disproportionately European. In a world of global markets and intercontinental weapons, there are no regions of sufficient distance or size that they lack relevance. Treaties which restrict the global scope of our collective security including NATO are simply no longer acceptable. Creating new arrangements tailored to individual crises like the Persian Gulf are too inefficient and insufficient. Leadership requires the adoption of an established global structure of collective security. Whether under the NATO umbrella, under different sponsorship or a structure that is global in scale, collective security for our international security threats remains paramount.

The second defining difference in American foreign policy is recognizing that international conflict on a scale seen in the 20th century must never be allowed to occur again because by definition such conflicts can never be won again. Technological change will place all nations within the range of secondary powers that retain weapons now reserved for more stable nations.

Collective security, therefore, must be designed not only to prevail in con-

licts but to avoid their ever occurring by denying capability to certain well-defined governments. These are States which by their systems of government, record of actions or temperament of leadership, should make themselves ineligible to ever possess or attempt to develop certain weapons. This policy of weapons denial already encompasses technological and trade restrictions. In the future, it must also include covert or overt actions by the United States or now collective international organizations to ensure weapons denial as an assurance of national security.

A third national consideration will involve far more introspection by every American. As a decent people with deep religious traditions, it is time to recognize that technology presents a new moral dilemma. For two centuries Americans witnessed a world of famine and disease. Untold millions suffered and died with little more than passing commentary while we remained reconciled to both our moral principles and international realities by concluding that nature was sometimes cruel and divine actions difficult to comprehend. In critical moments, from the Marshall Plan to the Alliance for Progress, the Nation committed itself to confronting these tragic realities.

During most generations, the national boundaries served to define our sense of moral responsibility. That was all enough. But something has now fundamentally changed. Perhaps it is because global communication now no longer allows us to be shielded from harsh realities. But, indeed, it is even more than that. The world population group now estimates that 35,000 children die from starvation every day, this year an estimated 18 million will contract river blindness, and over 100,000 children will suffer from new cases of polio. No American can feel comfort any longer in reaching conclusions about the inevitability of human suffering. There has been a cure for polio for 40 years. River blindness is treated by medication that costs \$3. The simple truth is that some disease and much human suffering is no longer a question of divine providence or lack of understanding or a failure of technology. Most are the results of a political decision, a judgment to withhold technology, withdraw from efforts to relieve suffering because of shortages of funds or simply because we believe that political boundaries place us at sufficient distance.

Reconciling our beliefs and our actions is no longer a simple affair. Suffering in the world and judgments made by individual Americans and their governments are debate long needed on the floor of our great institutions. Within our own communities, Americans need to decide a new set of national objectives as well.

Americans have learned a lesson from the excesses of Government.

Every citizen can recite a list of programs that failed or funds that were wasted. Our generation has concluded that the role of Government needs to be more limited. A previous generation learned from the lessons of child labor, the disabled, the failure to care for the elderly, that Government was sometimes too restricted in its role. Now it is time for us to decide: Is it too limited or is it too much? It is, indeed, extraordinary that after two centuries of the American experiment we are still debating the appropriate role and scale of the U.S. Government. In our time we must ask both the appropriate range and the scale of Government activities that are needed for our generation.

The answer is likely to be somewhere in between. We must, obviously, be shaped by our own experiences. But I think most Americans will recognize that simply because Government sometimes failed, because we have learned that it cannot do everything, is not a reason to conclude that it can do nothing. We take enormous pride in the fact that America is a place with an unlimited ceiling of opportunity. But all too often we are also learning that the floor of American life is too hard. Because many, or most can succeed is not a reason to turn away from public responsibilities, because some will fail.

We are also learning, for all the lessons of the past which we must remember, they are not instructive of the future. We are living in a different time. Indeed, we are discovering that the economic success of each family, many communities, and many States are now connected in a means that we never would have imagined. We are discovering that the operation of our railroads, our airports, our highways, the education of our children all inevitably will affect the quality of life of our own families.

For two centuries our Federal Government was central to providing the private economy with certain elements that were needed for competitiveness. From inexpensive labor, through our immigration policy, to access to raw materials, competitive taxes, copyright laws, sometimes even direct subsidies, we understood an appropriate role for the U.S. Government in ensuring economic success.

As we now face this debate again in our own time, reaching our own conclusion about the role, size and scale of the Federal Government, perhaps at least this one thing should be recognized as different. As certainly as those before us recognize immigration policy, raw materials, these other elements as central to economic success, education and knowledge is now the fodder of the private economy in our own time. Therefore, as certainly as local governments, as neighborhoods at one time confronted the need for quality schools, high standards and a quality education, now the Nation itself is

confronted with this question, because it is no longer good enough to know that education meets standards in our neighborhoods or our towns or even our States. Our States collectively in our Federal system will meet success or failure in whether or not people we don't even know in communities we have never visited in States we hardly know meet those same standards and are competitive.

Second, as a national community, redefining ourselves again, debating the appropriate role of the Federal Government, we are also faced with the most fundamental of issues that first confronted our Republic. It is the issue of providing security for our communities and our families. It is, in short, assuring domestic order. From longer prison sentences to direct assistance to local police, we have in recent years redefined our Federal system for a larger role because it was necessary to assure the security of our people.

In the future, the Federal Government, as it redefines itself, will also play a larger role in other areas. We have begun to deny parents the ability to flee responsibilities to children by fleeing State jurisdictions. We have begun, indeed, to change Federal laws in relation to access to weapons. Three decades ago, in my State of New Jersey and in many other urban communities, we began to enact gun control laws. But recently, in the city of New York, it was discovered that fully two-thirds of all the weapons now found involved in serious felony crimes were not sold in New York or New Jersey or other States that had gun control laws, but were imported from other States. The Brady bill was an important beginning to assuring that, as a community, while some States did not, fortunately, share in the plague of crime, they nevertheless would begin to exercise responsibility by, through new national laws, beginning to separate criminals from the guns they use.

A third unfinished piece of business in the American social compact also needs to be addressed. It began in this century with labor standards and grew to include Social Security, unemployment insurance and Medicare. Each of those in our social compact was a generational judgment. Now there is a need for another, because that list which began early in the progressive era and expanded through Medicare by way of unemployment and Social Security now leaves us with the question of health care insurance. Before the book is closed on the 20th century, in this great redefining of America's social commitments, surely access to affordable and quality health care needs to be added to the list. It is not a question of the Government supplanting private health care. It is not a question of the loss of private options or the private exercise of talents within the health care field any more so than Medicare

meant that doctors were no longer working privately or unemployment insurance meant that private companies no longer managed their own affairs.

But it is a question that what began with our grandparents and our great grandparents in assuring independence in the workplace, the right to bargain for your own wage, your freedom from want for the elderly through Social Security, that movement is not complete and that work is not finished without addressing the reality of 40 million Americans outside of the private health care insurance system, or their children who come of age without inoculation to disease or, indeed, often are born without access to a health care system for their mothers or in their infancy.

All these are part of expanding our domestic agenda at a time when we redefine the role of Government. I recognize that there are many in this institution, as there are across this country, who would confront these issues differently. But in our time there is a new, greater threat to resolve in these questions. It is on the mantle of bipartisanship, part of the desire to settle all disputes. We are, in this institution and around the country, confusing the desire to end the noise of squabbling, the needless bickering of partisanship, with a new seeming desire of bipartisanship, to end all conflicts together.

This is, Mr. President, in my mind, a new and compelling problem. American democracy is not served best by Democrats and Republicans, or liberals and conservatives, setting aside all their differences. The public believes we are in some new accord in which we have no differences. Democracy is served best by people who do put petty interests aside, who do not argue simply for partisan reasons, who do, indeed, come together in moments of great national crisis, but who, in honesty, come to this floor as they come to their dinner tables and their businesses and their places of work every day in honest disagreement where they have honest difference.

Let us, therefore, debate the question of America's new role in the world with different perspectives. Because they are complex questions and difficult to answer. Let us begin to finally redefine the role of Government in our lives and our economy from our various perspectives, because Americans have different views, and they are difficult and complex questions. But let us not, because we want to end disagreements, where we were sometimes disagreeable, make bipartisanship a goal in and of itself. The goal is to answer the question and to serve our people, no matter the disagreements.

This is, Mr. President, finally, an extraordinary time. None of the problems that I have tried to outline tonight should overwhelm us. None concern me

because none are as big as the country we represent or as bold or as talented as the people who live in our generation in this Nation.

This is an extraordinary time, and we are an extraordinary people. Indeed, I would dare to say what probably no other generation ever would have said on the floor of this Senate: That there is no time and no place when it is better to have been alive or to be an American than this moment. We have won the great conflicts in the world that threatened our democracy and the peace. We are the masters of a great new technology that can serve us, our interests and our families. There is a quality of life that awaits us if we learn to manage our affairs, raise the resources, deal responsibly with our economy and invest in our future.

It is not to say that there will not be difficult days in our own time. There will always be difficult days. But we are a people who managed to carve out a new social order through Social Security and labor rights in the depths of a depression.

We are a people who managed through economic despair to rise to win a great world war.

We are a people who, in the midst of a cold war, conquered space, won the fight for civil rights, even enacted Medicare and began the greatest expansion of education in history.

We are a people who, through difficult times, mastered the moment to achieve great things.

Now, in far better times, though most certainly with some problems in our public and private lives, we are asked to rise again. In this, I have no doubts. Let us find a new role for America in the world where we simply do not respond to events, but help shape them; no longer see our responsibility simply to win international conflicts but to prevent them by negotiating the peace where possible, by taking action to prevent war by military means when necessary.

Let us redefine the role of Government in our lives and our private economy to ensure that it is no more than necessary, but everything that is essential to ensure our competitiveness, our fairness in social justice.

I pledge, Mr. President, in my 6 years in this institution, to simply be guided by this: The words given to me by a friend who came to me knowing that I would rise on this day and remembering that they were once spoken by Edmund Burke in a speech to the Electors of Bristol. He said:

Your representative owes you not his industry only, but his judgment. And he betrays instead of serves you if he sacrifices it to your opinion.

Mr. President, to the citizens of New Jersey and to this Nation, I promise simply in these years to be guided by my judgment.

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

ADJOURNMENT UNTIL 9 A.M.
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9 a.m. Wednesday, February 26.

Thereupon, the Senate, at 7:13 p.m., adjourned until Wednesday, February 26, 1997, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate February 25, 1997:

DEPARTMENT OF STATE

WYCHE FOWLER, JR., OF GEORGIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SAUDI ARABIA.

PRINCETON NATHAN LYMAN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AN ASSISTANT SECRETARY OF STATE, VICE DOUGLAS JOSEPH BENNETT, JR., RESIGNED.

IN THE AIR FORCE

THE FOLLOWING-NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, UNITED STATES CODE, SECTIONS 12203 AND 12212:

To be colonel

ROBERT N. AGEE, X.
RONALD L. ALBERS, X.
GEORGE C. ALLEN II, X.
RICHARD W. ASH, X.
ROBERT B. BAILEY, X.
RICHARD E. BAKER, X.
ROBERT A. BARRON, X.
GUY O. BILEK, X.
DAVID A. BRUBAKER, X.
WILLIAM P. CANAVAN, X.
JIMMY A. CARRIGAN, X.
JOHN C. CHASE, X.
JERE COOK, X.
ALLEN J. CORSON, X.
JOHN L. CROMWELL, X.
CARL C. CUMM, X.
GREGORY M. CUNNINGHAM, X.
DOUGLAS K. DAMON, X.
WILLIAM F. DAVIDSON, X.
THOMAS J. DEARDORFF, X.
SCOTT P. DEMING, X.
ROBERT E. DOEHLING, X.
JERRY L. DUNNE, X.
RUFUS L. FORREST, JR., X.
KENNETH C. FOSTER, X.
PHILLIP E. GEE, JR., X.
HEDLEY W.D. GREENE, X.
THOMAS W. HAM, X.
BARBARA A. HARKNESS, X.
THOMAS E. HICKMAN, X.
PETER K.D. HOCHLA, X.
HOWARD L. HOGAN, X.
MARK J. HOWARD, X.
BENNY A. HUFFMAN, X.
HERBERT H. HURST, JR., X.
VINCENT E. JOHNSON, X.
HAROLD O. KOLB, X.
THEODORE N. KRAEMER, X.
BERNARD L. KRING, X.
THOMAS E. KUPFERER, X.
ALAN J. LECZNAK, X.
STEPHEN W. LEFEBVRE, X.
JACOB J. LEISLE, X.
JOHN A. LEMOND, JR., X.
ROGER P. LEMPKE, X.
DUANE J. LODRIGE, X.
JOSEPH E. LUCAS, X.
BRENT W. MARLER, X.
ROBERT E. MATTHEWS, X.
RICHARD G. MC COLL, X.
MORRIS E. MCCORMICK, X.
TERRY R. MCKENNA, X.
MICHAEL L. MCKINNEY, X.
MICHAEL J. MELICH, X.
RONALD O. MONTGOMERY, X.
GERALD C. OLESEN, X.
CHARLES M. PALMER, X.
JAMES M. PERKINS, SR., X.
GARY A. READ, X.
DANIEL W. REDLIN, X.
JAMES R. REED, X.
WILLIAM J. RINEHART, X.
JUDITH D. ROANE, X.
DAVID R. RUDY, X.
JACK A. RYCHECKY, X.
EUGENE A. SEVI, X.
MICHAEL B. SMITH, X.
PAUL W. SMITH, JR., X.
JOHN R. SPERLING, X.
RONALD STANICH, X.

STEPHAN J. STUBITS, X.
IRENE L.C. TAYLOR, X.
STEVEN W. THU, X.
KIRK J. TYREE, X.
THOMAS M. VIERZBA, X.
WILLIAM J. WALTERS, X.
ROGER L. WARNICK, X.
OLIVER H. WARREN III, X.
DAVID L. WEAVER, X.
RICHARD E. WHALEY, X.
WILLIAM H. WHITE, X.
RICHARD C. WORKMAN, X.
HARRY M. WYATT, X.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be colonel

GEORGE B. GARRETT, X.

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 12203 AND 12211:

To be colonel

VINCENT J. ALBANESE, X.
MATTHEW C. BROCKWAY, X.
BRUCE S. BYRNE, X.
PHILLIP G. CLIBURN, X.
FRANCISCO E. DE LA ROSA, JR., X.
JOHN B. DRISCOLL, X.
PAUL C. DUTTGE III, X.
JULIE A. ELLIOTT, X.
DAVID E. GOFF, X.
ROBERT J. GUARNERI, X.
DENNIS R. HAIRE, X.
JAMES P. HILLS, X.
WILLIAM C. HURST, X.
BRADFORD M. JONES, X.
DANIEL K. LINDSEY, X.
MILTON K. W. LUM, X.
LYNDA L. MANN, X.
MICHAEL R. E. O'CARROLL, X.
TERRY J. OXLEY, X.
JOHN F. PARKER, X.
ROBERT A. PETERSON, JR., X.
FRANK J. POWERS, X.
WILLIAM R. RADFORD, X.
FRANK X. RIGGIO, X.
JAMES P. SEWELL, X.
TAROLD H. SCOTT, X.
RICHARD H. STOKES, X.
DANIEL J. SULLIVAN, X.
JACKIE L. TALLIAFERRO, X.
MICHAEL F. TREADWELL, X.
DAVID E. WILKINSON, X.
JOSEPH T. WOJTASIK, X.

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 12203 AND 12211:

To be colonel

JAMES M. CALDWELL, X.
CRAIG T. CENESKIE, X.
GARRY J. COLLOTON, X.
RAYMOND P. GOURRE, X.
ALAN L. NYE, X.
RICHARD G. POINDESTER, X.
PAUL M. WARNER, X.

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE U.S. NAVY UNDER TITLE 10, UNITED STATES CODE, SECTION 531:

To be lieutenant

JASON T. BALTIMORE, X.
FRANK G. BOWMAN, X.
SEAN P. HENSELER, X.
ANGELA S. HOLDER, X.
ANDRIAN J. MARENGO-ROWE, X.
ANTHONY J. MAZZEO, X.

To be ensign

DAVID ABERNATHY, X.
LEAH AMBERLING, X.
JOSEPH C. BUTNER, X.
PHILLIP R. CLEMENT, X.
J. CRADDOCK, X.
LANCE B. DETTMAN, X.
CURTIS D. DEWITT, X.
TODD A. FAUROT, X.
BRIAN FITZSIMMONS, X.
JOHN S. HOLZBAUR, X.
STEPHEN J. MADDEN, X.
KELLY R. MITCHELL, X.
DENNIS S. O'GRADY, X.
JOSHUA C. RENAGER, X.
CORY ROSENBERGER, X.
DEREK SCRAPCHANSKY, X.
MERRILL T. SWALM, X.
MICHAEL E. VANHORN, X.

RICHARD H. WILHELM, X.
DEVIN P. WILLIAMS, X.
ALAN R. WING, X.
MICHAEL B. WITHAM, X.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT IN THE U.S. NAVY FROM THE TEMPORARY DISABILITY RETIRED LIST TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 1211:

To be lieutenant

MASKO HASEBE, X.

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT IN THE MEDICAL SERVICE CORPS, ARMY MEDICAL SPECIALIST CORPS, VETERINARY CORPS, AND ARMY NURSE CORPS (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, UNITED STATES CODE, SECTION 624, 531 AND 3283:

To be lieutenant colonel

BRYANT H. ALDSTADT, X.
JEFFREY H. ALLAN, X.
SALLYE J. ALLGOOD, X.
GERARD P. ANDREWS, X.
*STEVEN G. ARETZ, X.
BRETT C. ARMSTRONG, X.
DAVID A. BAKER, X.
RODNEY D. BARNES, X.
LISA M. BECKMANN, X.
VICKI W. BELCHER, X.
ANNETTE L. BERGERON, X.
DEBORAH K. BETTS, X.
RONALD L. BLAKELY, X.
PATRICIA L. BOATNER, X.
WILLIAM H. BOISVERT, X.
ROBERT S. BOROWSKI, X.
LOIS A. BORSAYTRINDLE, X.
GARY M. BOUDREAU, X.
ROBERT D. BOWMAN, X.
VICTOR W. BURNETTE, X.
BOBBI L. BYRN, X.
PATRICK T. BYRNE, X.
ROBERT A. BYRNE, X.
CORDELIA E. CADEOLIVER, X.
STEVEN H. CARPENTER, X.
*KATHLEEN W. CARR, X.
HACK K. CARROLL, X.
MARY CARSTENSEN, X.
PAULINE M. CILLADIREHRER, X.
THOMAS C. CLINES, X.
GARY D. COLEMAN, X.
*ELMER W. COMBS, X.
DOROTHY H. COX, X.
TERRY K. COX, X.
*KAREN L. COZEAN, X.
WILLIAM T. CRAFTON, X.
BILL N. CREASMAN II, X.
MARTA S. DAVIDSON, X.
DANNY L. DAVISON, X.
*RAMONA S. DECKER, X.
SUZAN L. DENNY, X.
CHARLOTTE L. DEPEW, X.
ELISE M. DEWITT, X.
*KATHRYN J. DOLTER, X.
DENNIS M. DRISCOLL, X.
EARL C. DRIVER, X.
*DALE G. DUNN, X.
*JEFFREY S. EGGERS, X.
ANNE M. ELLIOTT, X.
*JAMES J. ELLIOTT, X.
*RAMONA M. FIORE, X.
JOYCE FLEMING, X.
FRANK C. FLORO, X.
TIMOTHY W. FLYNN, X.
DEXTER E. FREEMAN, X.
*BEAU J. FREUND, X.
JANICE A. FULTON, X.
*GREGORY A. GAHM, X.
KAREN M. GAUSMAN, X.
JAMES W. GIER, X.
WILLIAM L. GILLIS, X.
SCOTT W. GORDON, X.
*CHARLES T. GORIE, X.
*VINCENT C. GRESHAM, X.
CAROLYN M. GREY, X.
LILLIE L. HALL, X.
EDMUND K. HARAGUCHI, X.
RAE M. HARTMAN, X.
CHARLES F. HATHAWAY, X.
JEFFREY D. HAUN, X.
LYNN W. HENSELMAN, X.
STEPHANIE HIGGINS, X.
NANETTE A. HILL, X.
WILLIAM J. HOWARD III, X.
DWANE A. HUBERT, X.
LESLIE G. HUCK, X.
*JOHN P. HUGHES, X.
*DOUGLAS G. JACKSON, X.
CAROL A. JENIK, X.
*PATTI L. JOHNSON, X.
CASPER P. JONES III, X.
STEVEN P. JONES, X.
ROSALINE JORDAN, X.
CHARLES J. KELLER, X.
MICHAEL E. KIEFFER, X.
JAMES L. KING III, X.
GEORGE W. KORCH, X.
THOMAS J. KOWELL, X.
KEITH A. KRAUSE, X.
MICHAEL J. KRUKAR, X.
*DENNIS E. KYLE, X.

JAMES M. LARSEN, x...
 RENE R. LEBLANC, x...
 MICHAEL J. LEGGIERI, JR., x...
 EDWARD A. LINDEKE, x...
 THOMAS M. LOGAN, x...
 GAIL M. LONG, x...
 *BRIAN J. LUKEY, x...
 MICHAEL D. LYNCH, x...
 *SANDRA D. LYNCH, x...
 PATRICIA D. MALEK, x...
 KENT W. MANEVAL, x...
 MICHAEL S. MARSHEAN, x...
 COLEEN K. MARTINEZ, x...
 MARK J. MARTINEZ, x...
 ROBERT MASSEY, x...
 *JEROME K. MAULTSBY, x...
 THOMAS W. MAYER, x...
 MICHAEL L. MCCOY, x...
 MERRILY A. MCGOWANSHAW, x...
 PAT M. MCMURRY, x...
 MARK A. MILLER, x...
 REGINALD A. MILLER, x...
 SHEILA D. MITCHELL, x...
 FREDERICK B. MITTELSTEDT, x...
 *SHERRY J. MORREYAUGSBURGER, x...
 THOMAS T. MOKLEY, JR., x...
 JAMES A. MUNDY, x...
 RAUL E. MUSTELIER, x...
 CLAYTON J. NEIL, x...
 LORI B. NEWMAN, x...
 ROBERTA E. NICHOLSCOVIN, x...
 WAYNE C. NYGREN, x...
 *BONNIE H. OHARA, x...
 WILLIAM E. OLIVER, x...
 TERESA A. PARSONS, x...
 PATRICIA A. PATRICIAN, x...
 DAVID L. PATTERSON, x...
 SHARON R. PFIFFNER, x...
 ANN L. PHILOPENA, x...
 WANDA T. PLANADEBALL, x...
 WILLIAM R. PRESCOTT, JR., x...
 JOHN W. PROCTOR III, x...
 JANICE K. RAUSCH, x...
 TIMOTHY J. RHODES, x...
 JUDITH G. ROZELLE, x...
 MARY P. RUPPERT, x...
 J.C. RUSSELL, x...
 *LINDA D. SALLEE, x...
 ROBERT E. SAUNDERS, JR., x...
 JOHN J. SCHAFER, x...
 *ROBERT F. SCHAUDIES, x...
 MARY A. SCHWENKA, x...
 JOHN C. SHERO, x...
 CARL B. SMITH, x...
 DOROTHY A. SMITH, x...
 BARBARA V. STEERS, x...
 BEATRICE T. STEPHENS, x...
 CHARLOTTE M. STEVENSON, x...
 TONY L. STORY, x...
 FREDERICK A. SWIDERSKI, x...
 JULIET T. TANADA, x...
 ALLAN K. TERRY, x...
 LEE S. THOMPSON, x...
 JUDY TOLLENAERE, x...
 KAREN L. TORTORA, x...
 MARGARET A. TRIBBLE, x...
 GREGORY L. VRENTAS, x...
 *BOB E. WALTERS, x...
 LINDA J. WANZER, x...
 MELVIN E. WASHINGTON, x...
 *DEBORAH L. WATSON, x...
 ROBERT G. WEBB, x...
 BECKY J. WHITTEMORE, x...
 BRUCE H. WILLIAMS, x...
 DAVID WILLIAMS, x...
 DONNA F. WILLIAMS, x...
 JANET L. WILSON, x...
 RONALD E. WILSON, x...
 *JEFFREY P. ZIMMERMAN, x...

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE U.S. NAVY UNDER TITLE 10, UNITED STATES CODE, SECTION 531:

To be captain

MICHAEL J. BAILLY, x...
 JEFFREY F. BROOKMAN, x...
 JAMES L. BUCK, x...

DANA C. COVEY, x...
 DAVID W. FERGUSON, x...
 DAVID LEIVERS, x...

To be commander

DANIEL C. ALDER, x...
 MONTE L. BIBLE, x...
 JOHN T. BIDDULPH, x...
 JEFFREY M. BIKLE, x...
 DAVID A. BRADSHAW, x...
 HARPREET S. BRAR, x...
 FRANK J. CARLSON, x...
 JOHN R. CARNEY, x...
 RONALD F. CENTNER, x...
 GERALD A. COHEN, x...
 WALTER J. COYLE, x...
 JAMES M. CRAVEN, x...
 MICHAEL J. CURRAN, x...
 DAVID L. DAUGHERTY, x...
 MARLENE DEMAIO, x...
 RAYMOND J. EMANUEL, x...
 WESLEY W. EMMONS, x...
 WILLIAM ERNOHAZY, x...
 ANDREW L. FINDLEY, x...
 SCOTT D. FLINN, x...
 FREDERICK O. FOOTE, x...
 MICHAEL J. FRANCIS, x...
 MICHAEL W. GALLAGHER, x...
 JOHN H. GREINWALD, JR., x...
 THOMAS M. GUDEWICZ, x...
 ALBERT S. HAMMOND, III, x...
 TERRY A. HARRISON, x...
 JOHN P. HEFFERNAN, x...
 BYRON HENDRICK, x...
 ROBERT E. HERSH, x...
 HAL E. HILL, x...
 WALTER R. HOLLOWAY, x...
 MARK J. INTEGILIA, x...
 JEROME C. KIENZLE, x...
 KERRY J. KING, x...
 KENNETH D. KLIONS, x...
 ERIC E. LOVELL, x...
 JOHN D. LUND, x...
 ANDREW T. MAHER, x...
 RANDALL C. MAPES, x...
 ROBERT D. MATTHEWS, x...
 MARTIN MCCAFFREY, x...
 FRANCIS X. MCGUIGAN, x...
 JAMES J. MELLEY, x...
 VERNON D. MORGAN, x...
 GARY L. MUNN, x...
 JAMES D. MURRAY, x...
 MEENAKSHI A. NANDEDKAR, x...
 WILLIAM F. NELSON, x...
 PATRICK T. NOONAN, x...
 JOSEPH R. NOTARO, x...
 LACHLAN D. NOYES, x...
 PAUL J. OBRIEN, x...
 CHRISTOPHER A. OHL, x...
 JOHN C. OLSEN, x...
 HOWARD A. ORIBAI, x...
 JENNIFER B. OTA, x...
 ROBERT K. PARKINSON, x...
 JOHN S. PARRISH, x...
 PAUL PEARIGEN, x...
 PETER J. PEFF, x...
 WENDELL S. PHILLIPS, x...
 DAVID N. RICEY, x...
 ERIC H. SCHINDLER, x...
 JAMES M. SHEEHY, x...
 WYATT S. SMITH, x...
 RICKY L. SNYDER, x...
 HENRY E. SPRANCE, x...
 DOUGLAS M. STEVENS, x...
 THOMAS A. TALLMAN, x...
 THOMAS K. TANDY III, x...
 JON K. THIRINGER, x...
 ANTHONY M. TRAPANI, x...
 PATRICIA L. VERHULST, x...
 MARYANN P. WALL, x...
 DIANE J.B. WATABAYASHI, x...
 JOSEPH R. WAX, x...
 JERRY W. WHITE, x...
 DAVID A. WOODS, x...
 EDWARD A. WOODS, x...
 JACOB N. YOUNG, x...

To be lieutenant commander

CLETE D. ANSELM, x...
 ELICIA BAKERROGERS, x...

SIMON J. BARTLETT, x...
 KENNETH R. BINGMAN, JR., x...
 DAWN A. BLACKMON, x...
 JANET M. BRADLEY, x...
 ARTHUR M. BROWN, x...
 JON J. BRZEK, x...
 DAVID B. BYRES, x...
 LEA B. CADLE, x...
 LUCIO CISNEROS, JR., x...
 SEAN P. CLARK, x...
 GARRY W. CLORE, x...
 WALKER L.A. COMBS, x...
 ELIZABETH B. COTTEN, x...
 DONNA M. CROWLEY, x...
 GREGORY J. DANHOFF, x...
 NANCY J. DOBER, x...
 SANDRA L. DOUCETTE, x...
 PAUL X. DOUGHERTY, x...
 DAVID A. FARMER, x...
 LUIS FERNANDEZ, x...
 WAYNE R. FREIBERG, x...
 PAUL N. FUJIMURA, x...
 MICHAEL P. GIES, x...
 BARBARA A. GIES, x...
 GREGORY D. GJURICH, x...
 CAROLYN G. GOERGEN, x...
 VIRGINIA P. HAVILAND, x...
 JOHN S. HICKMAN, x...
 SUSAN E. HOLT, x...
 LORETTA A. HOWERTON, x...
 STEVEN R. HUFF, x...
 AARON JEFFERSON, JR., x...
 TOMMIE L. JENNINGS, x...
 DAVID P. JOHNSON, x...
 PHILLIP A. KANICKI, x...
 MAURICE S. KAPROW, x...
 WILLIAM M. KENNEDY, x...
 JAMIE M. KERSTEN, x...
 ALAN F. KUKULIES, x...
 TERESA A. LANGEN, x...
 ALISON C. LEFEBVRE, x...
 KIM L. LEFEBVRE, x...
 MARGARET A. LLUY, x...
 STEVEN L. LORCHER, x...
 MICHELLE L. MCKENZIE, x...
 BRUCE D. MENTZER, x...
 CHRISTINE T. MILLER, x...
 CRAIG G. MUEHLER, x...
 JOHN J. NESIUS, x...
 GARY J. OLSON, x...
 CAROL A. PAPINEAU, x...
 JOSEPH R. PETERSEN, x...
 NICHOLAS PETRILLO, x...
 HERMAN G. PLATT, x...
 SHIRLEY K. PRICE, x...
 SABRINA L. PUTNEY, x...
 ANN RAJEWSKI, x...
 ABRAHAM I. RAMIREZ, x...
 DOUGLAS E. ROSANDEI, x...
 GILBERT SEDA, x...
 CHARLES H. SHAW, x...
 AMANDA G. SIERRA, x...
 SANDRA S. SKYLES, x...
 JOHN C. SMAJDEK, x...
 BETSY J. SMITH, x...
 SCOTT A. SMITH, x...
 VANESSA D. SMITH, x...
 JOSEPH M. SNOWBERGER, x...
 DOVIE S. SOLOE, x...
 AMY L. SPEARMAN, x...
 RICHARD G. STEFFEY, JR., x...
 DANA G. STUARTMAGDA, x...
 MILAN S. STURGIS, x...
 SCOTT C. SWANSON, x...
 ATTICUS T. TAYLOR, x...
 BENJAMIN F. TAYLOR, x...
 MARY W. TINNEA, x...
 NELIDA R. TOLEDO, x...
 KAREN D. TORRES, x...
 DICK W. TURNER, x...
 BARBARA J. VOTYPKA, x...
 CHRISTINE M. WARD, x...
 TERESE M. WARNER, x...
 MATTHEW L. WARNKE, x...
 JAN P. WERSON, x...
 MICHELLE S. WILLIAMS, x...
 WAYNE E. WISEMAN, x...
 STAN A. YOUNG, x...