United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, WEDNESDAY, FEBRUARY 1, 1995 No. 20

Senate

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*I exhort therefore, that, first of all, supplications, prayers, intercessions, and giving of thanks, be made for all men; For kings, and for all that are in authority; that we may lead a quiet and peaceable life in all godliness and honesty. For this is good and acceptable in the sight of God our Saviour * * *.*—1 Timothy 2:1–3.

Eternal God, Lord of history, Ruler of the nations, with grateful hearts we anticipate the annual national prayer breakfast to be held tomorrow morning. We pray that You will govern every detail of that significant event. As this microcosm of the world gathers—from every State in the Union and from more than 150 nations—make Your presence felt, and guide each participant.

We pray for a special blessing upon President and Mrs. Clinton, Vice President and Mrs. Gore, and all those from the executive, legislative, and judicial branches of Government who are present, that they may be specially blessed and strengthened. We pray for Thy blessing upon the heads of state from a number of nations who will be present.

Grant, mighty God, that this will not be just an event soon forgotten, but that it shall become a tidal wave of prayer for the Nation and the world.

In the name of the Lord of Lords and the King of Kings. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. LOTT. Mr. President, the time for the two leaders has been reserved. There will be a period for morning business until 11:30 a.m. with Senators to speak for not to exceed 5 minutes each with the exception of the following Senators: Senator GRAHAM for 20 minutes, Senator HARKIN for 15 minutes, Senator BRADLEY for 15 minutes, Senator BENNETT for 15 minutes, Senator MURKOWSKI for 15 minutes, Senator DORGAN for 10 minutes, and Senator GRAMS of Minnesota, 10 minutes.

At 11:30 the Senate will resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

Mr. President, since there is no Senator seeking recognition at this particular moment, I do observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, I understand, by an understanding that has been reached, Senator HATFIELD will share in the time Senator GRAHAM of Florida has been designated, and Senator HATFIELD is here and ready to proceed.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, the Senator from Florida is recognized to speak for up to 20 minutes.

Mr. GRAHAM. Mr. President, it will be my intention to yield a portion of my time to my colleague and cosponsor of the legislation we will be introducing today, Senator HATFIELD.

(The remarks of Mr. GRAHAM and Mr. HATFIELD pertaining to the introduction of S. 308 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. INHOFE. Under the previous order, the Senator from Iowa is recognized to speak for up to 20 minutes.

FEDERAL RESERVE WILL RAISE INTEREST RATES AGAIN

Mr. HARKIN. Mr. President, it is widely rumored that the Federal Reserve will raise interest rates today for the seventh time in the past year. Hard-working Americans all across this country can only hope that the Fed will give a second thought to an unnecessary and destructive action. The Federal Reserve is an independent and powerful fourth branch of Government—a branch of Government, I might add, that is unelected and essentially unchecked by reasonable examination.

While I disagree with Alan Greenspan's policies, I must give him credit for a superb ability to manipulate the press and many others, including many Members of Congress. Somehow, Mr. Greenspan has created an aura of naturalism, a feeling that his actions are somehow preset by immutable economic realities, some form of the invisible hand operating there that causes

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

Printed on recycled paper containing 100% post consumer waste

us to do things that we cannot change. In fact, his position is based on a conservative ideology that favors the long-term interest of bondholders and bankers but shows little sympathy for hard-working, middle-income families.

In fact, his policies are specifically intended to force a significant number of breadwinners out of work and into the unemployment lines. In fact, I read in the paper the other day that Mr. Greenspan, in testimony, was saying that unemployment rates were coming down and they were approaching a 5.4-percent rate of unemployment, and he thought that was getting too low, that unemployment ought to be higher than that. That is his feeling. That is where he is coming from.

Thus, the Federal Reserve's policies are designed to keep millions of Americans out of work, in spite of the fact that the law which governs them specifically provides that the Federal Reserve is to balance the goal of maximizing production and employment with the goal of keeping prices stable and moderating long-term interest rates.

Mr. President, as I said earlier, the Federal Reserve has already raised interest rates six times over the past year. As a result, the prime rate increased from 6 to 8.5 percent, a 41-percent jump in interest rates in just 1 year. These actions by the Fed amount to a bill to the American taxpayers for $107 billion over 5 years—$713 per taxpayer. Why this bill? It is a bill to pay the resulting higher interest costs to service the Federal debt.

The Federal Reserve's repeated interest rate hikes have also had an important negative effect on Americans. They have cost nearly every business in the country large sums in higher interest rates.

In addition, the average buyer of a new house will pay an extra $158 per month on a fixed rate mortgage—that is nearly $1,900 a year, more than enough to prevent many Americans from attaining a key component of the American dream, owning your own home. Millions of other American families are being forced to pay more on their adjustable rate home mortgages, more on their bank loans, and more for interest rates on their cars and on their credit card balances.

Even more significantly, the six, and now probably seven, increases in interest rates will and are, in fact, designed to, eliminate jobs. Federal Reserve officials do not use those terms, although Mr. Greenspan came close to it in testimony the other day. But that is clearly their intent. Their intent is to keep unemployment high. They want to artificially slow the economy down and reduce the number of available jobs. In many cases, that will mean that people will be fired.

In other cases, that will mean that a job will not be there for someone looking for work. It will mean that families with breadwinners actively looking for work will not have their basic needs met. The financial strain on those families will cost both economic and psychological damage.

It also means an increase in the welfare roles. Some of us have been working hard to fix our broken welfare system. It is failing both the taxpayers and those who rely on it. But a key to welfare reform that works is the availability of good jobs. I think all of us agree that we want to move people from welfare to work and to self-sufficiency; that is, all but perhaps those on the Federal Reserve Board. Their recent penchant for raising interest rates in order to keep the unemployment rate up will make ending welfare as we know it impossible.

Why would the Federal Reserve want to do that? Well, there is an economic concept called nonaccelerating inflation rate of unemployment. This concept says that when unemployment falls below a certain level, it becomes harder to find employees, then it is easier to demand higher wages and wages will rise. Some economists think that the natural rate of unemployment in the United States—the point where lower unemployment will cause inflation—is about 6 percent. This, obviously, is what Mr. Greenspan believes.

The Fed's principal justification for its six increases in interest rates has been their fear of rising inflation. Well, let us take a look at that.

Last year, the Consumer Price Index, the CPI, went up a meager 2.7 percent, exactly the same rate of inflation as in 1993. If you take out the more volatile food and fuel costs, the rate increased by just 2.6 percent, the lowest rate of inflation since 1965. And, on top of that, Mr. Greenspan believes that the CPI was actually overstating inflation, as he says, by anywhere from 0.5 to 1.5 percent.

Mr. Greenspan has been talking a lot about this lately. He said it in testimony before a congressional committee.

Well, if he were right about the CPI being overstated by that much—and I have my doubts about that—then Mr. Greenspan has pushed a huge burden on our economy when even he believes that inflation has been under 2 percent a year over the last 3 years.

So Mr. Greenspan cannot have it both ways. He cannot say, on the one hand, we have to raise interest rates because inflation is threatening and, on the other hand, come before a committee of Congress and say that inflation has been overstated and it is really not as high as it has been; it really has been lower than that. He cannot have it both ways.

And yet, we now have interest rates going up for the seventh time in 1 year. Again, an ideology that says we have to reward the long-term bondholders but forget about our Main Street businesses; forget about our farmers; forget about our homeowners and young people wanting to buy a house; forget about people buying a car on time; people paying off college students loans. All of this goes up, not to mention, again, the fact that these rate increases have stuck the American taxpayer with an additional $107 billion tab to pay increased interest costs on the national debt.

For Alan Greenspan to push these further destructive increases in interest rates on the American people, while saying that inflation has been running at less than 2 percent, to me is the height of hypocrisy. Mr. Greenspan, as I said, cannot have it both ways.

I also note that the Fed Chairman recently indicated in testimony before the Finance Committee last week that he thinks there is likely to be a slowdown in the economy in the coming months. But he said that, ''I see it as crucial that we extend the recent trend of low and hopefully declining inflation in the years ahead.''

Well, Mr. President, we need balance between the need to fight inflation and the need to keep our economy moving. The law, as I read it, requires a balance. But, right now, there is no balance. There is an imbalance.

All of the Fed's weight is now toward the single goal of cutting any possibility of rising inflation in the future. That is wrong, and I believe it is very likely going to send our economy into a recession.

Robert Eisner, a respected professor at Northwestern University, made an excellent analogy, comparing the economy with a patient with clogged arteries. ''The patient would have a longer and better life by exercising and expanding the capacity of his heart and circulation system,'' Eisner said. ''But what Dr. Greenspan has done, I think unwisely, is simply to put the patient to bed.''

Well, Mr. Greenspan talks about the dangers of large deficits on the economy. And I agree with him on that point. We do need to keep our deficits coming down. But his push to higher interest rates is adding to the deficit—hugely. Higher Federal interest payments will add $107 billion to the Federal deficit over the next 5 years. This totally wipes out more than 20 percent of the deficit reduction achieved by our economic recovery package of 1993.

It is almost as if Mr. Greenspan does not want to see the efforts that we took here to reduce the deficit succeed. He is wiping out all of those gains that we have made to reduce the deficit.

There is considerable reason to believe the idea that inflation will automatically rise because the unemployment rate has fallen below 6 percent is wrong. Things have changed. Wages are more closely tied to productivity increases. And, there is a greater ability to move manufacturing overseas if the price of producing many items in the United States rises.

There have also been large changes in the retail sector. The large increase in discount stores is putting greater downward price pressures on the entire system. There is a growing willingness of consumers to use non-brand-name

products, also creating a real difficulty of manufacturers and retailers to raise prices.

Some people also see a new culture developing in many manufacturing areas which places considerable pressure on suppliers to avoid cost increases and to develop new, lower cost methods of producing goods. To some extent, gains in computer designs are providing methods to accomplish that goal. Productivity seems to be covering a significant share of the wage increases that are occurring.

I would also note, Mr. President, that wage and salary costs have only increased by about 3 percent in 1994. A significant part of that is covered, as I said, by increases in productivity. So, wage costs were—considering productivity—less than the inflation rate in 1994. I want to repeat that because it is very important to note this. Wage costs were, when we consider the increase in productivity, less than the inflation rate in 1994.

So, Mr. President, economic theories that may have proven true in the 1950's or 1960's or 1970's may not be useful today. I believe that Mr. Greenspan is living in the past. Companies that have recently hired large numbers of employees do not seem to need to pay higher wages. Lands' End hired 2,200 people for the Christmas season, Sears hired 40,000 Christmas workers, but they saw no increase in wage levels. MCI, which hires 10,000 to 15,000 people a year, also has not been pushed to raise wages.

So where, I ask, is this inflation that the Fed has been expecting and warning about? Mr. Greenspan says if we do not act now, it will come. The Fed says it takes a long time for the pain of their interest rate increases to work their way through the economy to cause the economy to slow down; that is, to interpret that, to cause enough people to be laid off and fired for enough unemployed people to stay that way. I may agree with that. It may take from 6 to 18 months for that to happen.

Is it logical, I ask, to rush forward with a seventh increase in interest rates when we have not even seen the impact of the earlier increases? Since the Fed Chairman believes inflation has been running at less than 2 percent, I believe we could take a very small risk of a slight increase in inflation in order to limit the likelihood that the economy will take a serious plunge into recession and far higher unemployment. I would think it would be far more prudent to wait to increase interest rates any more.

In fact, Mr. President, I believe that from the actions taken by the Fed with this recent increase in interest rates, we may be seeing in the next year a severe downturn in the economy in 1996. We might think of the height of interest rates as a mountain, and as the speed of the rate increases, remains high, and the height grows, the cliff on the other side, the deep valley into which the economy may fall, will become more painful.

I think it is past time for the Federal Reserve to pull back its bulldozer. Let the economy work through the interest rates already put in place. Then, after that has happened, we can consider further action. That is the way to get a soft landing for the economy that we all want, rather than having it tossed off a cliff. I believe that is exactly what may happen next year.

There have already been a few signs of a slowdown in the economy. Total construction fell by 7.7 percent in December, the largest decline of the year. Construction is very sensitive to interest rates. Housing fell by 8 percent; again, very sensitive to interest rates. Personnel income rose nicely in December, by 0.7 percent, but consumer spending went up by only 0.2 percent.

This morning, the leading economic indicators showed a slim 0.1 percent gain. These are signs that economic growth is near its peak. This is not the time to further burden the economy with higher interest rates. The Federal Reserve and the Open Market Committee should be balanced in its views and actions. It should not be led by ideological zeal on one single factor, inflation, and, I might say, the veiled threat of inflation. There should also be a concern for the well-being of manufacturers and farmers and main street businesses and American families and homeowners and car buyers.

So, Mr. President, I strongly urge the Federal Reserve to hold the line on interest rates, limit the damage they have already done to our economy, and give us some good news today and say they are not raising interest rates a seventh time.

Mr. President, I yield the floor. 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. 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. The Senator from Wyoming is recognized for 5 minutes.

BALANCED BUDGET AMENDMENT

Mr. THOMAS. Mr. President, I come to the floor to talk about the subject that is before the Senate this week, and I suppose next week and possibly the week after, the balanced budget amendment. I think we will have extended debate, probably longer than we need, some of which will be to talk about options, some of which will be to talk in real debate about differences in view, but much of it will simply be designed, I think, to delay action on what I think to be a very important issue. So, it will be difficult to focus on new information.

It seems to me there is a very basic question that has to be asked first, before all the detail is entered into and that is, is it morally and fiscally responsible to spend more than we take in? I think that is the question that most Americans ask of their Government: Can we continue to spend more than we take in? Is it morally wrong to spend more than we take in, to transfer that debt to someone in the future? I think Americans ask, is it fiscally responsible to continue to spend more than we take in? The answer, obviously, ''is no,'' it is not morally responsible, it is not fiscally responsible. So, that is the basic question. And most everyone would answer that the same.

Then we get into a great debate about how we do it. I support a balanced budget amendment. I believe very strongly that it needs to be done. I believe very strongly that it has worked in the States. What are the arguments against it? We hear them time and time again. One of them is it is not needed. The evidence is it is needed. This Congress has not balanced the budget. It has not balanced the budget in 26 years and only balanced it five times in 50 years.

So the evidence is that, sure, we can balance the budget. The fact is that Congress does not. The fact is, it is a little easier to say we like the programs; if we can put it on the credit card, we will do it. If we have to pay for it, it is a different matter. Then it is a matter of setting up priorities. Then it is a matter of a cost-benefit ratio, and we hear, ''Here is what it costs. Here is the value.'' The decision may be different than saying ''Here is the value. We do not have to pay for it now.''

Some say it is not needed. I suggest that the evidence would indicate that it is. Some say we already have the tools; we can do it this year. Certainly, that is true. Again, the evidence shows that that has not happened. It is very difficult. I am persuaded that there needs to be a constitutional discipline to balance the budget on a continuing basis.

Some say it is too strict, it is too confining. It does not need to be. There are arrangements that in case of emergencies—some say in case of war—it can be changed, of course. It can be changed by a vote or supermajority vote or written into the amendment that it is changed under certain circumstances.

Again, I say to Members that almost all of the States in this country have balanced budget amendments. In my State of Wyoming it is in the constitution, and it is not troublesome for that reason. We heard an extended argument earlier this week on how courts and judges would be deciding. The evidence does not show that in the area where we have had a balanced budget amendment in the States. The courts do not do the budgeting. That is, I think, not a good reason for not moving forward.

Mr. President, the balanced budget amendment is one of the several procedural changes that seem to me to be imperative. Several of the changes were clearly in the mind of voters in November, changes that will have a long-term impact, not just on this year's decisions in the Congress, but an impact on the way Congress behaves over time. That is the more important question.

We keep expecting different results and continue to use the same process. There is really little reason to expect that results will be different if we continue to do the same thing. We need a forced discipline. We need an external constraint. I think that is true of most political bodies, frankly. Politicians love to be able to provide programs. Politicians love to be able to solve problems. Politicians sort of get to where they like to have problems to resolve for their constituents. A man with a hammer thinks every problem is a nail.

We need some constraint, some constitutional discipline. The Federal debt is nearly $5 trillion, over $18,000 for every person in this country. We spend $800-plus million per day in the gross interest payments.

So we have a moral imperative to balance the budget for people in Wyoming and people in every other State. Families have to balance, businesses have to balance, States, by and large, have to balance, and the Federal Government should have to balance as well and not pass off the debt on its children and grandchildren.

Opponents say, ''We already have the tools.'' The evidence shows that we do not. The Federal Government has spent more than it has taken in for 55 of the last 63 years. Not a good record—not a good record—and not a good basis for saying we do not need to do anything.

So, Mr. President, I am sure we will hear about draconian cuts. The fact is that what we have to do is slow the growth. We have been increasing spending at 5 percent. Say we increase it only at 2 percent.

So I hope as we go forward, we can continue to make some points about the balanced budget, but the bottom line is, should we do it and, if so, what has to take place to require that the balanced budget be used in the Congress and be used for Federal spending.

Thank you, Mr. President. I yield back the remainder of my time.

The PRESIDING OFFICER. Under a previous order, the Senator from Utah [Mr. BENNETT] is recognized to speak for up to 15 minutes.

Mr. BENNETT. I thank the Chair.

(The remarks of Mr. BENNETT, Mr. BUMPERS, and Mr. JOHNSTON pertaining to the introduction of S. 309 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, it is my understanding that I am to be recognized in morning business.

The PRESIDING OFFICER. Yes. Under a previous order, the Senator from Alaska is recognized to speak for up to 15 minutes.

MEXICAN PESO CRISIS

Mr. MURKOWSKI. Mr. President, oftentimes it is not appropriate to be critical of a proposal unless you have a better solution. But I rise today to speak on the action of the administration which was announced yesterday regarding Mexico. In the opinion of the Senator from Alaska, the administration simply did an end-run around Congress and the American people when it unveiled its latest financing package for bailing out foreign investors in Mexico.

There is no question the President has the legal authority under the exchange stabilization fund to provide the $20 billion in loans and loan guarantees to the Mexican Government. However, I am concerned that this establishes a dangerous precedent and represents a use of power by the administration that was, in my opinion, unwarranted. It should be noted that the potential of unilaterally using the emergency stabilization fund was not conveyed to many of the Members who were involved in working with the administration on the potential alternatives associated with this financial crisis.

In any event, it has been less than 6 weeks since the Mexican Government reversed its longstanding policy of maintaining a pegged value for the Mexican peso and devalued the peso by nearly 13 percent. This devaluation plunged the Mexican stock and currency markets into a panic and a crisis that resulted in the peso dropping by more than 30 percent in a matter of just a few days.

It was at that point that the Clinton administration came forward and offered, first, a $6 billion credit line to Mexico in an effort to stabilize the currency. By January 3, Treasury saw fit to extend this line of credit to $9 billion and there were some other governments that came in, and commercial banks, for another $9 billion. So there was approximately $18 billion available for stablizing the peso at that time. I include the $6 billion I previously mentioned.

When I made an inquiry to the administration about this taxpayer-financed $9 billion credit line, I was assured that the American taxpayer would not be at risk because the credit line was fully collateralized by Mexico.

Since January 3 we have seen the peso crisis not abate. It only got worse. The peso dropped 45 percent in barely 1 month. This led the administration to raise the specter of as much as a $40 billion credit line to stabilize the peso. And by yesterday, the size of the bailout had grown another 25 percent to nearly $50 billion, with at least $20 billion coming from U.S. participation.

The specifics of that participation, as indicated in a newspaper article, suggests that commercial banks will be in for $3 billion; Canada, $1 billion; Latin American countries, $1 billion; the Bank for International Settlements, $10 billion; the International Monetary Fund, $17.8 billion; and, as I have indicated, the United States Treasury, some $20 billion.

Why are we putting so much taxpayer money at risk? Who are we defending and who are we bailing out with this taxpayer-financed line of credit? And how did Mexico fall into the crisis?

Mr. President I would note that most of this debt is represented by bearer bonds. That means whoever holds them basically owns them. It is like owning a $100 bill. You can walk in and turn it into two 50's or five 20's. The significance of that is it is very difficult to identify who specifically holds those debt instruments.

What we have learned in the last month, however, is that this crisis has not just happened overnight. It has been building for a year or more. It was clearly foreseen by the United States and Mexican Governments. In fact, the New York Times recently reported that United States Treasury officials warned the Mexican Government as early as last summer the country's foreign debt had become dangerously high and that the peso was being maintained at an artificially high level.

But, for strictly internal political reasons, the Mexican Government chose to compound the crisis by continuing to print billions of pesos. As far as I know they were printing them yesterday. They may still be printing them today. Compounding the Mexican Government's mismanagement of its finances and its insatiable desire to maintain a strong peso and excessive foreign imports, the Government allowed its foreign currency reserves to drop from $29 billion in February to less than $7 billion in December.

Now Mexico faces the daunting prospect of having to deal with foreign debt redemptions that are listed at approximately $80 billion this year, $39 billion of which is in the public sector. The significance of that is that is debt that is falling due this year, not all at once this year, but it will have to be met or refinanced this year. It is very likely, when the guarantees are in force, the holders of these notes, these bearer notes, are going to immediately want to convert their pesos into dollars and increase rather than decrease the capital flight out of Mexico.

If you and I held bearer notes in this crisis, what would be the inducement to hang on if the guarantees were there and we knew we could be paid? A fiduciary responsibility would suggest the holder of those notes would run in, cash them in, and take his or her principal and leave the country. The only consideration that might keep them

there is the attractiveness of the high interest rates. That rate may be in excess of 20 percent, which would certainly be an inducement.

But then the question is, Who are we bailing out? And the administration has yet to address specifically who holds that debt. They say the mutual funds hold the debt. The mutual funds are sophisticated investors. If they make an investment mistake, should the taxpayer have the responsibility of bailing them out anymore than any other individual who makes a financial investment and looks for a return on that investment, and tries to measure the risk against the inducement which is the interest that he is generating on that investment?

If the risk is too great or the investment goes sour, obviously the alternative is you lose your principal. But that is not what is happening here and that is why I am critical of this proposal.

I think there is a growing danger that the Mexican Government will have to return to Washington before this year is out seeking another $10, $15, or perhaps $20 billion in taxpayer funds for a second bailout. We were told by the assistant to the President of Mexico that the total debt of Mexico was about $180 billion, that the current debt was something in the area of close to $80 billion, and now we are talking about approximately a $50 billion guaranteed fund.

It is interesting to note that yesterday, Mr. Bill Seidman, former head of the FDIC and the RTC, in testimony before the Senate Banking Committee, indicated that the best way to resolve the Mexican financial crisis was to have the Mexican Government sit down with its creditors and renegotiate the terms of the loans that are coming due this year. He adamantly opposed a taxpayer bailout of speculators in Mexican debt. I believe Bill Seidman is absolutely right. Much of that Mexican debt carries rates of interest of 25 to 40 percent.

Where can you get that today in the United States? You are not going to get it in your savings account or your mutual fund. There is associated risk with the attractiveness of the investment and the potential return. Why should the American taxpayer dollars be used to pay off this debt of 100 cents on the dollar plus interest when we do not know who those holders are, other than the gray area of people who bought bearer notes or mutual funds, who made these risky investments simply to attain a higher interest rate? If they can get the Federal Government to guarantee what we have done, they will be very, very happy with such high interest rates.

Investors knew precisely what types of investments they were making. They were speculating. They were almost junk bond type of investments. And for American taxpayer funds to be used to guarantee this investment is unconscionable in my opinion.

Mr. Seidman's suggestion is that the debtors and the creditors sit down, the creditors being the holders, the debtors obviously being the Mexican Government, to work something out. How does that work? It is done all the time. I was a commercial banker for 25 years. If there is no blood in the turnip, if your borrower cannot pay, you sit down, you try to work something out, and you reschedule the debt, and take 40, 50, 60, or 70 cents on the dollar. You work something out. You just do not let everything collapse. We have not given this process a chance to work. I think we should.

Mr. President, yesterday the administration stated that the United States will impose strict conditions on the assistance it provides with a goal of ensuring that this package imposes no costs on the U.S. taxpayer. As of today, I am not aware that any of my colleagues know precisely what those conditions are. I have been involved in the meetings. I would expect the administration will make those conditions known, and I would encourage that they make them known before a single American dollar is used to provide guarantees to the Government of Mexico.

A factsheet released yesterday by the Treasury Department implies that these loans will be collateralized with the proceeds from Mexican oil exports. Mr. President, 2 weeks ago, I asked the Treasury to specifically identify how much of Pemex's revenue the Mexican Government has pledged, and how that revenue will be handled by United States financial authorities; how much of it is pledged, because obviously you can only attach what is not pledged but still assignable. I believe that it is imperative that for every dollar in loans and loan guarantees, the Mexican Government has to come up with some way to make a deposit of an equal amount of foreign hard currency in a Federal Reserve bank account in the United States from their oil export revenues.

I think the American taxpayer must be assured that so long as there are outstanding United States Government guarantees of Mexican debt, that an amount equal to the debt is maintained under the control of our Government. Otherwise, we risk the real possibility that the current Mexican Government or succeeding Governments could renounce the collateral agreement with the United States and leave the American taxpayer holding the bag. What are we going to do after these notes are called, so to speak, if the guarantees have to be delivered? We do not have another monetary stabilization fund to go to.

The response I received when I made an inquiry from the Treasury Department regarding collateralization of this debt was completely unsatisfactory to me. It does not appear to me that the new agreement will be any different, although I hope it will be. Under the previous draft agreement, the Mexican Government is required to turn over the proceeds from its oil exports only—get this, Mr. President—turn over the proceeds from its oil exports only in the event that the Mexican Government defaults on these bonds and only after such a default occurs. In other words, the Mexican Government would not establish an escrow account in the United States that can be immediately attached by the United States Government in the event of default. Another way of saying it is that there will be no collateral provided by the Mexican Government to offset the risk of default.

Mr. President, if we look at the structure of this, where we can only call, if you will, on this process after the Government is in default, I assure you that the practicality of that is basically unworkable. It is simply naive to believe that if Mexico, after receiving some $50 billion in loan guarantees from the United States Government and the IMF, faces a default on these bonds in the future, that it will have the political will and capacity to turn its oil revenues over to the United States Government. At that time, if the Government defaults, it is everyone for himself. The demands internally in Mexico will dictate that there will never be realistically a fund set up for the oil revenues, if indeed default occurs.

It does not take much imagination to know that, if in the future, Mexico faces default on United States Government-backed bonds, the entire Mexican economy will surely be in political, social, and economic chaos that will only be exacerbated by being forced to turn over its oil receipts to its neighbor in the north.

Let us be realistic. What caused this problem is too much debt. We have other nations that are friendly to us that have too much debt. Canada from the north would be the first to admit that.

What I fear is that, if such an economic crisis were to occur in the future in Mexico, the United States, having already put its $20 billion at risk, basically, would simply have to extend further credit lines to Mexico in order to stave off the political crisis that will be evident in that country. In other words, if we start down the line of extending $20 billion to Mexico, we are laying the foundation for future bailouts that I think will put even more American taxpayer money at risk.

Mr. President, before we extend $20 billion of credit to Mexico, we must have ironclad guarantees of internal economic reforms in Mexico, and I would like to see 100 percent collateralization of the loan.

Finally, Mr. President, it struck me during the entire negotiations that the best way to have handled this would have been to propose a guarantee on a percentage, if you will, of the current term debt that Mexico is exposed to.

Let us assume that we were to guarantee $40 billion of the $50 billion and require that the holders of the debt stay in on the balance, that other $10 billion. In other words, we would have been first out with a guarantee; the holders would have been last out. The explanation given as to why that was unworkable is we did not know who the holders of the debt were. I do not totally accept that. I think, had we waited, we could have forced the holders of that debt to come forward and make a proposal that they would stay in for a portion of their participation in return for the U.S. Government guarantee.

So that was my suggestion, which was recognized but rejected under the explanation that it was impossible to know who the holders of the debt were and, therefore, they could not proceed with that kind of an arrangement.

So time will tell, Mr. President, just what the risk to the U.S. taxpayer is. But this Senator is very concerned about the agreement that was made, and I felt an obligation to present my views to my colleagues.

I yield the floor.

The PRESIDING OFFICER (Mr. BENNETT). Under the previous order, the Senator from North Dakota [Mr. DORGAN] is recognized to speak for up to 10 minutes.

RECOGNITION OF THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, there is almost nothing in Government worse than to have people do significant work and get almost no credit for it. So today, as the Federal Reserve Board once again closets itself in its concrete temple, locks its door, goes in the secret room, and makes decisions about interest rates that every single American will pay, I figured maybe we ought to give credit to those who are going to do the work and cast the votes. I do not know what is going to be announced in the next couple of hours, but I am told by almost everybody who thinks they know that the Federal Reserve Board will increase interest rates for the seventh time in less than a year; for the seventh time in less than a year they will increase people's mortgage rates.

I met a fellow the other day who said, ''I am paying $115 more now for my home mortgage now because of the Fed.'' In the past year, the Federal Reserve has increased people's interest rates on credit cards and has increased the Federal Government's deficit by $125 billion over 5 years just to pay the interest on the debt.

So they take action that has a significant impact on this country. I want to tell the American people who they are. Lord, it seems to me if you are doing work this important, you at least need to get credit for it. Let me tell the American people who is going to do this today. This is the Federal Reserve Board on this chart, the top line of pictures. These people are all appointed by the President and confirmed by the Senate. So they go through the Senate for confirmation. But they are joined in that room—which the public is kept out of, by the way—by presidents of the Federal Reserve banks in the country, the regional Federal banks.

These people are not appointed by the President. They are not confirmed by the Senate. But they are going to go into the room on a rotating basis. There will be five of them in that room today who will actually cast votes on monetary policy and interest rates. They are not appointed by anybody, not confirmed by anybody. They owe their jobs to the regional Federal Reserve bank boards of directors, the majority of whom are their local bankers. These folks will go into the room representing the local bankers' interests. They will take action to increase interest rates for this country.

The four, today, who will vote—it is a rotating vote—are Mr. McDonough from New York, Kathy Minehan from Boston, Michael Moskow from Chicago, Tom Melzer from St. Louis, and Tom Hoenig from Kansas City. They will, with the Board of Governors, cast votes.

Let me, without being disrespectful, say this—and I emphasize that I am not being disrespectful. I do not have any idea what is in their heads down at the Federal Reserve Board. I would like to have those heads examined to find out what facts are rattling around in those heads that persuade these people that there is a new wave of inflation somewhere on the horizon. What persuades them to put the brakes on the American economy? Who has appointed them to become human brake pads to decide to slow down the American economy? And whose divine notion is it that unemployment in America should never fall below 5 percent, and economic growth should apparently never go above 2½, 3 percent. Where on Earth did these notions come from?

If this country faced credible inflation problems, I would not be here at all criticizing the Federal Reserve Board. We have had four successive years of decreasing inflation. There is no—I emphasize no—credible evidence that we have a new wave of inflation on the horizon. Yet, today, and again, if the pundits are correct, the Federal Reserve Board will take one more step that most surely will put the brakes on the economic progress we have seen and probably move this country toward a recession.

This is not a newfound concern of mine. The Federal Reserve Board operates by itself, in secret, and no, I am not saying let us put politics in monetary policy. I am not saying give to it the Senator from Utah to handle or the Senator from North Dakota or my colleagues in the Senate or the House. But here is a copy of the Constitution. The copy of the Constitution begins with these three words: ''We the people''—not we the bankers, the central bankers or we the Federal Reserve, but ''We the people.'' A question this important, that affects economic growth in this country and the pocketbook of every single American, and especially coming at a time when all of the credible evidence would seem to me to imply that the Fed's policies are wrong, leads me again to ask the question: Why does this continue? By whose authority does this continue?

I hope one day soon that we will discover a Federal Reserve Board that understands that you have two twin economic goals in America. Yes, two: price stability, absolutely, which has been a goal in this country for decades. Price stability and full employment. Price stability and economic growth are the twin economic goals in this country, only one of which this board cares much about. And even at that, when it cares about price stability, it fights the wrong fight at the wrong time.

I have young children who look for dragons under their bed at night because they hear noises and they wonder where does it come from, where does it lurk? Then they read books like Tony the Dragon. When you look at all of the credible evidence, where are the dragons this board looks for? What fights does the Fed wage, that it wins because it has no opponent?

I hope one of these days the American people will get better news from that Federal agency, that dinosaur that still operates in secret when the watchword of American democracy is ''openness.'' Maybe one day there will be enough of us here who care and enough of us here who think alike to believe that reform—yes, reform—ought to touch this institution as well.

A CALL FOR REFORM

Mr. DORGAN. Mr. President, let me turn to one other quick item. I am going to speak about this at greater length later. But I want to touch on it today, because I have watched with amazement in recent days reformers, people who say let us tip everything upside down and shake it, let us change it, let us reform it.

Among that call for reform, joined by many Governors in our country, is a plea by those folks that what we ought to do is decide the Federal Government cannot do anything right, and State governments do everything right, and we ought to have a massive transfer of money, a substantial transfer of resources between the States and the Federal Government, moving, of course, from the Federal Government to the States.

I am willing to concede that the Federal Government has too much waste; it is too bureaucratic, too big. The Clinton administration has taken action to downsize it. One hundred thousand people who used to work for the Federal Government are not working for the Federal Government anymore. At the end of 2 more years, it will be 250,000 people; 250,000 jobs will have

been eliminated. That is downsizing in a real way.

I reject the notion somehow that is being thrown around by the reformers, especially by Governors, who come out with press conferences and television lights and put on a big brassy show and say, ''Here are 250 programs you ought to abolish. Throw all the funding for these programs into a block grant and send us a check.'' These are the very same Governors who are back home busting their buttons, boasting about all the tax cuts back home. They have the gall and brass to come to Washington and say all the things you have done and all that money—send us the money and with no directions. Put it in something called a block grant, and we will take care of it.

Is there no priority for child nutrition in this country? Is that not important? They are asking us to put funding for things like WIC, and other programs dealing with children, in a block grant and send it back to the Governors. We're supposed to let the Governors work with local business interests on economic development grants. If the Governor wants to use the money to help a company from another State build a manufacturing plant in his State, that is, we are told, just fine. Let us let them make those decisions there, because we do not have a national priority on the subject or the issue of child nutrition.

Well, the fact is we do have a priority. We have established a priority over a long period of time. And I am one who does not believe that we ought to decide that get rid of those priorities that have been priorities for a long, long time. We should not just load them up into one big block to send to Governors and say, ''We will make you a deal. We will raise the taxes and then we will send money to you and you figure out how you might want to spend it, while all the while you are boasting back home you are cutting State taxes.''

You want the real conservative answer, Governors, the real answer, then raise the money yourself and spend it yourself.

There is no better way to create fiscal irresponsibility than for one level of Government to raise the money and another level of Government to spend the money.

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

Mr. DORGAN. I ask unanimous consent for 1 additional minute.

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

Mr. DORGAN. We need to talk through this at some length, Mr. President. Because I wonder whether I am the only one that thinks that it is a little strange to have people rush into town to say, on the one hand, that the Federal Government cannot do anything right, and on the other that they would like to continue to have our money. People are telling us to just send the money to the States and let them spend it.

The whole principle of the unfunded mandates bill, which we just passed here on the Senate floor, was that those who raise the money should decide how to spend the money. Governors and mayors were complaining mightily that we in Washington violate this principle.

Even as we dealt with the unfunded mandates bill, it was interesting to me that in many jurisdictions they were busy hooking their hose to the Federal tank, siphoning money out of here with bogus plans, such as the provider tax under Medicaid and others.

Well, reform works both ways. Responsibility works both ways. And I hope one of these days we can have a thoughtful discussion about who does what better, which things are important, which must be saved, which must take priority. I think there is room for all of us to have a thoughtful discussion about this, and I intend to say more about it in the days ahead.

Mr. President, with that, I yield the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey, under the previous order, is recognized to speak for up to 15 minutes.

THE MEXICO CRISIS IN CONTEXT

Mr. BRADLEY. Mr. President, anyone attuned to the news over the past 6 weeks has been subjected to a daily barrage of articles and statements on Mexico's economic crisis. We read of devaluations, floats, and market slides. We hear of lines of credit, loan guarantees, IMF programs, and conditionality. We follow the daily barometers of President Clinton, Secretary Rubin, Majority Leader DOLE, and Congressman LEACH.

What we have not been getting, however, is an adequate sense of the social and political context for Mexico's troubles. But Mexico is not just an economist's case history. Mexico is a country, with people and history. Unless we understand how the current financial crunch grew out of and, in turn, affects Mexico's political and social dynamics, we will not be capable of developing a response that works for Mexico or in the Congress for us.

The financial dimensions of the Mexico problem are well understood. Like many developing countries—such as the United States in the 19th and early 20th centuries—Mexico imports foreign capital to finance growth. However, because of its relatively low domestic savings rate, Mexico's appetite for foreign capital is exceptionally high. In a sense, Mexico is similar to the United States in the 1980's, financing investment from the savings of foreigners. In 1994, for example, Mexico imported a net $28 billion in foreign capital, 8 percent of its GDP.

Less than half of that $28 billion was invested in productive assets, such as plant and machinery. The rest was volatile portfolio investment, known with justification as hot money. What made this money even hotter was the fact that much was invested in short-term debt that matures in bunches. As a result, the Mexican Government must find the resources to redeem or rollover around $52 billion in debt in 1995.

Mexico, like any other country, can attract capital from abroad only as long as investors remain confident that the return compensates for the perceived risk. This requires investor confidence in Mexico's economic, political, and social stability. It also requires relatively high interest rates, declining inflation, and a stable currency—in other words, relatively high return for relatively low risk.

The Salinas government in the late 80's cut their internal budget deficit by the equivalent of three Gramm-Rudmans. Inflation plummeted, privatization exploded. Protectionist barriers and government subsidies came tumbling down. Mexico pursued a strong peso policy both as an end in itself and as a symbol of the new Mexico. This led the Salinas government to resist the economic forces that threatened to push the peso down and, in the short run, it was successful.

Just over a year ago, the North American Free-Trade Agreement came into force and gave a huge boost to investor confidence in Mexico. However, on the very day NAFTA took effect—January 1, 1994—the Zapatista revolt began in Mexico's Chiapas State. That revolt was an attack on democratic forces from the left. Thus began a year in which social and political, as well as economic, events undermined investor confidence in Mexico. As the year unfolded, we witnessed the assassination of the ruling party Presidential candidate, and the assassination of the ruling party secretary-general amid allegations of involvement by party dinosaurs. These were attacks on democratic forces in Mexico from the right.

At the same time, the peso came under increasing economic pressure as the PRI-dominated Government turned on the fiscal and monetary taps for the elections to win the first really contested election in Mexico's history.

There was another joker in the pack, one the Mexican Government could not control. That was the Federal Reserve's decision to raise United States interest rates. The higher yields made American securities more attractive relative to Mexican securities. Because a high percentage of the capital flowing into Mexico came not from banks, as in the 1970's and 1980's, but from mutual funds and pension funds, the impact of higher American rates was magnified.

According to a study by Guillermo Calvo, professor of economics at the University of Maryland, much of the mutual fund money that flowed into Mexico came more as a response to lower interest rates in the United

States than as a result of a profound understanding of Mexican economic fundamentals. When interest rates rose in the United States during 1994, this money was ready to bolt out of Mexico.

So, when the Zapatistas moved again last December, jittery foreign investors began converting their money into dollars and taking it out of the country. Mexico's foreign reserves melted away. The Government botched the resulting peso devaluation. The markets smelled fear, and the rout was on.

Governments and international financial institutions, viewing the problem as a liquidity crunch, have prescribed standard fiscal and monetary responses, which are designed to reduce domestic consumption and make exports more competitive by lowering real wages. In other words, the economists are prescribing recession to reduce the demand for foreign capital.

That is why the economists oppose political conditionality so strongly. For inserting a requirement that Mexico's wages rise in line with productivity or that Mexico try to repeg the peso at 3.5 to the dollar destroys the economic underpinning for eventual recovery.

However, the economic cure ignores Mexico's political and social context. It ignores both the pacto which lay at the heart of the Mexican model, and the new social pact upon which President Zedillo based his legitimacy.

Ernesto Zedillo was elected head of state of a country exhausted by a decade of economic reform—three Gramm-Rudmans in a matter of 4 or 5 years—and hungry for justice. He took over a population unwilling to continue to sacrifice for the benefit of others.

Zedillo promised the Mexican masses a share in the prosperity bought with their sacrifice. He promised more open politics and an overhauled justice system. He promised a secondary education to the 45 million Mexicans under age 19. In short, unlike Boris Yeltsin in Russia, he promised his people a vision.

However, Zedillo's vision threatened old-line entrenched interests in Mexico. It threatened an end to the old PRI-government gravy train. Since Zedillo does not head an old-style Leninist party, he lacks the brute party power of his predecessors to override opposition and implement his vision. In fact, he is presiding at the time when a regime is in greatest danger, the time when it tries to reform.

The only way to square the circle is economic growth, not just the 5 percent necessary to create a million jobs a year, but enough to spread the benefits to the masses and at the same time buy off the party dinosaurs, who would like nothing more than to regain their subsidies and deny the people a real voice. This growth was the instrument promised by NAFTA. It is the instrument which the crisis has taken out of Zedillo's hands. Having lost the instrument, Zedillo will be hard pressed to restore the vision.

We see the erosion already. Chiapas is active. The opposition PRD party has taken new life. As have the PRI dinosaurs. For example, when President Zedillo concluded a pact with three opposition parties that would have removed the PRI Governors of Chiapas and Tabasco States, who won disputed elections, the Governor of Tabasco brought his supporters into the streets. When President Zedillo was scheduled to announce the new social compact, the industrialists and labor leaders balked, forcing him to cancel a nationwide TV address and reveal the extent of his obligation.

This, then, is the context for the loan guarantee debate. How can the Mexican Government negotiate the fine line between financial meltdown and social-political meltdown? Let me suggest a few guidelines.

First, the United States needed to act quickly to shore up Mexico's financial system. The President has acted because the Congress delayed. If Mexico's financial system collapses, there is no hope of generating the needed growth, now or in the future. The President's support package is not to bail out Wall Street, or even individual American investors, but to give Mexico the chance to grow into social and political stability and become an even better market for American exports that create American jobs.

If Mexico's financial system collapsed because the Americans reneged on a promise—if having announced the $40 billion loan guarantees, the administration was unable to deliver anything—we would have put at risk a decade of changing Mexican attitudes toward the United States. We would have confirmed Mexico's traditional anti-Americanism that is now latent, but still lurks just beneath the surface.

Now we have a support package, we have a support package. But that package only buys time. It is up to the Mexican Government to put that time to work to generate popular support for the continued sacrifices necessary to overcome this financial setback.

So the second step must be for the Mexican Government to return decisionmaking on Mexico's economy to Mexico City. The Mexican Government must develop, announce, and implement itself a plan to pull Mexico through the crisis and prevent this problem from happening again.

That plan must not simply prescribe recession as the cure for Mexico's current account ills. It must hold out a way to grow and reduce the risk of hot money at the same time. Otherwise, Mexico is consigned to a continuing cycle of recession and currency crisis—social crisis and economic crisis.

To grow without generating a crisis, Mexico must finance more of its growth itself. That means the Mexican Government plan must increase Mexico's savings rate. The Asian dragons, for example, enjoy sources of domestically generated capital resulting from savings rates twice as high as Mexico's.

The Government plan must also encourage foreign direct investment over portfolio investment. Investment in productive assets both implies an understanding of the underlying fundamentals that reduces volatility and is more difficult to pull out with a panicked phone call.

There are many ways to do this, as countries as diverse as Chile, Indonesia, and Thailand have shown. Capital controls, however, are not an option. The means to shift the balance in favor of foreign direct investment must increase the integration of the Mexican economy, not its isolation.

It should be clear that this plan cannot be dictated by Washington. No Mexican Government can allow Washington to load up support with a wish-list of conditions and still generate the popular support required to carry it out. If we need a support package to make the economic plan work, we need a clean package to let the economic plan work.

Third, and finally, the Mexican Government must broaden its legitimacy among the Mexican people. Only democracy or dictatorship will see Mexico through the sacrifices President Zedillo will be asking of his people. Mexicans who are asked to sacrifice for the good of the system will also want a say in that system. Zedillo made an important statement with his four-party pact to open up the political system, but may be backing away in the face of resistance from the dinosaurs. That simply cannot happen.

There are those who say that we can contain the fallout if Mexico goes belly up, that, despite dire predictions of systemic risk, this is a problem, not an emerging market problem. Mexico's crisis results from the market's misjudging of the balance between risk and reward in Mexico's financial markets, this argument goes. An investment that was profitable in, for example, the Philippines 2 months ago should still be profitable.

I ask unanimous consent for 1 minute.

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

Mr. BRADLEY. Unfortunately, our vulnerability is deeper than this. Many emerging markets have gotten out of control and are due for a readjustment. Investors have been blinded by high returns in many developing countries.

Thus far, outside of Mexico, investors are merely chastened, not panicked. We can expect to see a sounder evaluation of the risk-reward trade off that will play out over time. But, if Mexico melts down, we could well see the bubble burst in a global withdrawal from emerging markets. We and our OECD partners are not equipped to handle a worldwide panic that would produce a collapse in the fastest growing export market we now have and, prospectively, the biggest source of continued worldwide growth.

So it is not only investors and developing countries who should view Mexico as a wake up call. We in the OECD and the international financial institutions must begin now to put in place the institutional arrangements to handle the next Mexico. The United States simply cannot be the permanent ad hoc lender of last resort.

The current Mexico faces a long road as it pursues democratization and economic reform. During the NAFTA debate, we heard why Mexico's success is important to us in the United States. We need a stable, democratic and prosperous neighbor to our south for reasons of our own stability, democracy, and prosperity.

Nothing that has happened since December 20 has changed that calculation. We cannot turn our backs on Mexico, and Mexico cannot lose faith with itself.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. GRAMS].

BALANCED BUDGET AMENDMENT

Mr. GRAMS. Mr. President, I rise today in support of a balanced budget amendment to the Constitution.

Last November, the American people sent a message loud and clear to Washington. I know first-hand, having heard this message in cafes and town hall meetings all across the State of Minnesota.

It is a simple message, with all the wisdom and common sense of the people who sent it. And yet, it is a message that Congress has failed to heed until this year.

It is time to change the way Congress taxes and spends the people's money.

This message is the same, whether I hear from parents worried about the economic future of their children, workers who fear the impact of the deficit on their jobs, or families who manage each year to balance their own books.

Cut spending, balance the Federal budget, and start getting this country out of debt. Mr. President, the balanced budget amendment is the first step on the long journey toward restoring fiscal sanity to Washington.

Mr. President, the statistics are clear: Our Nation currently faces a $4½ trillion debt. That means every child born in America is immediately saddled with nearly $20,000 in debt. And at the rate we are going, these numbers increase every year, taking with them the future of our children.

If America were a business, it would have been forced into bankruptcy years ago, with each Member of Congress liable for breach of duty. In previous centuries, there was a place for those who made a habit of spending more than they brought in: it was called debtor's prison. Today, it is called Congress.

Now, some in this body would argue that there is no need for a balanced budget amendment to the Constitution. And they might have a case if we were talking about anyone else but Congress. After all, there are laws all over the books to prevent the accumulation of unmanageable debt.

But what happens when those who break the laws are those who make the laws? Simple. They ignore them.

Only the Constitution and the moral authority it represents will force Congress to do what it is supposed to do, what we were elected to do.

And only by passing a balanced budget amendment can we hope to show the American people that we will do our job and carry out the mandate they delivered last November.

Minnesotans have joined me in calling for a balanced budget amendment. It is not a new concept in our State. In fact, the first balanced budget amendment to the Constitution was sponsored in the 1930's by—not surprisingly—a Minnesotan, Congressman Harold Knutson. But like so many balanced budget amendments after it, it was left to die in committee.

Well today, more than 50 years later, we have the opportunity to complete Representative Knutson's work. And his idea that was good in the 1930's is still good today, and it ought to become part of the Constitution.

In following the balanced budget amendment, however, we must be careful that our efforts to balance the budget come through cuts in spending and not tax increases. Taxpayers did not cause the budget deficit, Congress did, and it would be unfair, unjust and unwise to cover up the irresponsible behavior of Congress by punishing taxpayers, through new taxes or higher taxes.

For that reason, I introduced my own version of the balanced budget amendment which requires that any legislation to increase taxes be approved by a three-fifths supermajority vote. It is based on the idea—unheard of in Washington—that it should be more difficult to tax away the people's hard-earned dollars then to spend them.

By requiring a supermajority vote, my legislation would protect taxpayers and put the burden on Congress to come up with the cuts.

While I prefer this version of the balanced budget amendment, I do not believe the perfect should be the enemy of the good. We can have a constitutional limitation on tax increases, and I plan to work with the chairman of the Senate Judiciary Committee to pass one.

But that can come at a later date. The House has scheduled a vote on such an amendment for April 15 of next year. I will urge the Senate to follow suit.

Believe me, we will pass a taxpayer protection clause to the Constitution. But let us pass the balanced budget amendment first.

And to those who might try to derail the balanced budget amendment, through killer amendments or parliamentary tactics, I ask you to think twice. I ask you to think about the impact that continued deficit spending will have on our economy, on the people's faith in their Government, and most importantly, on our children. Because it's their future we're mortgaging away with every new governmental program, with every additional dollar of debt we rack up.

When I decided to run for Congress, I did so because I was frustrated with the way our Government was being run.

Growing up on a dairy farm in Minnesota—where we did not have a lot of money, where we worked hard and cleaned our plates—taught me a lot of lessons about life. Most importantly, it taught me the fundamental principle that you should not spend what you do not have.

What kind of lessons are we teaching our children when Congress spends this country $4½ trillion in debt and what will their future be like when they are forced to pay off our bills?

I do not want my kids or grandkids to grow up wondering why we left them holding the bag.

We have to do something now. And the balanced budget amendment is the first step.

For those reasons, I urge my colleagues to pass the balanced budget amendment without delay. Because every second we push this vote off is another dollar we take away from our kids. And our kids deserve better, our country deserves better.

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

RAISE THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, many of us in the Senate on both sides of the aisle support an increase in the minimum wage, and it is clear that the vast majority of the American people support an increase, too.

Last month, the Los Angeles Times conducted a poll of citizens across the country. As the results demonstrate, raising the minimum wage has extraordinarily high support across the entire spectrum of income groups, political party, and every other category, with the possible exception of the House Republican leadership.

Mr. President, I believe that the Los Angeles Times poll will be of interest to all of us in Congress, and I ask unanimous consent that it may be printed in the RECORD.

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

As you may know, the federal minimum wage is currently $4.25 an hour. Do you favor increasing the minimum wage, or decreasing it, or keeping it the same? (''Eliminate'' was a volunteered response)

THE LOS ANGELES TIMES POLL—NATIONAL SURVEY; JANUARY 19–22, 1995

	Increase	Keep the same	Decrease	Eliminate	Don't know
Total sample	72	24	1	1	2
Gender:					
Male	67	28	1	1	3
Female	76	21	1	–	2
Age:					
18–29 years old	76	19	1	–	4
30–44 years old	74	23	–	1	2
45–64 years old	69	27	1	1	2
65 year and older	69	28	1	1	1
Ethnicity/Race:					
White	67	29	1	1	2
Black	92	5	–	–	3
Income:					
Less than $20,000	80	15	1	1	3
$20,000–$39,999	76	21	–	–	3
$40,000–$59,999	69	26	1	1	3
$60,000 and more	60	38	–	1	1
Education:					
High school or less	79	18	1	–	2
Some college	67	28	1	1	3
College graduate	59	36	1	2	2
Religious background:					
Protestant	72	24	–	1	3
Catholic	72	26	1	–	1
Party affiliation:					
Democrat	85	13	–	–	2
Independent	67	28	2	1	2
Republican	62	35	1	1	1
Political ideology:					
Liberal	82	16	–	–	2
Moderate	77	21	–	–	2
Conservative	63	33	1	1	2
Voter registration:					
Registered to vote	69	27	1	1	2
Not registered to vote	80	16	1	–	3
92 Presidential vote:					
Clinton	79	18	–	–	3
Bush	57	39	–	2	2
Perot	64	32	2	–	2
Location of home:					
City	76	21	1	1	1
Suburb	67	29	–	1	3
Small town	72	24	1	–	3
Rural	72	25	–	1	2
National region:					
East	76	21	1	1	1
Midwest	67	28	1	1	3
South	74	21	–	1	4
West	71	27	1	–	1
Union membership:					
Union member	82	16	–	–	2
Nonunion member	69	26	1	1	3
Union household	80	17	–	–	3
Nonunion household	69	27	1	1	2
Gender and party affiliation:					
Democratic men	82	17	–	–	1
Independent men	60	35	2	1	2
Republican men	60	36	1	2	1
Democratic women	87	10	–	–	3
Independent women	75	21	2	–	2
Republican women	64	35	–	–	1
Gender and age:					
Men 18–44 years old	72	23	–	1	4
Men 45 years and older	61	35	1	2	1
Women 18–44 years old	77	20	1	–	2
Women 45 years and older	76	21	1	–	2
Party and ideology:					
Liberal Democrats	85	13	–	–	2
Other Democrats	84	13	–	–	3
Conservative Republicans	55	41	1	2	1
Other Republicans	73	26	–	–	1
Working people and gender:					
Working men	66	28	1	2	3
Nonworking men	71	27	1	–	1
Working women	77	22	–	–	1
Nonworking women	76	19	1	–	4
Class and gender:					
Male upper class	53	45	–	1	1
Female upper class	66	33	–	–	1
Male middle class	66	30	1	2	1
Female middle class	77	20	1	–	2
Male working class	72	21	–	1	6
Female working class	81	16	1	–	2
Gender and race:					
White male	63	32	1	2	2
White female	71	26	1	–	2

(–) Indicates less than .5 percent.

HOW THE POLL WAS CONDUCTED

The Times Poll interviewed 1,353 adults nationwide, by telephone, Jan. 19 through 22. Telephone numbers were chosen from a list of all exchanges in the nation. Random-digit dialing techniques were used so that listed and non-listed numbers could be contacted. Interviewing was conducted in English and Spanish. The sample was weighted slightly to conform with census figures for sex, race, age and education. The margin of sampling error for the total sample is plus or minus 3 percentage points. For certain other subgroups the error margin may be somewhat higher. Poll results can also be affected by other factors such as question wording and the order in which questions are presented.

DR. DAVID ELTON TRUEBLOOD

Mr. LUGAR. Mr. President, this past Saturday, January 28, in Richmond, IN, 150 persons from around the world gathered at Earlham College's Stout Meetinghouse for a memorial service in honor of one of the 20th century America's most prominent religious leaders, Dr. David Elton Trueblood. Dr. Trueblood, professor-at-large emeritus at Earlham, died on December 20, 1994 at Lansdale, PA. He was 94 years of age.

Dr. Trueblood was no stranger to the Senate. He first served as the guest chaplain of the Senate in August 1972. I was pleased to serve as the cosponsor, along with his former Earlham student, our late colleague Senator John East of North Carolina, for Dr. Trueblood's second visit with us as guest chaplain on the National Day of Prayer, May 3, 1984. In addition, Mr. President, Dr. Trueblood was a close and valued personal friend of long standing to our colleague, Senator MARK HATFIELD. The two men first met as Stanford University in 1946, when Dr. Trueblood was serving as the chaplain of that great institution and Senator HATFIELD was a young graduate student there.

Although he was born on a small farm near Indianola, IA, in 1900, Elton Trueblood had deep Indiana roots. His Quaker ancestors left North Carolina, where they had settled in 1682, and moved to Washington County, IN, in 1815. The Truebloods were part of the great migration of antislavery Quakers from the slaveholding States of the South to the increasingly abolitionist States of the North in the decades before the Civil War.

By the time that Dr. Trueblood joined Earlham's faculty as professor of philosophy in 1946, he had already established a distinguished academic career and a growing national reputation as a religious writer and speaker. After graduating from Iowa's William Penn College, he had earned the graduate degree of bachelor of systematic theology from Harvard University in 1926. He was awarded his doctor of philosophy degree from the Johns Hopkins University in 1934.

It was during Dr. Trueblood's studies at Johns Hopkins University that his career in the academic and religious worlds began to intersect with the Nation's political life. While completing his doctorate at Johns Hopkins, Dr. Trueblood served as the clerk of the Baltimore yearly meeting of the Religious Society of Friends. Already in demand as a preacher, Dr. Trueblood was invited to deliver the sermon at a Quaker meeting in Washington, DC. In the congregation that day was the first Quaker to become President of the United States, Herbert Hoover. That first encounter led to a long friendship between the two men which culminated in Dr. Trueblood's delivery of the eulogy at President Hoover's funeral some 35 years later.

After completing his doctoral studies at Johns Hopkins, Dr. Trueblood accepted teaching assignments at Guilford College, in North Carolina, and then at Haverford College, in Pennsylvania. After a temporary assignment as the acting chaplain of Harvard, Dr. Trueblood became the chaplain of Stanford University in 1936. He held a dual faculty appointment at Stanford as professor of philosophy.

The friendship between Herbert Hoover and Elton Trueblood blossomed when Dr. Trueblood arrived at the Stanford campus, to which President Hoover had moved after he left the White House in 1933. When President Hoover died in 1964, the Hoover family called Dr. Trueblood back from a round-the-world cruise to conduct the memorial services for the former President in West Branch, IA. After flying back to the United States from Saigon, Dr. Trueblood delivered a stirring eulogy to the 31st President before the 75,000 persons gathered for the funeral services on a hillside overlooking the Hoover Library.

When, in 1946, Dr. Trueblood received his offer to come to Earlham in Indiana, he faced a difficult decision. He enjoyed the prestige of a tenured full professorship at one of the Nation's leading universities. He was, as I noted, also Stanford's chaplain and the close friend and neighbor of former President Hoover. Yet Dr. Trueblood yearned for a smaller educational institution, for a return to his Quaker roots, and for greater freedom to pursue his writing and public speaking. And so, Mr. President, Dr. Trueblood accepted Earlham's offer, a decision about which he wrote in an article entitle ''Why I Chose a Small College'' for Reader's Digest.

After his arrival at Earlham in 1946, Dr. Trueblood's career as a religious writer and speaker earned him growing national following. Several years later, he was invited to speak in Washington, DC, before a church congregation that included President Dwight Eisenhower. President Eisenhower later invited Dr. Trueblood to the Oval Office at the White House. Ultimately, President Eisenhower asked Dr. Trueblood to join his administration as the Director of Religious Information for the U.S. Information Agency.

During the Eisenhower administration, Elton Trueblood developed a friendship with the young man who would be the second Quaker to become President of the United States. The young man was Vice President Richard Nixon. Dr. Trueblood and Vice President Nixon stayed in regular contact after Dr. Trueblood returned to Earlham and throughout Mr. Nixon's post-Vice-Presidential years in California and New York.

After Mr. Nixon took office as President in 1969, he honored Dr. Trueblood by inviting him to speak at the Sunday

religious services held regularly in the White House. When the 1972 Republican National Convention nominated him for a second term as President, Mr. Nixon turned to Elton Trueblood to give the invocation.

As a man of character and faith, Dr. Trueblood believed deeply in loyalty to his friends. Throughout the ordeal of the Watergate scandal, Dr. Trueblood offered his friend, President Nixon, religious solace and advice in private. When, in August 1974, Mr. Nixon reached his decision to resign, the President called Dr. Trueblood at Earlham to tell him about the action that he finally had concluded that he must take.

The author of three dozen books, Dr. Trueblood was a world renowned writer. Perhaps the book for which he is best known was published the same year in which President Nixon resigned. Bringing his deep appreciation for the nexus between the spiritual life and the world of politics to its most creative fruition, Dr. Trueblood published ''Abraham Lincoln: Theologian of American Anguish.''

Critically acclaimed, Dr. Trueblood's study of President Lincoln's religious life became a great inspiration to numerous political leaders. President Gerald Ford kept a copy in his Oval Office. First Lady Nancy Reagan spoke of being deeply moved by Dr. Trueblood's Lincoln book when she found it in the White House Library. I am proud to say, Mr. President, that Elton Trueblood's ''Abraham Lincoln'' graces my own bookshelf as well.

After an extraordinary career, Dr. Trueblood ended 42 years of service to Earlham College and the Nation when he retired to Pennsylvania in 1988. Today, Mr. President, Elton Trueblood is back home again in Indiana. Following Saturday's memorial service at Earlham, his ashes were interred in the outer wall of his beloved Teague Library on the Earlham campus.

Mr. President, another of Dr. Trueblood's former Earlham College students, Steven R. Valentine, served as a Deputy Assistant Attorney General in the Reagan and Bush administrations and is now the general counsel to our colleague, Senator ROBERT SMITH of New Hampshire. Mr. Valentine traveled to Richmond, IN for the memorial services on January 28. He remembers Dr. Trueblood ''as not only a man of extraordinary intellect, but as a person with a great heart. Elton Trueblood has a beautiful eternal soul,'' Mr. Valentine says, ''and as I think of him now, I recall his words of Shakespeare:''

[A]nd, when he shall die,
Take him and cut him out in little stars,
And he will make the face of heaven so fine
That all the world will be in love with night,
And pay no worship to the garish sun.

Mr. President, before he died, Elton Trueblood chose, as the convenor of his Quaker memorial service, another distinguished Indiana educator. Dr. Landrum Bolling, whom Dr. Trueblood brought to Earlham to teach political science, became the president of Earlham College in 1958. He left Earlham in 1973 to become the president of Lilly Endowment in Indianapolis, IN, and later served as the chairman of the Council on Foundations.

In connection with his service as the convenor of Dr. Trueblood's memorial service, Dr. Bolling wrote a short biographical sketch of Elton Trueblood, which was printed and distributed to all in attendance. Mr. President, I ask unanimous consent to print that biographical summary in the RECORD.

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

DAVID ELTON TRUEBLOOD—DECEMBER 12, 1900–DECEMBER 20, 1994

(By Landrum R. Bolling)

Dr. David Elton Trueblood, author, educator, philosopher, and theologian, endowed with special gifts and holder of many honors, bestowed unnumbered blessings upon a numerious family and countless friends. He leaves to all of us who knew him and to multitudes who never met him a rich legacy of spiritual insights, intellectual and ethical challenges, and a vision of what communities of committed men and women, faithful to God's guidance, may yet do to build a better world.

A lifelong member of the Society of Friends, Elton Trueblood's teaching, speaking and writing influenced directly the lives of many people in many faith communities around the world. At Haverford, Guilford, Harvard, Stanford, Mount Holyoke, and Earlham he inspired thousands of students over half a century of spirited classroom teaching. His thirty-three books, clearly and simply written, captivated mass audiences rarely reached by words from academic pens.

Elton's English Quaker ancestors settled on the coast of North Carolina in 1682 at the site of the present town of Elizabeth City. In 1815 a large group of Carolina Quakers, including the Truebloods, emigrated to Washington County, Indiana. In 1869 his grandfather and other members of the family moved on to Warren County, Iowa. There, on a small farm near Indianola, Elton was born on December 12, 1900, the son of Samuel and Effie Trueblood.

Molded by the close-knit Quaker community, hard work on the family farm, encouragement from proud and supportive parents and excellent teachers, Elton Trueblood developed bookish interests and a strong student record. At William Penn College, Oskaloosa, Iowa, he won high standing as scholar, debater, and football player. After preliminary studies at Brown University and Hartford Theological Seminary, he earned the graduate degree of Bachelor of Systematic Theology at Harvard in 1926. He received his Ph.D. degree in philosophy from The John Hopkins University in 1934.

His first teaching assignments were at two Friends institutions: Guilford in North Carolina and Haverford in Pennsylvania. In 1936, largely as the result of his handling of a summer appointment as acting Chaplain of Harvard, he was invited to become Chaplain of Stanford. Thus, he was given a public platform and a visibility that drew him increasingly into a national ministry. Former President Herbert Hoover and his wife Lou Henry Hoover were close neighbors and friends and often attended the Quaker Meeting for Worship held monthly in the Trueblood home. (That friendship led to Elton's conducting the funeral services for both of the Hoovers, presiding over Mr. Hoover's public burial before a crowd of 75,000 on a hillside overlooking the Hoover presidential library and museum or West Branch, Iowa.)

In 1945 Elton Trueblood felt a strong calling to extend his public ministry through writing and speaking—and at the same time to serve a small Quaker liberal arts institution. Thus, he was prompted to leave his tenured full professorship at Stanford to join the faculty of Earlham College in Richmond, Indiana, as professor of philosophy. There he quickly became a major asset in the rebuilding of the College after the impoverishing years of World War II: helping in the recruiting of both faculty and students, the shaping of new educational policies, the raising of funds, and the promoting of broader public appreciation of Earlham—and of hundreds of other church-related and independent colleges. In a much-reprinted Reader's Digest article, ''Why I Chose a Small College,'' he extolled these institutions as superior places for undergraduate education, where teaching was emphasized and where close faculty-student relations could be naturally fostered.

Although the teaching of undergraduates, in courses in both philosophy and religion, remained at the center of his academic life at Earlham, his interest and influence were crucial in the implementation of the risky and controversial decision by the Earlham Board to establish the graduate programs of an Earlham School of Religion. Questions about the possibility of a Quaker seminary had been debated for almost a century, but the idea had always been discouraged as ''not feasible'' and rejected by some Friends as ''thoroughly un-Quakerly.'' Meanwhile, Quaker churches of the pastoral tradition seemed increasingly to draw their ministers from the ranks of the clergy trained in other denominations, or with little formal education in religion, while the less numerous unprogrammed (or ''silent'') Quaker Meetings and their related outreach agencies tended to draw their leadership from among Friends and non-Friends with no theological training. Elton Trueblood was one of the few ''leading Quakers'' who believed that this enterprise could and should be undertaken. Happily, he lived to see the Earlham School of Religion thriving and serving all branches of the Society of Friends.

Although he served on many committees of the Society of Friends and was widely recognized as one of the most eminent Quakers of the Twentieth Century, Elton Trueblood was very much at home in a variety of other religious communities, was a strong advocate of ecumenical activities, and was considered by many Quakers and non-Quakers as not quite fitting the popular stereotype of the ''liberal activist'' Quaker. His generally strong pro-Republican political views, his friendship with such prominent Republicans as Hoover, Nixon, and Eisenhower, and his strong anti-communism caused discomfort to some of the more strongly social-activist segments of Friends. He did not like the popular stereotyping of people as ''conservative'' and ''liberal,'' as he considered these terms simplistic and divisive. He believed the Society of Friends, though a small denomination, was big enough for widely divergent points of view.

He liked to say that the most important word in the language is ''and.'' On many matters of controversy, he would insist, ''we have to say both-and, not either-or.'' By word and action he demonstrated what some saw as contradictory beliefs and habits: liberal and conservative, traditional and innovative, compassionate and tough-minded, generous and demanding. He was the affirmation of these combinations as being human, realistic, and honest.

From his abolitionist Quaker heritage and his own sense of moral and religious imperatives, he drew strength for vigorous opposition to racial discrimination. He was an early friend and supporter of Dr. Martin Luther King, Jr. At crucial points in the civil rights struggle he appealed directly to Presidents Eisenhower and Nixon to hold to strong stands for public policies to eliminate all forms of racial discrimination and to advance equality in human rights.

On another central Quaker testimony, pacifism, he was forthright about the importance and complexity of the issue as faced by those holding political power. He struggled openly over the personal dilemma of how an individual or a state can effectively confront challenges of violence and tyranny. He wrote and spoke eloquently against war, for international reconciliation, and in support of the rights of conscience for objectors to military service, and for those who chose military service. If a government does not successfully practice peaceful relations with its neighbors, then it will face a choice of evils in times of crisis. Thus, reluctantly, he concluded during World War II that military resistance to Hitler aggression was necessary.

Avoiding simplistic admonitions for a ''back to the church'' or ''back to the bible'' movement, he called for the reinvigorating of religious faith as the essential force necessary to sustain the ethical, moral, and social principles on which a humane and livable society must be built. He warned against what he called ''churchianity'' and ''vague religiosity,'' but he also cautioned against the overly optimistic expectations of secular social-reformism or of a too-easy social gospel.

His emphasis in his books and lectures on the importance of family life was not theoretical but a reflection of his role as husband and father. He and Pauline Goodenow, who met while they were students at William Penn College, were married in 1924. They had three sons and one daughter: Martin, born in 1925; Arnold, born in 1930; Samuel in 1936; and Elizabeth in 1941. They knew him, throughout his life, as a loving and devoted father who found ways to be available to them in spite of his heavy work responsibilities and frequent speaking trips. He consciously determined that his children should not pay a heavy price for his public career.

Tragedy struck the family in the fall of 1954 when it was discovered that Pauline was suffering from an inoperable brain tumor. The family was in the process of moving to Washington, D.C. where Elton was beginning an assignment with the U.S. Information Agency. Pauline had been a strong support an inspiration, providing needed critisicm of his writings and encouraging him to fulfill his opportunities for national ministry—and managing a busy household in spite of years of chronic illness. Pauline died in early 1955.

Virginia Hodgin, a widow with two children, became Elton's secretary at Earlham in 1950 and moved to Washington to continue her work with him at the USIA. In September, 1956 Elton and Virginia were married at the Washington National Cathedral, with both families in attendance. Virginia proved to be a valuable partner as well as devoted wife. With her help, he wrote and published 17 books in the next 18 years, ending with his autobiography, *While It Is Day*, in 1974. Virginia died in 1984.

As a writer, Elton Trueblood developed a style that emphasized clarity, conciseness, and simplicity. Among his literary mentors, of whom he spoke with the greatest sense of admiration and debt, he always listed Blaise Pascal, Dr. Samuel Johnson, Abraham Lincoln, and C.S. Lewis. He was grateful for their skill in treating serious subjects with ample use of aphorisms, anecdotes, and humor. He also liked to paraphrase Mark Twain on how to get started with your writing by saying you simply had ''to glue your trousers to your chair and pick up your pen without waiting for inspiration.''

To many who knew him, Elton was an almost awesome figure because of his self-discipline. To his editors at Harper and Row, he was a delight to work with, always turning in clean copy that required little editing, was delivered on or before his promised deadline, and was sure to appeal to a diverse and numerous audience. During his most productive years, he rigorously divided his day into periods of meditation, exercise, writing, and family life. Most of his books he wrote in a small cabin at the family summer home in the Pocono Mountains of Pennsylvania during the summer break in the academic year. He would contract to deliver his manuscript in early September, and begin writing on the Monday after the Fourth of July. He wrote between eight in the morning and noon, Monday through Friday, in longhand on a yellow pad. He never got personally involved with typewriters or computers!

Although his earlier books were of the longer academic type, he came to feel that any book with a serious public message, with any hope of impact on its readers, should be limited to 130 pages. He generally followed his own prescription.

Likewise, in his public speaking, he believed in being brief and to the point. His sermons and popular lectures were rarely more than twenty minutes, thirty at the outside. In classroom lectures he filled the required fifty minutes, often without a note, and ended exactly at the bell. His popularity as a public speaker was such that he could easily have devoted all his working time to the well-paying lecture circuit. Instead, he limited his speaking engagements to those audiences he wanted to reach or help, saving most of his time and energies for teaching and his family. He spoke without fee for those who could not afford to pay, but charged a standard amount for those who could.

Although he led a very busy and highly productive life, countless individuals from all walks of the life remember Elton Trueblood with deep gratitude for time he spent in private conversation with them, hearing their problems, their hopes and their dreams—and giving advice. He had extraordinary gifts in encouraging others to believe in their potential and to develop the discipline to use their gifts fully. He was a living example of the good advice he gave to others.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like New Year's Resolutions—everybody talks about making them but rarely do very much about them.

The New Year arrived a little over a month ago, but the Senate is bogged down about passing a balanced budget amendment to the U.S. Constitution. The Senate had better get cracking—the clock is ticking and the debt is mushrooming. As of the close of business yesterday, Tuesday, January 31, the Federal debt stood—down to the penny—at exactly $4,815,826,745,802.15 or $18,280 per person calculated on a per capita basis. This debt, don't forget, was run up by the Congress of the United States.

Mr. President, most citizens cannot conceive of a billion of anything, let alone a trillion. Yesterday, President Clinton authorized a $20 billion in loan guarantees to Mexico. This figure was so disturbing to the American taxpayers—80 percent of them—that I felt compelled to discuss them during Foreign Relations Committee hearings. Now, multiply that $20 billion by 240—this equals the total debt of our Federal Government.

Which sort of puts it in perspective, does it not, that Congress has run up this incredible Federal debt totaling 4,803 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stood this morning at 4 trillion, 803 billion, 795 million, 968 thousand, 326 dollars and 50 cents. It'll be even greater at closing time today.

PRESIDENT ARISTIDE'S PROGRESS IN HAITI

Mr. DODD. Mr. President, on October 15, 1994, I was privileged to join Secretary of State Warren Christopher and other United States officials and congressional leaders in accompanying President Aristide on his return to Haiti after more than 3 years in forced exile. Before departing for Port-au-Prince, President Aristide pledged that upon his return, his government would work for peace and reconciliation among all sectors of Haitian society.

I believe that President Clinton has done a remarkable job in fashioning a policy that has led to the restoration of the duly elected President of Haiti. Special commendation must go to the men and women in the United States Armed Forces who have been deployed in Haiti to ensure a stable and peaceful climate within which the newly restored civilian government may begin the difficult task of rebuilding Haiti. Without the presence of these committed men and women, the dreams and aspirations of the Haitian people to live in a democracy would stand no hope of fulfillment.

More than 100 days have now passed since that historic day last October. President Aristide has kept his commitment to work for peace and reconciliation among all Haitians. I believe that he has made significant progress in the areas of governance, security, economic reconstruction, and meeting the basic needs of the Haitian people. Obviously much remains to be done.

The Embassy of Haiti has prepared a detailed report on the measures taken by the Haitian Government during the first 100 days of the restoration of democracy. I ask unanimous consent that report be printed in the RECORD at the conclusion of my remarks.

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

HAITI SINCE THE RESTORATION OF DEMOCRACY: ONE HUNDRED DAYS OF PROGRESS

''The Government and people of Haiti take pride in the achievements of the last one

hundred days. However, our struggle is far from over and so we continue to strive within every geographic area, and within every ministry, to make secure the foundations of a lasting, stable democracy.

''We are grateful for the U.S.-led multinational effort in support of Haitian democracy, and not only welcome the opportunities for cooperation and partnership with the world's democracies that the past four months have made possible, but are committed to expand and build upon them.''—President Jean Bertrand Aristide

INTRODUCTION

President Jean Bertrand Aristide's return to Haiti on October 15, 1994 was the culmination of an historic international effort to end a brutal military dictatorship that had:

(i) ousted Haiti's first democratically elected President three years earlier;

(ii) executed summarily 5,000 civilians;

(iii) dislocated 350,000 Haitians, forcing them into hiding within their own country;

(iv) caused some 48,000 Haitians to take to the high seas in an attempt to escape the imprisonment, torture, rapes, and murder that Haiti's coup regime was meting out to members of Haiti's pro-democracy community;

(v) created a massive Haitian refugee crisis for the United States and other countries of the region;

(vi) accelerated the economic and environmental degradation of Haiti, reversing the progress achieved during Haiti's first democratic administration in 1991;

(vii) increased drug-related criminal activity within the United States by permitting Haiti to be used as a drug transshipment point for illegal narcotics destined to the United States from South America; and

(viii) threatened to undermine, by way of example, the viability of other fledgling democracies throughout the hemisphere;

In the first 100 days since President Aristide has been reinstated as his country's democratically elected President, the Government and people of Haiti have moved with single-minded determination to assure Haiti a firm foothold in the world community of democratic, free-market nations.

Perhaps most impressive, as noted by U.S. officials, leading members of Haiti's business community, and the international press, has been President Aristide's ability to bridge Haiti's profound social tensions by reaching out to all Haitians, in a spirit of reconciliation and non-violence, to create a new Haiti.

President Aristide has demonstrated himself to be a skilled, committed democrat, working with respect for constitutional limits and mandates of Haiti's Presidency and other governmental institutions, and has built a coalition government that promotes and encourages open dialogue with all sectors of Haitian society.

Listed below are some of the achievements of the 100-day old ''second'' Aristide administration. To place the efforts and successes of Haiti's constitutional government in proper context, however, it is important to note that upon their return, President Aristide and other members of Haiti's democratically elected government were not only faced with a country whose social and economic development had been thoroughly undermined by the coup regime, but with government ministries and a National Palace that had been pillaged and gutted of equipment, furniture, wiring and supplies (down to paper and pencils) by the departing de facto ''government'', in order to thrust the returning government into a totally inhospitable, unmanageable administrative environment.

IMPACT OF THE RESTORATION OF DEMOCRACY

Refugees

Haitian refugees have stopped fleeing Haiti due to the constitutional government's respect for human rights;

As a result, ''the Haitian refugee crisis'' no longer preoccupies the American public, the American media, and U.S. policy-makers;

Some 16,000 Haitian refugees being held at the U.S. Naval Base at Guantanamo, Cuba, who:

(i) had refused to return to Haiti while it was under military dictatorship, and

(ii) were seeking refugee status within the United States or other regional countries,

have returned to Haiti voluntarily;

As was the case after Haiti's first democratic elections in 1990, Haitian teachers, health/legal/other professionals who had long been legal residents in Canada, the United States, France and elsewhere, have begun returning to Haiti to make their contributions to the rebuilding of their country;

Democratic reform and governance

The UN/OAS Human Rights Observer Mission, expelled by the military dictatorship in 1994, has returned to Haiti;

The Government of Haiti is working with the United Nations, the Organization of American States, and bilateral donors to develop mechanisms and systems to facilitate broad-based awareness of the importance of adhering to internationally accepted human rights standards in the building of a new Haiti;

Repeated, impassioned, and sustained calls for reconciliation by President Aristide have been accepted by his followers. Haitians, upon identifying those who brutalized them during military dictatorship, turn these individuals over to members of the Multinational Force—and in some cases, even to the foreign press—rather than taking ''justice'' into their own hands;

The strength and lasting power of his message was most recently demonstrated on January 12, when Haitian civilians in Gonaives chased, apprehended, and then turned over to the multinational force a former Haitian military officer attempting to escape after an attack on U.S. servicemen that left one U.S. soldier dead and another wounded;

The Haitian Government's emphasis on consultation, inclusion and reconciliation has been demonstrated repeatedly, as in:

(a) President Aristide's exhaustive and cordial consultations with at least 16 political parties—almost immediately upon his return—to establish dialogue on issues of concern and to stress the importance to the nation of parliamentary elections taking place at the earliest possible opportunity, and

(b) the extensive discussions he entered into across Haiti's leadership spectrum prior to selecting Smarck Michel, a prominent 51-year old Haitian businessman, as Prime Minister;

Prime Minister Smarck Michel's unanimous confirmation by Haiti's multiparty parliament, and the subsequent installation of Mr. Michel's ministerial cabinet on November 6, 1994 formalized the establishment of the official, legal framework within which democratic, constitutional governance in Haiti can go forward. (See Attachment A for a complete list of all Government Ministers);

Immediately upon his return, President Aristide began stressing to the Haitian people and Parliament the importance of the upcoming parliamentary elections. In order to expedite this, a Provisional Electoral Council (representing the three branches of government) has been established, an electoral law has been submitted to Parliament, and a mid-April election date targeted.

Within a month of his return, President Aristide invited 400 Haitian business leaders to the National Palace, among them individuals who had opposed his return and supported the coup. He included several of these in his official delegation to the Summit of the Americas and named them to the Presidential Commission on Business Modernization and Economic Growth.

At the end of 1994, Time assessed President Aristide's reconciliation efforts thus: ''(Aristide) is a man whom experience has imbued with wisdom, a new found respect for dialogue and a deft skill for the politics of pragmatism.''

Economic revitalization

In keeping with his commitment to modernize the Haitian business sector, promote economic development, and reinforce the government's interest in expanding economic and business links with the rest of the region, in general, and the United States, in particular, President Aristide, in December 1994, established a high-level Commission on Economic Growth and Modernization, headed by prominent Haitian businessman and President of the Haitian Industrial Association, Jean Edouard Baker.

The Commission, comprised of 25 Haitians representing a broad cross-section of Haiti's business leadership as well as those Cabinet ministers responsible for economic reconstruction, was represented by a 6-person delegation to Washington in mid-January for talks with the Administration and the Congress. These talks focussed on the policies and programs implemented by the Government of Haiti to stabilize the economy and facilitate the workings of a free-market system.

This delegation also stressed to U.S. policy-makers that there is now a historic opportunity for Haiti to be permanently transformed—provided the international community maintains its security and human rights observer presence, and keeps its commitment to provide technical and financial support;

In response to the free-market policies of the government, some 35 plants in the assembly export sector which ceased production during the political and economic crisis of the past three years have reopened;

The macro-economic plan presented by the Aristide government to the international community prior to the 1991 coup won multilateral economic pledges in excess of $500 million. However, the three year military dictatorship caused multilateral donors to withhold this much-needed injection of capital from the Haitian economy. The re-submission of its macroeconomic plan by the ''second'' Aristide administration has again won the support of multilateral community, and Haiti expects pledges in excess of $1 billion over the next 5 years;

The resumption of multilateral economic support to Haiti was contingent upon the country's arrears, (resulting from the coup regime's refusal to make payments on Haiti's international debt), being cleared. Thanks to the joint efforts of the international community and the Government of Haiti, these arrears were cleared in December 1994, thereby removing one of the impediments to the timely flow of the support pledged by the international community;

There are well-established channels of communication and a strong spirit of cooperation between the Government of Haiti and the Haitian business community, born of the realization on both sides that (i) business, (ii) labor, and (iii) democratic, stable government are *all* crucial, indispensable, and interdependent components of any modern state;

President Aristide has announced a package of special incentives to attract foreign investment to Haiti. These include a reduction in telephone, electricity and customs fees; a dramatic reduction in tariffs on most imported items, except sensitive agricultural commodities; and tax incentives for businesses that return to Haiti by July 1, 1995;

At the end of January, Haiti will formally announce to the international financial community its plan for economic development and its projected assistance needs. The plan embraces solid fiscal discipline, open investment and trade policies including a reduction in tariffs, elimination of non-tariff barriers, the modernization of commercial and investment codes, and the streamlining of import/export procedures;

The Aristide government is also implementing economic policies geared at sustaining economic growth, reducing the public sector deficit, streamlining and professionalizing the civil service, and eliminating currency exchange and interest rate controls;

In order to maximize competition and facilitate the efficient functioning of the Haitian economy, the Government of Haiti has retained the services of the International Financial Corporation to review the condition of state-owned enterprises, and is in the final stages of establishing a tripartite commission on labor-management relations. This commission will facilitate greater communication and cooperation between labor, management and government to the overall benefit of the Haitian economy and the Haitian people;

In December 1994, the Governments of the United States and Haiti signed an agreement aimed at revitalizing the Haitian economy via improvements in telecommunications, energy and transportation;

The Haitian Ministry of Finance and the U.S. Department of Commerce agree to establish a joint Business Development Council;

Haiti's ports have re-opened.

Military, police, and judicial reform

A law was submitted by the Aristide administration to Haiti's parliament to create a civilian-controlled police force separate from the military, as mandated by Haiti's constitution. Haiti's police and military had long been indistinguishable from each other and the source of much repression in Haiti. The law was debated and ratified by the Parliament, and the creation of the new police force under the jurisdiction of the Ministry of Justice is now underway;

One thousand former refuges at the U.S. Naval Base at Guantanamo have been recruited as members of the interim police force, as have 3,000 former members of the Haitian military who were screened for human rights abuses;

The Haitian army, originally estimated at 7,000, has been demobilized and will be reconstituted at a level of 1,500, with the salaries of the demobilized soldiers going to the Ministries of Health, Public Works and Agriculture. In addition, these soldiers are being encouraged by the government to apply for positions within these ministries, in order to begin new, constructive careers. A commission, headed by Minister of Defense Wilthan Lherisson, has been charged with establishing—in conjunction with U.S. advisers—a plan for the army's reorganization. (The downsizing of the Haitian army to 1,500 was an important component of the Haitian government's marcro-economic plan which won the support of multilateral donors in Paris last August).

The new Police Academy is scheduled to open within the next few weeks and trainees, recruited from Haiti's nine (regional) departments, will be selected from a pool of 25,000 applicants. A commission under the authority of the Ministry of Justice has been created to develop the organizational structure and regulations for the new National Police Force.

Haiti's notorious ''section chiefs'', long identified by human rights observers and the people of Haiti as key instruments of rural repression in Haiti, were aggressively supported by the military dictatorship. They have now been outlawed and the constitutional government is, instead, establishing in the rural areas local, legitimate justices of the peace.

Demilitarization of Port-au-Prince

Haiti's Army Headquarters, traditionally situated next to the Presidential palace, is now the site of Haiti's Ministry of Women's Affairs.

The Port-au-Prince police station is now controlled by the interim police force, under the jurisdiction of the ministry of justice.

Accounting for human rights abuses during military dictatorship

An independent Truth Commission has been established by Presidential decree in an attempt to acknowledge, investigate, and provide a full accounting of the brutality that characterized Haiti's 1991–1994 military dictatorship. This is part of an effort to put an end to Haiti's history of impunity and allow for the establishment of the rule of law in the pursuit of political, economic, and social stability;

The Government of Haiti has retained the services of Haitian lawyers to pursue claims arising from the most notorious cases of human rights abuses during the coup period.

Public works

The Government of Haiti, in conjunction with international donors, has created 5 thousand road repair jobs, thereby upgrading areas of Haiti's physical infrastructure that were seriously neglected during the three-year military dictatorship;

Haiti's main airport in Port-au-Prince is being renovated to accommodate the increased traffic that (i) has resulted from the restoration of democracy, and (ii) is expected from Haiti's pursuit of expanded economic and other links with the region in general and the United States in particular;

Social infrastructure

Education, neglected by the coup regime, is once again being stressed by the constitutional government as a crucial component of Haiti's political, economic, and social stability. With the restoration of democracy came the re-opening of schools, the establishment of a State Secretariat for Literacy, and the distribution of $3 million in school supplies;

The government, with the assistance of international agencies, initiated in November 1994 a massive vaccination campaign. To date some 520,000 children have been vaccinated and the government plans to have 3 million children similarly protected by summer 1995;

President Aristide has pledged to open at least one new school and one new clinic in each of Haiti's 500 districts by the end of his term in February 1996;

A Ministry for the Environment has been created to address the serious ecological challenges facing the people of Haiti.

REMAINING CHALLENGES

The return of constitutional government to Haiti on October 15, 1994 celebrated a commonality of purpose among the world's democracies. It also raised serious questions regarding the climate of impunity which aspiring despots in the region had begun to assume they could take for granted. For this the people of Haiti are most grateful. However, in the midst of its efforts to secure the achievements summarized in this paper, Haiti's newly reinstated constitutional government has had to face a number of challenges.

No sooner had constitutional government been restored to Haiti than Hurricane Gordon hit, causing over 1,000 deaths and extensive damage to infrastructure. Indeed, the United Nations Development Program reports that 1.5 million Haitians were hurt and/or lost property. Thanks to the presence of the Multinational Force in general and U.S. troops in particular, however, the Government and people had a ready source of logistical and material support which helped alleviate the impact of the crisis.

Less benign in its origins but just as deadly in its impact, however, was the placement—one month after the return of constitutional government—of an explosive device at a power generator upon which most of Port-au-Prince depends for electricity. This development has sorely taxed the Haitian government as it attempts to stabilize the country, encourage domestic investment, and attract foreign investment. However, the determination of the government and the people of Haiti to build a stable and secure nation, acts such as this notwithstanding, remains unshakable.

Regarding the partnership between the government of Haiti and the international community, it is clear that the presence of the Multinational Force has been a dramatic demonstration of the commitment of the world community to democracy in Haiti, and this has enabled the Government of Haiti to move forward with many of the policies and programs outlined in this report. It is the hope of the Government of Haiti, however, that the international community will soon be able to make available the economic support so generously pledged prior to the return of constitutional government in October 1994, since it has long been stressed by both the donor community and the constitutional Government of Haiti that this support is an indispensable counterpart to the essential and fully appreciated multilateral military presence now in Haiti.

To the extent that the bottlenecks and administrative delays that have slowed the actual provision of economic support (as opposed to pledges) can be corrected, then Haiti's entry into the world community of stable democratic nations would be greatly expedited *and* the positive impact of the multilateral *military* presence would be permanently secured.

Haitians from all classes will attest to the unifying influence of President Aristide, who has encouraged patience and perseverance in the face of the significant difference between the economic support that was long ago promised, (as a complement to the multinational troop presence), and what has, to date, been forthcoming.

Nonetheless, the Government continues to pursue as top priorities:

The holding of free and fair parliamentary elections at the earliest possible date;

The strengthening of the institutions of democracy and the promotion of respect for the rule of law;

Expanding links between U.S. and Haitian businesses, building upon:

(i) Haiti's geographic proximity to the United States,

(ii) The long history of U.S./Haiti business relations,

(iii) The heightened degree of cooperation and collaboration between the peoples of both nations afforded by the U.S.-led effort to restore democracy,

(iv) The energy that has long characterized Haiti's private sector leadership and the dependability of Haiti's labor force, and

In keeping with President Aristide's emphasis on the importance of national reconciliation to Haiti's future, the Government of Haiti remains committed to disarmament.

Jean Edouard Baker, President of the Industrial Association of Haiti, during a recent visit to Washington stressed to U.S. policy makers that there is now a historic opportunity for Haiti to be permanently transformed—''provided the international community maintains its security and human rights observer presence as originally negotiated, and keeps its commitment to provide financial and technical support during this crucial transition period.''

The Government of Haiti shares this assessment and will continue to work with its friends in the international community to ensure that this historic moment yields its full potential.

ATTACHMENT A

CABINET OF PRIME MINISTER SMARCK MICHEL

Foreign Affairs & Culture: Mrs. Claudette Werleigh.

Defense: Gen. Wilthan Lherisson.

Interior: Mr. Rene Prosper.

Finances & Economic Affairs: Mrs. Marie-Michele Rey.

Justice: Jean Joseph Exume, Esq.

Commerce & Industry: Mr. Maurice LaFortune.

Planning & External Cooperation: Mr. Jean-Marie Cherestal.

Health & Population: Mr. Jean Moliere.

Agriculture, Natural Resources & Rural Development: Mr. Francois Severin.

Public Administration & Government Personnel: Mr. Anthony Barbier.

Public Works, Transportation, & Communications: Mr. Georges Anglade.

Information: Mr. Henri Claude Menard.

Culture: Mr. Jean-Claude Bajeux.

National Education: Mr. Emmanuel Buteau.

Social Affairs: Mr. Enold Joseph.

Women Affairs & Women's Rights: Mrs. Lise-Marie Dejean.

Expatriated Haitian Nationals: Mr. Fritz Casseus.

Environment: Mr. Anthony Verdier.

SECRETARY OF EDUCATION DICK RILEY'S STATE OF EDUCATION ADDRESS

Mr. KENNEDY. Mr. President, earlier today, Secretary of Education Dick Riley delivered his State of Education Address. Speaking at Thomas Jefferson Middle School in Arlington, VA, he outlined the new and promising direction that education reform is now taking, a process that is already well under way under the leadership of the Clinton administration.

Secretary Riley pointed out that today, just 8 months after the ''Goals 2000 Educate America Act'' was signed into law, 44 States are designing, from the bottom up, a better education system for the next century.

To succeed as a Nation, we must create a society in which all children have a chance to succeed. Education provides that chance. Few other investments of taxpayer dollars yield such immense benefits for the Nation and its people.

There is no quick or easy answer to deal with the many challenges involved in improving our schools and colleges. Steady progress will take time and hard work and the involvement of millions of citizens throughout the country. Federal leadership is essential if we are to keep moving forward, and President Clinton and Secretary Riley are providing it. It is preposterous to suggest that we can do more by abolishing or downgrading the Department of Education and cutting the budget for education. As Secretary Riley states, the American people do not want Congress to cut Federal aid to education that helps Americans become more self-reliant.

I commend Secretary Riley and President Clinton for their vision and leadership on education, and for giving it the high priority it deserves. We are making wise investments toward meeting our national education goals, and we must stay the course, not make a U-turn.

Mr. President, I believe that Secretary Riley's address will be of interest to all of us in the Senate, and I ask unanimous consent that it may be printed in the RECORD.

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

TURNING THE CORNER: FROM A NATION AT RISK TO A NATION WITH A FUTURE

(By Richard W. Riley)

INTRODUCTION

To the students who just sang to us from their hearts—to Sidney and David and Anh and Zelmie—how very proud we are of all of you and your classmates. You are the future of our country; you give us hope and strength.

I am grateful to Terrel Bell for his very kind introduction. American education owes a debt of gratitude to Terrel Bell for his foresight and leadership. We are on a new course toward excellence and high standards in American education in large part because of Terrel Bell's good deeds a dozen years ago.

Today, I am honored to make my second annual State of American Education Address here at Thomas Jefferson Middle School in Arlington, Virginia * * * to tell you that we are no longer a nation at risk, but a nation on the move * * * a nation turning the corner, raising its standards and reaching for excellence for the 21st century.

It is so appropriate that we should come together at a school named in honor of Thomas Jefferson—the president who wrote to John Adams that he could ''not live without books,'' and the founder of a great American institution of higher learning, the University of Virginia.

Were he alive today, I have no doubt that Jefferson, ever the scientist and inventor, would be, at this very moment, in the computer lab uplinking to the Internet's World Wide Web.

But Jefferson would have to be quick because the classrooms and computers here at Thomas Jefferson are always in use. This school is a community bursting with energy and learning, day and night. Thomas Jefferson is a school that reflects many of the new dynamics shaping the future of American education.

We are, for example, in the midst of another baby boom. In the next ten years, an additional 7.1 million children are going to get up in the morning and go to school. Another 7.1 million children.

And at the same time that we are helping these brand new students become part of America's strength, we must raise standards and tech Americans of all ages some very new and demanding skills.

Now, every child still must learn the basics. I am a great believer in the fundamentals. You simply can't get ahead if you cannot read, write and figure out how much change the checkout clerk should give you. But in this day and age, using computers and recognizing the discipline of the arts and the power of science all have to be seen as new fundamentals for all our children.

This is a critical time for American education * * * a turning point.

TURNING THE CORNER; A NATION ON THE MOVE

So what, then, is the state of American education today given these and other new dynamics? I believe that we are, at long last, turning the corner * * * moving from being a nation at risk to a nation with a hopeful future. We are starting to win the battle for excellence and good citizenship in American education.

Why am I becoming optimistic? Student performance in reading, science and math is on the rise, and we have made up much of the ground we lost in the 1970s. The number of high school students taking the core academic courses is increasing, up 27 percentage points since 1983, and still rising. Many more students, particularly minority students, are participating in the advanced placement process.

The dropout rate has declined in the last decade, and young people are getting the message that graduation from high school is only the stepping-stone to more learning. There is a new seriousness and appreciation for the value of education. The percentage of students attending college is higher than any other developed country. Community colleges are filling up as never before. And our great institutions of higher learning still produce world-class graduates.

Now, we still have many problems. Overall achievement is still too low. The dropout rate for our Hispanic youth is too high; the gap in performance of African-American, Hispanic, and poor children is still too large; violence in some schools remains a destructive force; too many college freshmen are still in remedial classes; and I am increasingly concerned about a growing trend to de-emphasize the value of our nation's wonderful system of higher education.

But all across America there is great energy and commitment to the progress of education. In Colorado, Governor Roy Romer has taken the lead in calling for high standards and comprehensive reform. In Massachusetts, Governor Weld is using Goals 2000 money to support the creation of charter schools.

In Minnesota, thousands of parents are signing compacts to improve their children's learning. And the Parents-as-Teachers (PAT) program in Missouri continues to add value to education by having parents help other parents.

In Columbus, Ohio, Project Discovery is leading a statewide effort to improve math and science instruction. In Illinois, a new technology initiative now links public schools to scientists at Northwestern University.

Good work is being done in many states to design tougher standards for our young people and establish real accountability. And, two weeks ago, 81 middle school teachers received the first national certificates for meeting the most rigorous of standards.

Kentucky, a state that has done so much in school reform, is now reporting dramatic improvement in mathematics, reading, science, and social studies based on their new, challenging academic standards.

We are starting to see a difference. Above all, we are starting to overcome the greatest

barrier to the future of American education: the tyranny of low expectations.

And the intensity of activity at the state and local levels is being matched by the strong bipartisan commitment of Congress and President Clinton to put excellence back into American education.

Passage of the Goals 2000: Educate America Act; the creation of a new School-to-Work Opportunity Act; our new direct lending program; our new substantial investment in technology; the refocusing of our research arm; the Safe Schools Act, the creation of AmeriCorps; and the expansion of Headstart are all part of the national effort to move American education forward.

THE UNIQUENESS OF GOALS 2000

So I am pleased to report to you today that just eight months after the President signed Goals 2000 into law, 44 states are now moving forward in designing—from the bottom up—an education system for the 21st century.

Goals 2000 is the driving force behind the ongoing effort across this country to raise standards, to get technology into the classroom, and to make sure that we set high expectations for every young person, every teacher and every parent.

I want to emphasize that Goals 2000 is the very model of how we can help the states and local schools without smothering them with regulations. Our Department of Education has decided to have no regulations governing this $400 million program—no regulations—and the state applications form is just four pages long. But accountability is there—by testing to high state standards. About 98 percent of all the funding in Goals 2000 goes directly to the states and in its second year, 90 percent of all funding will flow directly to local school districts.

I want to take a moment to speak directly to the critics of this most important piece of legislation. I am not an advocate of a ''national exam;'' nor am I an advocate of federal intrusion into state and local decision making. I did not come to Washington to save the job of a bureaucrat or to defend old ways of doing business.

I am a strong supporter of applying ample doses of American ingenuity and creativity to our educational system. We need to encourage ideas such as charter schools and public school choice; be flexible and recognize that students learn in many different ways; and carefully think through how we use time in the school day.

But we must always have accountability in public education—for the sake of both the children and the American taxpayer. Accountability is so important. That is one important reason why I do not support the ''silver bullet'' solution of using public tax dollars for private school vouchers.

Above all, we need to avoid the trap that has so often befallen American education: the inability to maintain a sustained drive for excellence. Too often we get distracted by the fad of the moment. What we need now, more than ever, is some old-fashioned American tenacity to stay on course.

And, I will tell you this—if we roll back the Goals 2000: Educate America Act * * * if we get off course now * * * just when we are turning the corner and giving states and communities the help they request in the form they need it, well then, where will we be? One place we will be is out of step with the American people.

The American people believe in education, and they believe it should be made a national priority. They know that education is an act of building—the building of people, the building of our nation, and the building of our future.

Every poll that I have read drives home this essential point: the American people want to invest in education that works. The results of the November election do not tell me that the American people want to go backwards. There is nothing that tells me that they want cuts in student aid for college, nor that they want Congress to cut education that helps the American people become more self-reliant.

I pledge my full cooperation to the new Congress. We will make an honest review of what federal education programs are working and which ones have seen their time come and now must go.

But the need to reduce the federal budget deficit must be balanced against our need to invest in America's future. The reduction of the deficit and investing in education are two of the most important and essential ways we can secure this nation's prosperity. In this new Information Age, education must be seen as a national priority.

THE NEW EXCELLENCE: SIX WINNING AMERICANS

Nothing so exemplifies the progress this nation has made in the last decade than the six special guests who are here today. In 1994, these six students—all from public schools—represented this country as the American team at the 35th International Mathematical Olympiad.

These young Americans did something quite extraordinary. They defeated the very good teams of 69 other nations—and they won with perfect scores. Their victory is surely a personal achievement—and a victory for their teachers, parents, coaches and for all Americans.

But it is also a reflection of the serious work that has been done in the last decade to achieve a new standard of excellence in American education. The first professional group to produce new academic standards were America's math teachers. My Department and other federal agencies have kept a sharp focus on advancing math and science education, and it is beginning to pay off.

So it is my great pleasure to present to you the six winning members of the American math team and their coach, Doctor Walter Mientka of the University of Nebraska.

INCREASING AND PROTECTING ACCESS TO HIGHER EDUCATION

These young Americans clearly represent our very best. Most of them are already in college, and I have no doubt that each of them will achieve and succeed in life. But they are not alone in wanting to advance themselves. Millions of young Americans know the score already: to get ahead in America, you need to have a first-class education.

This is why we really do need to reinvent the American high school—to create new, concrete links to the world of work and careers—and why access to higher education has got to remain a national priority.

We intend to maintain and increase our commitment to the Pell Grant program because it is an essential statement of our commitment to higher education.

And, we are very proud of our Department's efforts to crate and maintain a new direct lending program for college students. This is a program for the 90s. Recently, an American University student told me that she had received her direct loan in 24 hours and at a lower cost * * * and that last year under the old system, it had taken three weeks.

College presidents are placing a high value on this program because they know that it is working. This program will save the taxpayers $4.3 billion and save students $2 billion by 1998.

I encourage the Congress not to ''cap'' a program that is making college more affordable and accessible—and saving taxpayers money. Every college should have the choice to provide the benefits of this program to their students.

MIDDLE CLASS BILL OF RIGHTS

But we need to do more. For the first time in generations, parents are truly worried that they will not be able to pass on the American Dream to their children. And they are not alone. High school and college students know that they have but two choices: they can work longer hours for less pay, or they can get a meaningful education.

Our economy has added almost 6 million new jobs in the last two years, and many of these require new thinking skills. The economy of the future will be—and already is for millions of Americans—an economy based on what you know and on the skills you have. And we need everybody to build America's future.

This is why education is the very centerpiece of the President's proposed Middle Class Bill of Rights. The President's proposals to allow a tax deduction for college tuition, to expand IRA withdrawals for education, to create a $2,600 skills grant that empowers working Americans and a $500 child tax credit—are all part of the same effort to make sure every American has a chance to be part of the American Dream.

I urge all the parents who are thinking ahead about your children's future, to sit down at the kitchen table, talk this proposal through and understand its details. And when you do, you'll understand that President Clinton's proposal is a good one.

MAINTAINING EXCELLENCE IN HIGHER EDUCATION

Now, a word of caution. I am concerned that in the rush to cut budgets, we can do unintentional but very real damage to the jewel of the American educational system—our system of higher education.

Increasingly, state leaders seem to see higher education as a budget item to be cut rather than as a long-term investment in the future. The federal government, which for much of the 1980s increased its funding for basic research, will be hard pressed to maintain this capacity. And, all of us in Washigton—in both the executive and legislative branches—have come close to overregulating over the years.

Nothing defines these new pressures more than the current budget-cutting proposal in the Congress to eliminate the ''in-school interest subsidy.'' Now, that's a complicated way of saying that if you lose your subsidized student loan—and there are 4.4 million of you who would—you are going to have to pay about 20 percent more on hour student loan—as much as $5,000 more over the life of the loan if you borrow the maximum that is allowable. That's a lot of money.

This is the wrong way to go. We're not going to build up the middle class by charging students who are trying to get into or stay in the middle class $2 billion extra a year in interest. If this proposal goes through, it will be the largest reduction of financial aid to working American families in the history of this country.

VIOLENCE, DRUGS AND THE DISCONNECTION OF OUR YOUTH

As we seek to turn the corner, we need to recognize that many young people remain disconnected—growing up on their own—often alone—and in some cases—truly alienated. Last year at this time, I spoke about my very real concern that this disconnection is becoming so pervasive that we were losing touch with one another.

Nothing defines this disconnection better than the increasing violence by our children, and the increasing violence toward our children. I try hard to understand the causes,

but this I know for sure: the American people have had enough.

Now, the great majority of America's schools are safe and drug-free. But we cannot ignore the reality of our times. Guns are being brought to schools as tests of manhood. Drugs are being used with greater frequency and at earlier ages. And a $7 movie ticket is all to often a ticket to see a killer use a gun.

Strong families and schools with high expectations remain our first lines of defense against the spiritual numbness of violence. When 82 percent of all the people in this nation's prisons and jails are high school dropouts, surely, that fact alone should tell us something about the importance of high-quality and safe schools in every neighborhood.

It is not hopeless. The Robert E. Lee High School in Houston, Texas, and the Joseph Timilty School in Roxbury, Massachusetts, are two schools that have turned themselves around. These schools have set high academic standards; they have attacked the culture of violence head-on; and they have involved parents and the community to get results.

So we must keep our focus on ending the violence. We passed the Safe and Drug-Free Schools Act last year. And if you bring a gun to school, don't expect much sympathy—because you are not playing by the rules.

But we need to do more. This is why Attorney General Janet Reno and Doctor Lee Brown, our nation's Drug Czar, will join me in the coming months in visiting different communities to encourage and work with people to end the violence.

And our message to Hollywood is clear and simple: help us raise our children right by ending this fixation that entertainment must always contain violence. By the time young people reach age 18, they have watched 25,000 murders on television alone. Stop glamorizing assassins and killers. I urge you to see this issue through the eyes of parents instead of scriptwriters . . . through the eyes of teachers instead of advertisers.

Sit down with community leaders, principals, PTA presidents, and the doctors in the trauma units who are struggling so hard to protect the children and mend their communities, and use your power to reach children in a helpful and supportive way.

Our young people are searching for clearly marked pathways to adult hood that are appropriate for the '90s. In some troubled neighborhoods, gangs have almost replaced the family in laying out a new path to adulthood. And what a terrible path it is—an act of violence, a first arrest, expulsion from school, a place in juvenile hall, time spent in prison and sometimes death, and all before they are 20 years of age.

A SOCIAL COMPACT FOR PUBLIC EDUCATION

This is why I continue to place great importance on supporting the American family. Last year on this occasion, I announced a new effort to encourage parent involvement in the education of our children. As I said at that time, ''thirty years of research tells us that parent expectations and parental involvement'' is the starting point for improving American education. Parents matter.

Today, I can report to you that more than 100 organizations, including the national PTA, the U.S. Catholic Education Association, the National Alliance for Business, and the Boys' and Girls' Club of America, are actively participating in our Family Involvement Partnership for Learning. There is great energy in this effort.

I am pleased by the support we are receiving from the American business community. And I am deeply encouraged by the religious leaders of many faiths who came together last December to release a ''Statement of Common Purpose'' articulating their common desire to find new ways to support family involvement in their children education.

I believe there is an enormous desire on the part of the American people to have new rules of public engagement when it comes to relating to each other. A young student might willfully disobey a teacher or cheat on an exam and think nothing of it; an ambitious politician can distort the truth or defame the character of another and be rewarded with more media exposure.

Listen, in contrast, to these words from a pledge that young people take every day at school in Independence, Missouri:

''I am the one and only person who has the power to decide what I will be and do. I will accept the consequences for my decisions. I am in charge of my learning and behavior. I will respect the rights of others and will be a credit to myself, my family, my school, and my community.''

I believe this is what the American people want for their children. And I agree with them.

So what does this mean for those of us who are part of the public dialogue about the future of American education? We need to get beyond the idea that everything in America is part of a political game. We are not educating our children as Republicans, Democrats or Independents, but as Americans, and as the future of our great country.

We need to lower our voices, to listen to one another and surely to listen to our parents and teachers. there is a difference between constructive criticism and the articulation of deeply held convictions—and the tendency by some to define just about everything in public education as useless and at the extreme, even ''corrupt.''

TURNING THE CORNER: LOOKING TOWARD THE FUTURE

As we look to the future, let us also recognize that we live in a time of great learning and technological achievement. New discoveries by the Hubble telescope are leading astronomers to rethink the very age of the Universe, even as we marvel at the recent unearthing of 20,000-year-old prehistoric paintings in caves in Southern France.

Scholars are deciphering the Dead Sea Scrolls and the technology of virtual reality is helping to teach disabled children how to drive wheelchairs. Machines the size of molecules are being created by dedicated scientists to heal the sick, and scientists are announcing that they have isolated the DNA of dinosaurs. It is all rather extraordinary.

Dr. Pat Graham, the former Education Dean at Harvard, wrote in her book, ''In this nation, we have never had a 'golden age of learning.' We have had a golden age for some,'' she said, ''but not one for the nation.''

If ever there was a time for this great nation of ours to have a ''golden age of learning'' for all of our people, now is the time to have it—to create a new ethic of learning—a new standard of excellence.

Now all this is going to take some decisionmaking, and here, I want to end by telling you a story about a funeral I attended when I was governor of South Carolina.

The deceased was an elderly lady named Katie Beasley. Katie Beasely was a sharecropper, the mother of six or seven children, who spent her entire life just getting by. At her funeral, an old friend stood up and said that he had spent a good long while trying to think through what made Katie Beasley so special—how it was that she had so little and yet all of her children got an education, got good jobs and were community leaders themselves.

And he had decided, after a great deal of thought, that what made her special was that she was a decisionmaker. This is what he said: ''Katie decided that an education for her children was important, and she was determined to see that they were all educated. She never looked back,''

We are at a time for decisionmaking in this country. If we believe, as Katie Beasley believed, that education is a serious matter, and that all of our children must be educated, we too can be successful. It is a matter of having the human spirit to believe in ourselves as a people—and to make the decision to move forward. Everything is in place to educate America—and I think we will with your help.

TRIBUTE TO AUGUSTA WOLFE

Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to Augusta Wolfe who will celebrate her 100th birthday on March 2. Augusta has been a resident of California for 62 years and when she and her friends and family gather to celebrate, I want her to know she has been honored by the U.S. Senate.

Raised in New York City until age 17, Augusta had three sisters and five brothers. Her mother died when Augusta was only 13 and she assumed much of the responsibility and care of her younger siblings. Her father remarried and she acquired one half-sister.

Her older brothers moved to Winnipeg, Canada. At age 17, Augusta joined them, then sent for the three younger brothers and one sister. While in Winnipeg, Augusta worked in her brother's store.

At age 19, she met and married her brother's friend, Nathan Wolfe, and had two children. Two years later the family moved to Salt Lake City, UT, where they lived for 14 years. During this time, Augusta helped Nat found and operate a very successful retail business, Wolfe's Dept. Store. Mr. Chairman, In 1933, because Nat's health was failing, they moved to Beverly Hills and later to Palm Springs.

After Nat's death in 1952, Augusta returned to New York City for a brief period and then to Santa Barbara. She devoted much of her energy to creative art, primarily the making of mosaics. Later, she moved to Laguna Hills, CA, where she continued her interest in art and began writing poetry, which she continues to do until this date. Her work has been recognized by the National Library of Poetry and some of it has been published in their publication ''Tears of Fire.''

Today she is active and in relatively good health. Her keen intellect and memory are unimpaired. She lost her daughter in 1979. In addition to her son, Bernard, a California lawyer, she has many devoted friends and relatives who will attend her 100th birthday celebration on March 4, 1995.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired. Morning business is now closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

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

The assistant legislative clerk read as follows:

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

The Senate resumed consideration of the joint resolution.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, we are now on our third day on the balanced budget constitutional amendment. I think the debate has been interesting. There have been a lot of points made on both sides of the floor, and I can see there are people anguishing over which way to go on this amendment.

I suggest that the American people are about fed up with the profligacy of Congress. They see us just spending this country right into bankruptcy. They see no real curtailment. They have seen a series of legislative approaches that were supposed to solve this problem, all of which bite the dust the minute 51 percent of the Senate and the House vote otherwise.

It is clear that for all the good intentions that we have had through the Harry Byrd amendment, the Gramm-Rudman-Hollings legislation, and the current approach toward budgeting, nothing has worked because there is no mechanism in the Constitution that requires us to make priority choices among competing programs.

It is really difficult because I see all over Capitol Hill today people from all over the country, from every State, arguing for their own special interest. That is the way the system should work, because the people ought to have a right to come see their elected representatives and argue for their own special interests.

But some mechanism must be supplied to enable us to say to some of them: ''Your interest is worthy, but we don't have the money.'' And it is not as worthy as a whole raft of other interests that we have to take care of, among which would be Social Security, Medicaid, Medicare, veterans pensions, and the whole variety of entitlement programs that we think are so worthy that they automatically escalate every year, regardless of what we in Congress do.

I think anybody sitting here ought to stop and think why this balanced budget amendment is a wise and good thing. And the number one reason I would say that it is is because it would force us to have to look at all programs, it would force us to be able to choose and make priority choices among programs on order of merit. It would not force us to go to a balanced budget, but it certainly gears us toward going to a balanced budget and provides different incentives that will lead us to a balanced budget.

I have had a number of senior citizens come to me in my home State of Utah and as I have traveled all over the country, and they say: ''Senator HATCH, we hope you'll protect Social Security.'' And they always start that way and they know that I will. And I assure them that virtually every Member of Congress will. But invariably, these seniors will say:

''But we know that in order for us to have protection of our ability to live, we have to consider our youth of today, we have to consider our budget problems, we have to consider what is right for America, we have to consider how we live within our means in our country or what we get will not be worth very much, and we will not be able to live on Social Security no matter how much it is.

''So, Senator, please as you try to protect Social Security, also give us protection against the Federal Government spending us into bankruptcy, spending beyond our means to pay for things we cannot afford.''

Senior citizens are not dumb. They know what is going on. Most of them have lived through this life, most of them have had to pay their bills all their lives. Most of them understand what it is like, and most of them are worried that sooner or later there is going to come a reckoning unless we get our fiscal house in order.

On the other side of that coin, I have had a lot of young people come to me, young college students, young people who are starting to think about what their futures are.

Invariably, they say, ''Will our future be as good as yours was when you were in college, Senator HATCH?'' And for the first time in the history of this country a lot of parents are starting to become depressed because they realize we can no longer say that their children will have as much opportunity to progress and have better lives than they had, like our parents were able to say to us.

These young people are not stupid. They know, taking Social Security, when it came into existence back in the forties, that there were about 46 workers for every person on Social Security. They are not stupid. They know that is now down to just a little more than three workers for every person on Social Security, and that our senior citizens are living longer and growing in number. They know that we are going to that ratio reduced to probably two persons working for everybody on Social Security.

Yet, what kind of a nation would we be if we did not take care of those who have worked so hard to build the Nation and who now cannot work, who are senior and who need to be cared for and helped, and who deserve to be helped because of their paying into the system all their lives?

It does not escape these young people that their future is going to be very limited because the cost of Social Security, of course, with COLA's, keeps going up, and the work base keeps going down. They also know that complicating it all is a profligate Federal Government, a profligate Congress. Year after year, Congress after Congress, has no real incentives to get spending under control.

I know Members of this body who are liberal, with whom I have served for the whole 19 years I have been here, who in that whole 19 years have never asked the question: Where are the revenues going to come from to pay for these programs? They never once, never once have considered that an important question. They continue to ignore that unless we have a balanced budget amendment, which would help us to put our fiscal house in order, help to solidify the value of the dollar, and help the future of our children and our young men and women, we are going to have to face our fiscal irresponsibility.

I know some here who have never once said, ''Where are we going to get the funds?'' Would it not be better to support this amendment, rather than their favorite program, which is not as important, rather than to go into bankruptcy or to go toward a system where we ultimately monetize the debt, where the dollar becomes worthless, where inflation gallops, and where our senior citizens really are left high and dry, as well as our youth and their future?

This last election was about these issues. I may not have articulated them very well, but I have tried to show that our senior citizens are not stupid. They understand that we have to, sooner or later, live within our means or their Social Security and their retirements will not be worth very much.

Our young people are not dumb either. They know there is a diminishing work force and the whole burden of taking care of our senior citizens is going to be on their shoulders, and they want to do it. But will they want to in the year 2014 and 2020 if we do not get spending under control, and we keep loading them up with all kinds of other loads like we do?

Why, the committee I used to chair, the Labor and Human Resources Committee, has over 2,000 Federal programs, some of them very duplicative. There are 154 job training programs that this wonderful series of Congresses has enacted over the years to show that they are really empathetic and considerate of those who need job training. Many of those programs are duplicative, many of them overlap. We ought to have one major program for job training, and it ought to work.

What about welfare? It has been estimated by some that by the time the billions and billions of dollars in welfare are laundered through the Federal bureaucracy, those on welfare only get about 28 cents out of every dollar. We eat it all up right here in Washington, DC.

Is it not time to face this? This is what this last election was all about. It was 85 percent of the American people saying: We have had it up to here with Congress. We think it is time for Congress to start living within its means, and we are for a balanced budget amendment that will help Congress to live within its means.

We are not asking for drastic measures here. We are saying that the budget must be balanced over a period of 7 years, to the year 2002, which everybody here knows could be done if we had the will to do it.

It is nothing inordinate or difficult to do if we have some incentives to do it. But until we do, I guarantee you that those who never ask where the moneys are going to come from to pay for these excessive pieces of legislation, and they are in both parties, are going to continue to spend just the way they have always spent. I think they are more in one party than in the other, but nevertheless there are some in both parties.

Mr. President, the greatest economic threat this country faces is out-of-control Federal spending. The single most useful thing this Congress can do is to enact a constitutional requirement that Federal spending not exceed Federal revenues each year, starting in the year 2002. The only exceptions would be when a declaration of war is in effect—we all understand that—when the United States is engaged in military conflict causing an imminent threat to national security, or in those instances where three-fifths of the whole number of each House of Congress votes for a specific deficit but will have to vote, which is going to be a very important aspect of this amendment.

Interest on the national debt is currently about $300 billion a year, amounting to approximately 20 percent of the total Federal budget. These deficits directly affect every American.

For example, every dollar we must spend on interest payments on the national debt is one less dollar available to tax relief for hardworking citizens in Utah, Illinois, New York, California, and all across this country.

As another example, continuous large Federal deficits force the Federal Government to borrow huge sums of money, keeping interest rates high and driving them even higher. Hard-working Americans looking to finance their first home or to buy a more suitable home face higher mortgage rates. As a result, fewer homes are sold. Home builders and their suppliers lose business and have to reduce their work forces. Businesses associated with the housing industry, from realtors to title researchers, are all similarly affected. These are not abstract matters we are talking about.

Opponents of the amendment ask about the consequences of its passage. We are addressing those questions. I do not see how anybody could not understand that you cannot just continue to spend more than you take in. But these same opponents wish to ignore the consequences of failing to pass the amendment. The American people spoke in this last election, but the people here in the Senate, some of them, have not heard them yet. I think they need to speak more in each of these States.

What are some of the other ways huge Federal deficits affect our constituents? The cost of consumer credit goes up. That includes the cost of everything from automobiles, washing machines, televisions, to even much smaller goods paid for with credit. Hard-working Americans work more but can afford less. And the slowdown in consumer spending will result in work force reductions in those consumer industries. We just cannot go on like this.

The unwritten rule in this country until just a few decades ago was for the Federal budget to be balanced except in wartime. That was the unwritten rule. We abided by it for a century and a half. For much of our history, the legislative process reflected the norm of a balanced budget. But as the role and size of the Federal Government expanded, Congress became unable to control spending. New spending programs have been added over the years, many of them starting small but always growing larger, and even larger.

Today, the problem is this: Every single spending program, no matter how small, has a divine set of beneficiaries. The beneficiaries of each spending program are able to make their voices heard whenever they sense a chance that their program may be cut or eliminated. Even Federal programs of a few hundred million dollars can generate intense lobbying by the program beneficiary. This occurs for dozens upon dozens, even hundreds of Federal programs.

Taxpayers are rarely heard about in the spending on any given single program. They do not realize this is all going on. The cost to an individual taxpayer of even large Federal programs is diffused among the large number of all taxpayers. As a result, the interest of the taxpayer in cutting or eliminating a particular program is rarely heard as loudly or as often as that of the program's beneficiaries. The taxpayers are at an enormous disadvantage, the way things are presently set up, without this mechanism in the Constitution.

This spending bias is the reason we need a structural change in how Congress does business, a change we must make to our fundamental charter in order for it to be effective. Only a constitutional balanced budget provision will impose fiscal discipline on Congress. Only a balanced budget amendment to the Constitution will force spending programs to compete against each other and hold down overall Federal spending.

The other body for the first time in history has acted in a bipartisan manner. Our efforts here in the Senate, those who support this amendment, are bipartisan.

I particularly appreciate the great leadership of our distinguished colleague from Illinois and his willingness to stand up on this issue, his articulation of why it is so important. I look forward to listening to him this morning as soon as I have completed these few remarks I have. We are working in a bipartisan way, and there are others. Senator HEFLIN, Senator DeConcini has worked very hard, Senator BRYAN, a whole raft of Democrats have worked very hard on this amendment. We have many over here, from Senator THURMOND to Senator CRAIG, right on down the line to every one of our new Senators on this side.

I think the Senate dare not act on the basis of politics as usual. We just cannot do that this time. I do not think we dare just favor the status quo, just continue spending with no mechanism to stop it, no mechanism to deter it, no mechanism to encourage us to do what is right. I urge my colleagues to vote for this change, the kind of sea change America voted for in this last election.

I hope all our American citizens out there are listening to this debate because they need to get with their Senators. They need to get with their Senators and make sure they are going to support this balanced budget amendment. Nothing short of a public outcry, a public effort—phone calls, letters, meeting them in their offices, getting them at home, letting them know how you feel—is going to make the difference here. We think that is what has made the difference thus far. That is why we are here. That is why the House of Representatives has voted, for the first time in history, 300 to 132 for this amendment. That is why we brought up the House resolution which is identical, except for one comma, to our resolution that Senator SIMON and I have brought to this body.

I hope we will all vote for the kind of change the American people are calling for. I hope we will give our young people a future like we had. I hope we will give our senior citizens the protections they have earned and that they need. Let us quit demagoging this issue of Social Security and realize if we exempt Social Security we will open up such a loophole that they will change the definition of Social Security, and the Social Security trust funds will be raided day in and day out by these big spenders in Congress because it will be the only way they can continue business as usual, the status quo, the spending practices that have just about wrecked this country.

Mr. President, I really look forward to hearing my dear colleague from Illinois, who has been a great leader in this battle. So I yield the floor.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Illinois.

Mr. SIMON. Mr. President, while I have been engaged in some dialog on the floor on the balanced budget amendment, I have not spoken. I want to take this opportunity just to spell out clearly why we need this change in the Constitution.

I thank Senator HATCH for his leadership, and also others on the other side, Senator CRAIG, who has been a real Rock of Gibraltar on this. Also Senator THURMOND through the years has been providing leadership.

On our side I want to pay tribute to a former Senator, Dennis DeConcini, who was very helpful, Senator HEFLIN, Senator BRYAN, Senator GRAHAM, Senator ROBB, Senator KOHL—I could mention others. I am grateful to them all.

Leading the opposition is our colleague, Senator ROBERT BYRD. I want to make clear that, while he and I differ strongly on this issue, there is no lack of respect on my part for Senator BYRD. He is one of the most valuable Members of this Senate today, one of the most valuable Members in the history of the Senate. I agree with him on this, that this is an issue beyond politics. What we have to look to is the future of our country. Forget the polls, forget party affiliation, forget everything else. How can we best serve the country? I believe strongly we can best serve the country by passing this constitutional amendment.

What is our problem? We have both an economic problem and a political problem. The economic problem, first of all, is very clear as you look at the history of nations. If we do not get a hold of this—and if everyone forgets everything else I say just remember this—the history of nations is you pile up debt and if there is no restraint then you do what the economists call monetize the debt. You start the printing presses rolling and you go from there. And that is where we are headed. As you look into the next century and you see the percentage of deficit versus GDP, that is unquestionably where we are headed. We can take a gamble that we can be the first nation in history not to follow that path, but it is a huge gamble on the future of our country.

Listen to Adam Smith in his ''Wealth of Nations,'' published in 1776, the year of our Declaration of Independence. He writes:

> When national debts have once been accumulated to a certain degree, there is scarce, I believe, a single instance of their having been fairly and completely paid. The liberation of the public revenue * * * has always been brought about by a bankruptcy * * *. The raising of the denomination of the coin has been the most usual expedient by which a real public bankruptcy has been disguised * * *. The creditors of the public are really defrauded. Almost all States * * * ancient as well as modern, when reduced to this necessity have * * * played this very juggling trick * * *. The Romans at the end of the First Punic War reduced [the value of] the coin by which they computed the value of all other coins * * *. The [Roman] Republic was in this manner enabled to pay the great debts which it had contracted with the sixth part of what it really owed.

In other words, your dollar, if I may use a current analogy, $1 became worth one-sixth of what it was worth. What does that do to the Social Security trust fund? It just devastates it. What does it do to family savings? Devastates them. What does it do to the economy of the country? Devastates it. What does it do politically? It causes chaos. We do not know where we are headed on this.

For those who say that just is not going to happen, do not take my word for it. Take a look at what the OMB put forward last year as part of the budget. This table is taken directly from there: ''Lifetime Net Tax Rates Under Alternative Policies.''

I was born in 1928, so you go down here to this line—to 1930—and you see that before we passed the August 1993 budget reconciliation bill, I would have spent in my lifetime 30.5 percent on taxes. It is not changed much by the reconciliation bill, 30.6 percent; with health care reform I would spend 30.9 percent, or a lifetime of roughly 30.9 percent with or without health care reform.

But then look down here, to the line for ''future generations.'' The grandchildren of ROBERT BENNETT and JOHN ASHCROFT and PAUL SIMON and the people who work here: future generations.

What does it say about the budget reconciliation—spending 93.7 percent of lifetime earnings in taxes? After budget reconciliation, 82 percent of lifetime earnings, with health care reform, would have gone to 66 percent, or without health care reform, because it did not pass, 75 percent. That is just not going to happen. No one is going to spend 75 percent of their lifetime earnings in taxation. What you do is you start the printing presses rolling.

One of the great fights early in our history was taxation without representation. Talk about future generations and taxation without representation—what we are doing is living on a huge credit card saying send the bill to our children and grandchildren, send the bill to the pages who are here, and send the bill to my three grandchildren, the oldest of whom turned 5 just the other day.

Thomas Jefferson was the first person to advocate a balanced budget amendment to the Constitution. He was not here in the United States when the Constitution was written. He came back. And, when he came back, he said, ''If I could add one amendment to the Constitution it would be to prohibit the Federal Government from borrowing money.'' He had an absolute prohibition. We have some flexibility.

We say with 60 percent growth you can have a deficit. But the history of nations is clear. There is a book written by a man named Michael Veseth, published by Oxford University Press, entitled ''Mountains of Debt.'' It goes into the history of modern city states, and starting in the early 15th century. He comments on Florence and other city nations at that point. He says:

> The fiscal imperatives caused by huge debt drain away the capital that might have helped Florence adjust to the new world economy and growth in the future. By 1494, the future pattern of the Florentine economy was set, and Florence's years of economic power and influence were over.

Again, we can take a chance that we are not going to follow the path of Florence, of all the other nations since but we are taking a huge chance.

This is what is happening in terms of our expenditures in inflation-adjusted percentages. What has happened between fiscal year 1980 to fiscal year 1994 is that education—we all make speeches how important education is to our future, and the Presiding Officer and I were talking about that in committee the other day—education is down 13 percent; transportation is down 2 percent; get over here to defense, a lot of people think that is the biggest growth item, 18 percent growth; entitlements have grown 50 percent largely because of growth in numbers and because of health care reform; get over here to gross interest, it has grown 120 percent.

I do not care whether you are a conservative, liberal, Democrat, or Republican. The expanding increase in percentage of our tax dollar on interest just is not rational. We simply have to do better. What is happening to our country in terms of economic independence? If the Simon family gets too deeply into debt, you start losing your independence. The same is true for a nation. Right now we know, because we require public disclosure, that 17 percent of our debt, or a little better than $800 billion, is held by other countries, and people in other countries.

In addition, many countries do not permit their citizens to hold foreign bonds. So there are some countries where the citizens use some other person as a front, and, in fact, hold U.S. bonds. So it is in excess of $800 billion. There was a time when people said about the deficit, ''We owe it to ourselves.'' That is no longer true.

I can remember when I was in the House and I opposed an arms sale to Saudi Arabia. I can remember a Treasury Department official coming into my office saying, ''Please do not vote against this arms sale to Saudi Arabia because among other things Saudi Arabia holds a lot of our bonds.'' That is what is happening.

Let me give you a bit of history that a lot of people have not paid attention to. In 1956—my colleague from Utah is old enough to remember 1956 along with me—President Nasser of Egypt grabbed the Suez Canal, and just before the 1956 election when President Eisenhower was running for reelection, the British, the French, and Israelis ran through and seized the Suez Canal.

They believed I think because they were our good friends and allies, and because it was just before the election, that the United States would not do anything. We did not send a soldier anywhere. Because the British were deeply in debt, we threatened to dump the pound sterling. And, without firing a shot, they withdrew. You lose your independence when you get too deeply into debt.

Let me use a more practical illustration. Let us say Senator JOHN ASHCROFT was not a Member of the U.S. Senate but the president of the First National Bank in Carbondale, IL, and I went to him, and I said ''Mr. President, I would like to borrow more money than I take in this year. Will you lend me some money?'' And he would do it for 1 year, and maybe 2 years, and maybe 3 years. But at some point a prudent banker is going to say I had better put my money somewhere else.

We have gone to the international bankers for 26 years in a row saying we want to borrow some money because we want to spend more than we take in. And at some point prudent international bankers are going to start saying no. We do not know when that point is going to be reached.

Lester Thurow, one of the Nation's great economists, says at some point international bankers are going to say no to us. He said the question is not if they are going to say no. The question is when they are going to say no.

Alan Greenspan testifying the other day said:

> In today's more open and integrated international capital markets, it is easier to finance investment abroad. But this does not mean that we should view the pattern of U.S. external deficits as sustainable in the long run. Looking back at the history of the past century or more, the record would suggest that nations ultimately must rely on their domestic savings to support domestic investment.

The New York Federal Reserve Bank did a study from 1978 to 1988 of what the deficit has, of what our lack of savings primarily caused by the deficit has cost us. They came to the conclusion that in that 10-year period we lost 5 percent growth in GDP, in our gross domestic product; 1 percent, according to the Congressional Budget Office, is 600,000 jobs.

That means a loss of 3 million jobs. The General Accounting Office, in June 1992, issued a very significant report, in which it said if we do not get ahold of things, we are going to have a gradual decline in our quality of life and our standard of living. If, by the year 2001—that was the year at which they put it, and this year we are talking about 2002 for balancing but it basically holds—if by the year 2001 we balance the budget, then by 2020 the average American will have a real growth in quality of life and income of 36 percent. Those are huge numbers.

If we do not adopt this balanced budget amendment, we are headed toward continual decline. We did, to the credit of President Clinton and, I think, to the majority in this body and the other body, pass a budget reconciliation bill in August 1993 that has helped. Our colleague Senator Robert KERREY described it as a modest improvement.

I am going to switch charts here. It shows clearly that we have reduced the deficit here, but it is also clear we are headed way, way up, far beyond anything we have known in terms of deficits. Let me quote just a few sentences from the GAO, and these sentences are taken from different parts of the report. But, I am not, I believe, taking anything out of context and distorting what they say.

> Early action to reduce the deficit pays huge dividends in lower interest costs. Must come from program cuts or revenue increases. The more rapidly interest costs can be brought down, the less sacrifice is required.

They also say,

> To prevent stagnation in the living standards for future workers, if deficits are not reduced, the Government will have no fiscal flexibility to increase its investment in better infrastructure, technology and skills. Large and continued deficits are likely to seriously inhibit the growth of the economy under current and present foreseeable economic conditions. Inaction is not a sustainable policy.

They predict ''a deteriorating American economy, if we do not get ahold of it. Action that is stronger and taken sooner yields greater long-range benefits.''

They include a study of Japan, Australia, Germany, and the United Kingdom. They all had deficits, along with the United States, in 1981. All but Australia's was significantly greater than the United States deficit. By 1989, Japan, Australia, and Germany had surpluses. Great Britain had a deficit about 2 percent of ours, while ours had grown substantially.

Eliminating the budget deficit and, if possible, achieving a budget surplus should be among the Nation's highest priorities. Because of the accumulating burden of interest and the mounting public debt, it is important to move rapidly.

Take the report we got a few days ago from Data Resources, Inc., one of the two most prestigious econometric forecasters in the Nation. I will quote a little bit:

> A balanced budget would be a major boost to the long-term growth of the U.S. economy.
>
> Over a 5-year period—

We are talking really about a 7-year period now.

> this can be done with few problems. Today, when the Fed is trying to slow the economy anyway, would be a good time to start. Balancing the cuts would require real interest rates to drop to their lowest levels since the 1970's.

They predict a drop of 2.5 percent in the interest rates if we move on this. The Wharton School, the other prestigious group, predicts a drop of 4 percent. I do not know who is right, but even if it is half those figures, that is tremendous.

Mr. BENNETT. Will the Senator yield for a comment?

Mr. SIMON. I am pleased to yield to my colleague from Utah.

Mr. BENNETT. Mr. President, I have taken to writing out a simple equation for my colleagues on this side, and I would be delighted to have the Senator adopt this on the other side. I take a piece of paper and I write simply ''1 percent equals $48 billion.'' People say, ''What does that mean?'' I say, ''When you have a national debt of $4.8 trillion, 1 percent of $4.8 trillion is $48 billion. If we lower the cost of funding that $4.8 trillion debt by 1 percentage point in interest rates, we save $48 billion every year.''

The Senator has just told us, Mr. President, that the balanced budget amendment could lower the interest rates by anywhere from 2 to 4 percent. We are talking, if the Senator's information is correct, anywhere from $100 to $200 billion a year in savings on the interest rate alone. I think it should be stressed that the Senator has touched a point here that often gets overlooked. We talk about spending cuts, we talk about tax increases. Do you know how painful it will be in this body if we say we have to increase taxes $200 billion a year to balance the budget? Or that we have to cut spending $200 billion a year to balance the budget? If we can get somewhere between $100 to $200 billion a year in savings simply on the interest rate alone, we will have done more than a good day's work.

I thank the Senator for raising that issue of the impact of interest rates on the Federal economy.

Mr. SIMON. I thank my colleague. Just to buttress what he has said, Data Resources, Inc., said this, and I will read the full paragraph:

> The positive elements of balancing the budget become clear in the longer run. The elimination of the deficit would relieve strain on financial markets, allowing lower interest rates and bond yields. The lower interest rates and reduced borrowing would cut interest costs for the federal government; in fact, by 2002 half the savings [that we are talking about we need] in our budget simulations come from lower interest costs.

And in addition, you would have, according to their projections, 2½ million more people working. You are going to have more housing starts, more industrial investment, and everything else.

Alan Greenspan, again, testifying the other day, said:

> But the influence of a fiscal imbalance of the federal government on capital formation is broader than inflation. The federal deficit drains off a large share of a regrettably small pool of domestic private saving, thus contributing further to the elevation of real rates of interest in this economy.

It is very clear. I have to acknowledge that Dr. Reischauer has testified against the balanced budget amendment. But in his testimony of June 17 of last year, I will quote a few things:

* * * we and other economists can see clearly that national saving is too low, no matter how it is measured, and that federal deficits contribute significantly to low saving. It is equally clear to us that reducing federal deficits offers the most reliable way to remove the threat that low national saving poses to the growth of living standards.

* * * history has shown repeatedly that sustained growth in living standards is achieved most reliably through national saving.

And then they have a chart on what is happening in national savings, our savings rate. From 1960 to 1969 we average an 8-percent savings rate; from 1970 to 1979, 7.1 percent; from 1980 to 1989, 3.8 percent, and going down. No other industrial country has anything like that in the way of savings rates that bad.

The main cause of the decline in the national savings rate is rampant Federal deficits after the 1970's * * * federal deficits could be responsible for between one-half and two-thirds of the decline in the national savings rate, depending on how they are measured, with a reduction of private saving accounting for the rest of the decline.

And so it goes on. Here is one other quote in here I wanted to give you:

* * * deficits will soon rise again and keep national saving too low to prevent further slowdown in the growth of living standards.

I will show you one other chart. This is what happened in the deficit over the years. We are down here, and you will see 2 years in a row where it is being reduced, and it comes back up here a little bit, and then it goes down off the chart. It is going to go beyond the floor. We are not going to put that one on the chart. That is what is happening in our country.

Some of us had the chance to work with Roger Porter when he worked in the White House. He is now is a professor of government at Harvard.

He says:

The second reason for passing the balanced-budget amendment is moral. Persistent public borrowing, largely for the purpose of current consumption, is analogous to one generation throwing a party and saddling the next generation with the bill. We view such behavior on the part of individuals with disdain and contempt. One is hard-pressed to find moral justification for such behavior, whether individual or collective.

Roger Porter is correct.

I heard about the Louisiana Purchase, that we cannot pass this because we could not have had the Louisiana Purchase. First of all, it is interesting that in Jefferson's first term, he cut the Federal debt in half.

But the Louisiana Purchase was signed May 13, 1803, in Paris—and, frankly, they did not have any authorization to do anything like that—and 2 months later, in July, we learned about it here in Washington, DC. It was for $15 million at 5 percent.

Do you know what the main complaint of Secretary of the Treasury Albert Gallatin was at that point? He complained because the bonds were such that they could not start paying them back for 15 years. That was the big complaint.

We say, you can have a deficit if you have a 60-percent vote. What was the vote in the Senate and in the House on the Louisiana Purchase? There were two votes in the Senate, 24 to 7 and 26 to 6, far more than the 60 percent. In the House, it was 90 to 25, far more than the 60 percent.

There is simply no justification for saying we could not have done something like the Louisiana Purchase.

And then, my friends—and I feel strongly about this—we are having a squeeze on social programs. This fiscal year, we will spend $339 billion on interest; next year, $372 billion.

I might add—and I give credit to my colleague, Senator FRITZ HOLLINGS, for teaching me this—in only one area do we subtract the earnings of the Government. Administrations like to come up with net interest. It does not look so bad. The real figure is gross interest.

It is like the Department of Justice subtracting all the money collected from their total bill, or the IRS doing that. That is just not the way we do it.

But what does $339 billion mean? It means that this year we are spending 11 times as much on interest as education. Oh, we make great speeches about education, but we are not funding it like we should. In fiscal year 1949, we spent 9 percent of the Federal budget on education. This year, we will spend 2 percent of the Federal budget on education. Interest is squeezing out our response.

I heard Senator BENNETT JOHNSTON yesterday say that in an exit poll, when people were asked what the Federal Government spends money on, 27 percent thought the big item was foreign economic assistance. We will spend this year 22 times as much on interest as on foreign economic assistance. We will spend almost twice as much on interest as on all the poverty programs combined.

Listen to what my House colleague, Congressman JOE KENNEDY, who is one of the cosponsors of this legislation, said in the House. This is on January 25.

Mr. Chairman, I rise today in strong support of the balanced budget amendment. I have been for the balanced budget amendment for the last several years, because I do not believe that we can find the will to make the necessary cuts to save the future generations of this country without the support of the American people through a balanced budget.

And then, he says, people come up to him and say:

Listen, JOE, you are a liberal Democrat, how can you possibly be for a balanced budget amendment? It is going to cut the very programs that much of your family and others have stood for generations.

And here is Congressman KENNEDY's response:

I say to them that those very programs that stand up for the working people and the poor and the senior citizens of this country have suffered the worst cuts over the course of the last 15 or 20 years in this country as a result of budget deficits.

Look at the housing budget. Cut by 77 percent over the course of the last 15 years. Look at those who have press conferences that say they want to protect fuel assistance for the poor. Look at what has happened to the fuel assistance program. Cut by 30 percent.

And then he goes to some other things. This is his final line, and I hope we remember it:

Do we see the bellies of our poorest children filled as a result of interest payments on the national debt?

Let me repeat that:

Do we see the bellies of our poorest children filled as a result of interest payments on the national debt?

Well, the answer is obvious. Oh, we are talking about welfare reform, and I am not optimistic we are going to get genuine welfare reform. I hope I am wrong. But it is interesting, welfare payments from 1970 to 1993, when you take in the inflation factor, have been reduced about 40 percent. That is because of the squeeze of interest.

Or take a look at New York City. New York City went bankrupt, or for all practical purposes bankrupt. They had to cut programs for poor people by as much as 47 percent. But New York City had the advantage of having an umbrella called the United States of America and we rescued New York City.

There is no umbrella big enough to rescue the United States of America. If we go down the tube, the programs for poor people and the programs that we need in education and other things are just going to be devastated.

It is also interesting that in New York City, they still have a mayor and city council, but for any significant expenditure they make, do you know who has to approve it? They have a little group of bankers and bond holders that has to approve anything like that. New York City has, to a great extent, lost its independence.

We may be able to put something together if and when the time arrives that we have difficulties, but it is going to be at the cost of losing a great deal of our independence.

Back maybe 2 years or so ago, I had an illustration of why it is important not only for the poor in our country but for the poor in other countries.

The IMF had asked for a $12 billion guarantee from the United States. I received an invitation to have breakfast with the Director of the International Monetary Fund. I thought, well, he is reaching down pretty far on the Foreign Relations Committee to talk to someone, because I am about halfway down there.

I went over and he did not want to talk about the guarantee. He wanted to talk about what we are doing fiscally. He said—and I do not know if he was speaking in a slight exaggeration or not, but Alan Greenspan tells me he was not—''If you had a choice of getting hold of your deficit or cutting out the entire foreign aid program''—and I certainly do not favor that—''If you

had a choice, if you want to help the poor people in the world, get rid of your deficit. What you are doing is borrowing and sending up the costs of borrowing for the poor nations of the world.''

In terms of social programs, it is very clear what we are doing. When we talk about spending $339 billion this year, we are talking about a massive redistribution of wealth. Who pays the $339 billion? By and large, Americans of limited means. Who collects the $339 billion? By and large, those who are more fortunate, who hold the T-bills, and increasingly those beyond our borders.

We hear a lot about the trade deficit. This is very interesting. I asked the Congressional Research Service, what does a budget deficit have to do with the trade deficit? They came in, 37 to 55 percent of the trade deficit is caused by our budget deficit. What it does is escalates the value of the dollar. It makes it more profitable for industries to put their investment in other countries, and makes it more costly for them to put their investments here.

It is very interesting that as our deficit has gone up and our interest payments have gone up, we have been losing relative to other countries. As late as 1986, the average American working in a manufacturing location was being paid more money than in any other country. Now there are 13 nations on the face of the Earth where the average manufacturing wage is greater than ours. That is, in large part, because of the budget deficit.

We have a political problem, too. I hear the speeches on the floor, ''We can do it without a balanced budget amendment. All it takes is political will.'' We heard those same speeches in 1986 when this failed by one vote to pass the U.S. Senate. In 1986, the deficit was $2 trillion. Now, 9 years later, that deficit is $4.7 trillion. And we hear the same speeches. If we should show the poor judgment not to pass this, then 5 years from now, 10 years from now, we will hear the same speeches.

What would have happened to our country if, in 1986, that had passed? We would have millions more people working; we would have lower interest rates; we would have more housing in our country; we would have more revenue for the Federal Government; we would have a higher standard of living for our people; and we would have a lower trade deficit. If we pass this, we will move in that direction.

Then the argument is made, and I have heard it several times already, but what if there is a recession? Listening to what the National Bureau of Economic Research in Cambridge had to say, in a report made by two professors in the department of economics at the University of California:

Discretionary fiscal policy does not appear to have had an important role in generating recoveries. Fiscal responses to economic downturns have generally not occurred until real activity was approximately at its trough.

Or listen to an article written by Bruce Bartlett in the Public Interest, and I ask unanimous consent that this full article be placed in the RECORD.

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

[From the Public Interest, summer 1993]

HOW NOT TO STIMULATE THE ECONOMY

(By Bruce Bartlett)

Shortly after taking office, President Clinton began pushing for a stimulus program to end the country's recession. But according to the National Bureau of Economic Research, the recession was already over. It began in July 1990 and ended in March 1991. Since that time the U.S. economy has expanded continuously. By the end of 1992, in fact, the economy was growing at an annual rate of 4.7 percent—almost twice the postwar average.

Fortunately, Congress was less persuaded of the need for stimulus than Clinton. His proposal was withdrawn. But months later the administration was still pushing for a scaled-down stimulus bill, even as the unemployment rate continued to decline.

Probably the best defense of Clinton's action is that he was simply doing what our last ten presidents all did. All these presidents, regardless of party or ideology, ultimately endorsed public works programs to combat recessions that were already over.

This article will review the results of this curious phenomenon. Without exception, stimulus programs have failed to moderate the recessions at which they were aimed, and have often sowed the seeds of the next recession. These programs have not been simply worthless, but harmful. It would have been better to do nothing.

KEYNESIAN ECONOMICS

The idea of using public works to jump-start the economy is not a new one. Since at least the late nineteenth century, governments have attempted to use public works in a countercyclical manner. But until John Maynard Keynes, governments felt constrained by the need to keep their budgets in balance. Since recessions invariably shrink tax revenues, few governments could afford to increase spending on public works as a countercyclical measure. Keynes, by preaching the efficacy of deficit spending, relieved governments of this constraint.

Keynes also freed governments of the need to fund public works projects that were useful. In The General Theory, he wrote that pyramid-building, earthquakes, and even wars ''may serve to increase wealth.'' He suggested that people be paid to dig holes in the ground, and even proposed burying bank notes in mine shafts to encourage the digging.

Although it is widely believed that the public works projects of the New Deal played a major role in ending—or at least mitigating—the Great Depression, such programs actually played a very limited role. It was World War II and monetary policy, not the New Deal, that ended the Depression. Unfortunately, policymakers have convinced themselves otherwise. And so, whenever another slowdown has occurred, they have turned to the same programs they believe ended the Great Depression.

This over-reliance on fiscal policy has given the U.S. massive deficits and debt, which requires even greater payments for interest. Large deficits also crowd out private borrowers, raising interest rates, and reducing investment, growth, and productivity. Finally, deficits put pressure on the Federal Reserve to increase the money supply, which leads to inflation.

For an illustration of these points, let us take a brief look at the postwar economic experience.

THE TRUMAN AND EISENHOWER ADMINISTRATIONS

The first recession of the postwar era began in November 1948. Initially the Truman administration was oblivious, as were most private economists. In mid-December, for example, Treasury Secretary John Snyder said the economy ''is at present in a basically sound condition, and shows encouraging signs of stability in the vicinity of the present high levels.'' A survey of private economists found similar optimism: 59 percent expected business to expand; only 41 percent expected a decline. And this was after the recession had already begun!

It was not until eight months later that President Truman asked Congress to pass an antirecession program. Congress did eventually pass the Advance Planning for Public Works Act, and it took effect in October 1949—the very month the recession ended.

The first of three recessions under President Eisenhower began in July 1953, shortly after he took office. There is no evidence Eisenhower was even aware a recession had begun. Later, when signs of a slowdown became unmistakable, Eisenhower supported a small increase in highway spending. But no significant action was taken to counteract the recession, which ended three months later.

Eisenhower confronted a second recession in August 1957. Again, there is no evidence he saw it coming. In July, Treasury Secretary George Humphrey told the Senate Finance Committee, ''I don't see any significant recession or depression in the offing.''

Although the Eisenhower administration did not put forward any antirecession legislation, it did acquiesce in congressional efforts. Congress passed and Eisenhower signed bills to increase grants to states for highway construction, and to increase federal spending on rivers and harbors. The highway bill became law in April 1958, and the rivers and harbors bill was signed in July. The recession had ended in April.

THE KENNEDY ADMINISTRATION

The third recession under Eisenhower began in April 1960, and it contributed to the election of John F. Kennedy. Upon taking office in January 1961, Kennedy moved quickly to enact antirecession legislation. A key element of his program was the Area Redevelopment Act (ARA), which sent federal aid to areas with high unemployment. It was signed into law on May 1, although the recession had ended in February.

An early assessment of the ARA by Sar Levitan, a professor of economics at George Washington University, found that 40 percent of its funds went simply to reimburse other government agencies. Moreover, almost any project undertaken in a depressed area was eligible for ARA funding, even if it would have been undertaken anyway. Thus while 7,100 miles of ARA-funded roads were built in depressed areas. Levitan notes, the Federal Highway Administration ''could not point to a single mile of road which was constructed as a result of priorities accorded to depressed areas.''

In 1962, Congress passed more antirecession legislation—the Accelerated Public Works (APW) program, Subsequent analysis shows that the peak employment created by this program did not come until June 1964—thirty-nine months after the end of the recession. Spending was so drawn-out that expenditures were still being made nine years later.

A follow-up report by the General Accounting Office (GAO) found that the number of jobs created by the ARA and the APW had been overstated by 128 percent. Another GAO study found the overstatement to be 94 percent. The GAO also found that only 55 percent of the jobs created by the APW went to workers living in the areas where the projects were located, and that most of the jobs went to contractors' regular employees rather than unemployed local persons. Partially as a result of such criticism, Congress abolished the Area Redevelopment Administration (which administered the ARA and APW) in 1965.

THE NIXON AND FORD ADMINISTRATIONS

The country's next recession began in December 1969 and ended in November 1970. Antirecession legislation, however, was not enacted until August 1971. That legislation—the Public Works Acceleration Act—funded public works in designated areas of high unemployment. It was predicted by the Economic Development Administration that the program would create 62,000 man-months of employment in the first two years, with 75 percent of the jobs going to the previously unemployed. A Commerce Department study, however, found that only 39,000 man-months of employment were created, and that only 22 percent of the jobs went to the unemployed. The average job lasted just four weeks.

The next recession was the worst of the postwar era. It began in November 1973, following the OPEC oil embargo. Yet antirecession legislation, in the form of a tax rebate, was not enacted until March 1975, the month the recession ended. THe $22.8 billion legislation gave taxpayers a 10 percent rebate on their 1974 tax payments (with a maximum rebate of $200). The bill also extended unemployment benefits, increased the investment tax credit from 7 to 10 percent, and made various other tax changes. All this was intended to pump up demand by putting dollars into people's pockets. Subsequent analysis, however, shows that most of the money was initially saved, not spent. The bill had no significant stimulative effect.

During the following year, Congress determined that the lingering effects of the recession justified further antirecessionary action. Over the veto of President Ford, Congress established the Antirecession Fiscal Assistance Program (ARFA), and the Local Public Works Program (LPW). The LPW increased funding for public works by $2 billion. The ARFA program increased revenue-sharing by $1.25 billion.

As late as 1977, in fact, Congress was still enacting legislation to deal with the aftermath of the 1973–75 recession. The Local Public Works Capital Development and Investment Act of 1976 added another $4 billion to the LPW program. The ARFA program was also extended for another year and its funding increased by another $1.75 billion.

Subsequent analysis shows that these program were failures. A Treasury Department study of the ARFA program found that because the funds were not disbursed until well after the end of the recession, they failed to provide assistance when it was most needed and probably contributed to inflationary pressures during the economic expansion. The study also found that, rather than spend federal money immediately, state and local governments tended to save it. Thus state and local government budget surpluses increased, mitigating the stimulative effect of the federal programs. Another study, by the GAO, found that ARFA grants often went to areas unaffected by the recession, and concluded that the program was not particularly effective as a countercyclical tool.

The LPW program was also ineffective. Although the recession ended in March 1975, 20 percent of the program's funds were spent in 1977, 61 percent in 1978, 18 percent in 1979, and 1 percent in 1980. In a study commissioned by the Commerce Department, Chase Econometrics estimated that the cost per direct job created was $95,000.

Chase and the Commerce Department found other problems. Between 25 and 30 percent of LPW funds paid for projects that would have been funded by state and local governments anyway, and another 9 percent of LPW funds crowded out private expenditures that would otherwise have occurred. In addition, only 12 percent of workers on LPW projects were previously unemployed, and half of those had been unemployed less than five weeks. The average job lasted just 2.6 months. Finally, due to the Davis-Bacon Act, workers on LPW projects were paid more than before—for the same work.

The LPW program has also been severely criticized by University of Michigan economist Edward Gramlich. He argues that because the program had no allocation formula, required no matching funds, and funded only projects that could be started within 90 days, it virtually guaranteed that the only projects funded would be those that would have been built anyway. He has also noted that since the Commerce Department received some $22 billion worth of project applications for just $2 billion in federal funds, the LPW program apparently postponed $22 billion worth of construction spending, thus reducing GNP by $30 billion. Instead of stimulating the economy, the LPW program was actually contractionary.

THE CARTER AND REAGAN ADMINISTRATION

Despite the many problems of the LPW program, one of the Jimmy Carter's first acts upon taking office was to push for its expansion. The Congressional Budget Office argued that an expansion would have no impact on the economy for at least a year, but Carter proceeded anyway. He signed the expansion legislation on May 13, twenty-six months after the end of the recession.

Another recession developed in 1980, as a result of Carter's ill-considered imposition of credit controls. Although the recession was over by mid-year—after the lifting of controls—Carter continued to press for money for antirecessionary public works. It was then revealed that some $100 billion was already available from previous programs—fifty times more than Carter was asking for. According to analyst Pat Choate, these funds were held up by a combination of incompetence at the state and local level, and federal regulations that made it difficult to get money released.

Even the Reagan administration, despite its general aversion to such policies, adopted two antirecessionary programs. They were designed to attack a recession that began in July 1981 and ended in November 1982. The first of the programs was the Surface Transportation Assistance Act of 1982, which raised the gasoline tax by five cents a gallon, and increased spending for highways and mass transit by $33.5 billion over five years.

With some exceptions, the provisions of the act that created jobs did not go into effect until after the tax increases to pay for them. Thus, in the short run, the legislation was contractionary rather than stimulative.

TABLE 1.—SURFACE TRANSPORTATION ACT RECEIPTS AND OUTLAYS

[In billions of dollars]

Fiscal year	Receipts	Outlays
1983	1.7	0.6
1984	3.8	2.9
1985	3.9	5.6
1986	3.9	7.3

There is also evidence that the act led state and local governments to pull back on their own public works spending in anticipation of new federal funds. Furthermore, many state and local governments ''piggybacked'' gasoline tax increases on the federal increase. Between 1982 and 1984, twenty-nine states increased their gasoline taxes. The result was a large increase in state and local government budget surpluses, which offset much of the stimulative impact of the federal spending.

President Reagan predicted the transportation bill would create 320,000 jobs, but subsequent analysis shows otherwise. In the year following passage of the legislation, employment in highway construction actually grew at a lower rate than did total employment (although wages for highway construction workers did rise sharply.)

Interestingly, at the very time that President Reagan was pressing hard for passage of the transportation bill as a jobs program, his Office of Management and Budget produced a study which showed that increases in federal aid for public works actually reduce overall public works spending, because state and local governments respond by cutting back their own spending. Of course, this and other studies had little effect. Both Congress and the administration were under irresistible political pressure to appear to be doing something about the recession, even though it had ended four months earlier.

The ink was barely dry on the transportation bill, in fact, when Congress pressed ahead with another antirecession bill, the Emergency Jobs Act of 1983. This act was little more than a grab-bag of pork-barrel projects, most of which just happened to be in the congressional districts of Appropriations Committee members.

A GAO study of the act in 1986 noted that it was not passed until twenty-one months after the beginning of the recession. A year and a half after passage, only one-third of the bill's funds had been spent; two and a half years after passage, half of the funds still had not been spent.

Job creation peaked in June 1984, but the number of jobs created at that point totalled just 1 percent of the private jobs created since passage of the bill.

THE BUSH AND CLINTON ADMINISTRATIONS

Like its predecessors, the Bush administration adopted an antirecession program after a recession. The $151 billion Intermodal Surface Transportation Efficiency Act was signed by the president in November 1991—eight months after recession's end. Congressional supporters of the bill estimated it would create 2 million jobs. The Bush administration, ''eager to embrace the bill as a job creator on the eve of an election year,'' according to Congressional Quarterly, doubled the estimate to 4 million. More than a year later, however, transportation planners told the New York Times that ''the law has neither stimulated the economy nor created many jobs.'' One of the major reasons was the slow pace of construction, which has been attributed to an increase in federal standards for air quality, access for the disabled, and public participation. In the end, the bill did nothing to alleviate the recession or to aid Bush's reelection hopes.

As noted earlier, the Clinton administration quickly came forward with a $16 billion stimulus program, despite data showing the

economy to be strengthening. Although the program was promoted as an insurance policy to keep the economy going, the evidence indicates that few, if any, jobs would have been created in the short run. Instead, the main effect of the legislation would have been simply to fund traditional Democratic programs. As Newsweek observed:

''Administration officials concede privately that much of the money will go into highway and transportation projects that won't actually get underway until 1994 or 1995. A good chunk of the rest will raise spending on programs Clinton proposes to expand permanently, like Head Start and infant nutrition. By boosting outlays right away instead of waiting until the next fiscal year starts in October, Clinton can label those initiatives 'stimulative.' ''

A Republican analysis of the cost per job of the Clinton stimulus program found that the average cost was over $89,000, with the cost of some jobs reaching into the millions.

DOING HARM

In 1980, Sen. Lloyd Bentsen, now secretary of the Treasury, held a hearing before the Joint Economic Committee on the effectiveness of countercyclical public works programs. At that hearing, President Carter's Office of Management and Budget presented a study that reviewed the postwar experience with such programs. Its conclusions:

Public works programs cannot be triggered and targeted in a sufficiently timely manner to compensate for cyclical fluctuations in unemployment and economic activity.

Even if it were possible to properly time a countercyclical program, the time it takes to construct public works would lead to a significant overlap of job generation and economic stimulus with periods of economic recovery.

Public works programs have had minimal impact on the unemployed. This is partly because the programs are not labor-intensive, and partly because many of the jobs created require skills the unemployed do not have.

The duration of employment for individual workers is too short to provide meaningful economic relief, to maintain skills and work habits, or to provide on-the-job training.

Public works are extremely costly. The cost of generating a construction job for one year ranges from $70,000 to $198,000.

Later Bentsen issued a unanimous report from the Joint Economic Committee which concluded that by the time a recession is recognized, it is too late to be treated. Efforts to do so are destabilizing. The committee recommended avoiding short-term countercyclical actions, and instead focusing on factors that contribute to long-run growth. This was good advice then, and good advice now.

Even Lord Keynes, the father of countercyclical policy, eventually recognized its limitations. Toward the end of his life he wrote:

''Organized public works . . . may be the right cure for a chronic tendency to a deficiency of effective demand. But they are not capable of sufficiently rapid organization (and above all cannot be reversed or undone at a later date), to be the most serviceable instrument for the prevention of the trade cycle.''

The U.S. economic experience provides ample confirmation.

TABLE 2.—DATES OF RECESSIONS AND ANTI-RECESSION LEGISLATION

Beginning	End	Antirecession legislation
November 1948	October 1949	October 1949 [1]
August 1957	April 1958	April-July 1958 [2]
April 1960	February 1961	May, 1961 [3]
		September 1962 [4]

TABLE 2.—DATES OF RECESSIONS AND ANTI-RECESSION LEGISLATION—Continued

Beginning	End	Antirecession legislation
December 1969	November 1970	August 1971 [5]
November 1973	March 1975	March 1975 [6]
		July 1976 [7]
		May 1977 [8]
July 1981	November 1982	January-March 1983 [9]
July 1990	November 1991	November 1991 [10] April 1993 [11]

[1] Advance Planning for Public Works Act, P.L. 81–352 (October 13, 1949).
[2] Federal Aid Highway Act of 1958, P.L. 85–381 (April 16, 1958); River and Harbor Act of 1958, Flood Control Act of 1958, and Water Supply Act of 1958, P.L. 85–100 (July 3, 1958).
[3] Area Redevelopment Act, P.L. 87–27 (May 1, 1961).
[4] Public Works Acceleration Act, P.L. 87–658 (September 14, 1962).
[5] Public Works and Economic Development Act Amendments, P.L. 92–65 (August 5, 1971).
[6] Tax Reduction Act of 1975, P.L. 94–12 (March 29, 1975).
[7] Public Works Employment Act of 1976, P.L. 94–369 (July 22, 1976).
[8] Local Public Works Capital Development and Investment Act of 1976, P.L. 95–28 (May 13, 1977).
[9] Surface Transportation Assistance Act of 1982, P.L. 97–424 (January 6, 1983); Emergency Jobs Appropriations Act of 1983, P.L. 98–8 (March 24, 1983).
[10] Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102–240 (November 27, 1991).
[11] Emergency Supplemental Appropriations Act of 1993.

Mr. SIMON. Mr. Bartlett writes:

Without exception, stimulus programs have failed to moderate the recessions at which they were aimed, and have often sowed the seeds of the next recession. These programs have not been simply worthless, but harmful. It would have been better to do nothing.

Then he writes:

President Carter's Office of Management and Budget presented a study that reviewed the postwar experience with such programs.

And they reached the same conclusion. Then, listen to this:

Later, [Senator Lloyd] Bentsen issued a unanimous report from the Joint Economic Committee which concluded that by the time a recession is recognized, it is too late to be treated. Efforts to do so are destabilizing. The committee recommended avoiding short-term countercyclical actions, and instead focusing on factors that contribute to long-run growth.

''This was good advice then,'' the author writes, ''and good advice now.''

Even Lord Keynes, the father of countercyclical policy, eventually recognized its limitations. Toward the end of his life, he wrote:

''Organized public works . . . may be the right cure for a chronic tendency to a deficiency of effective demand. But they are not capable of sufficiently rapid organization (and above all cannot be reversed or undone at a later date), to be the most serviceable instrument for the prevention of the trade cycle.''

''The U.S. economic experience provides ample confirmation,'' the author of the article says.

Fred Bergsten, who serves as Assistant Secretary of the Treasury and one of our Nation's really fine economists, recommends that we build in a small surplus. He is suggesting a 2-percent surplus, and then authorizing the President to move quickly with programs when we have unemployment above a certain level in any area, whether it is Missouri or Illinois or Michigan or Ohio, or wherever it might be.

Alan Greenspan has said much the same thing. Interest reduction is a far greater stimulus than any kind of stimulus that we might provide. But we have extended unemployment compensation and people say, well, we could not even do that.

We will take a look at the record. The only time I can find where we have not had 60 votes for that was in 1982. But let me start with 1991. Passed extension of unemployment compensation; passed the Senate 91–2, far more than the 60 percent required. Later that year, by voice vote, another voice vote. In 1992, 94–2; 1992, another voice vote; later in 1992, 93–3. In 1993, 66–33; also, in 1993, 76–20.

Clearly, we can get the 60 votes to do that.

I also ask unanimous consent to have printed in the RECORD, Mr. President, an article from Investors Business Daily.

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

[From the Investors Business Daily, Jan. 25, 1995]

A BALANCED BUDGET MYTH BARED: ECONOMY CYCLES UNLIKELY TO WORSEN UNDER PLAN

(By John Merline)

A balanced budget amendment will either restore fiscal sanity to a town drunk on deficit spending or lead the country toward economic ruin.

Those, at least, are the stark terms typically used by supporters and opponents of a constitutional amendment outlawing deficit spending.

And, while passage of a balanced budget amendment is almost a sure thing this year, debates over its merits remain fierce—with critics from all sides of the political spectrum lobbing grenades at it.

Democrats don't like the rigidity it imposes while conservatives fear it may bias Congress towards tax increases.

One of the principal criticisms of the amendment is that it would short-circuit the federal government's ability to fight recessions, either with ''automatic stabilizers'' or with stimulus spending like temporary tax cuts or spending hikes. Yet there is little evidence to support this view.

''When purchasing power falls in the private sector, the budget restores some of that loss, thereby cushioning the slide,'' said White House budget director Alice Rivlin in testimony before the Senate Judiciary Committee earlier this month.

''Unemployment compensation, foodstamps and other programs fill the gap in family budgets—and in overall economy activity—until conditions improve,'' she said, defending the budgetary ''automatic stabilizers.''

In addition, because of the progressive income tax code, tax liability falls faster than incomes drop in a recession, slowing the decline in after-tax incomes.

The result, however, is typically an increase in the deficit.

Mandatory balanced budgets would, she argued, force lawmakers either to raise taxes or cut spending in a recession to counteract increased deficits.

''Fiscal policy would exaggerate rather than mitigate swings in the economy,'' she said. ''Recessions would tend to be deeper and longer.''

Other economists agree with Rivlin.

Edward Regan, a fellow at the Jerome Levy Economics Institute in New York, argued that the amendment would ''restrict government efforts to encourage private sector activity during economic slowdowns.''

The assumption, of course, is that these automatic stabilizers actually work as advertised, an assumption not all economists share.

''If anything, I think the government has made economic cycles worse,'' said James Bennett, an economist at George Mason University.

Bennett, along with 253 other economists, signed a letter supporting a balanced budget amendment introduced last year by Sen. Paul Simon, D-Ill.

Ohio University economist Richard Vedder agrees. ''If you look at the unemployment record, to use that one statistic, it was more favorable in the years before we began automatic stabilizers than in the years since,'' he said.

Much of the countercyclical programs were implemented in the wake of the Great Depression.

Unemployment data show that in the first three decades of this century the average jobless rate was roughly 4.5%.

PROLONGING SLUMPS

In the four decades since World War II, the rate averaged 5.7%. And, from 1970 to 1990, it averaged 6.7%.

In addition, some of the stabilizers may actually keep people out of the work force for longer periods of time, possibly prolonging economic slumps.

A 1990 Congressional Budget Office study found that two-thirds of workers found jobs within three months after their unemployment benefits ran out—suggesting that many could have found work sooner had they not been paid for staying home.

Other data suggest that, at most, federal fiscal policy has had only a small stabilizing effect on the economy, despite the sharp increase in the economic role played by government.

A study by economist Christina Romer of the University of California at Berkeley found that economic cycles between 1869 and 1918 were only modestly more severe than those following World War II.

Romer corrected what she said were serious flaws in data used to suggest that the pre-war economy saw far larger swings in economic cycles.

The finding runs contrary to conventional wisdom—which posits that government fiscal programs enacted after the Great Depression have greatly reduced the magnitude of boom and bust cycles.

''I think there are plenty of arguments against the balanced budget amendment,'' said Christina Romer in an interview. ''I would not put much emphasis on taking away the government's ability of having countercyclical * * *.

Finally, some economists note that the stabilizers Rivlin points to don't have to be a function of government.

Private unemployment, farm or other insurance could provide needed cash during economic downturns, they say, replacing the government programs as the provider of these funds.

While the effectiveness of automatic stabilizers is doubted by some, straightout antirecessionary stimulus spending has few outright backers—for one simple reason.

Every major stimulus package since 1949 was passed after the recession was already over.

These packages typically consisted of temporary tax cuts or spending hikes designed to boost economic demand and artificially stimulate growth.

The problem has been that, by the time Congress recognizes the economy is in a slump and approves a package, it's too late.

TOO LITTLE, TOO LATE?

Clinton's failed stimulus package, for example, was proposed nearly two years after the 1990–91 recession ended, and half of the money wouldn't have been spent until 1994 and 1995.

A study of the 50-year history of stimulus packages by Bruce Bartlett, a senior fellow at the Arlington, Va.-based Alexis de Tocqueville Institution, concluded that ''without exception, stimulus programs have failed to moder- * * * would have little bearing on the government's ability to pursue these policies during recessions.

First, the amendment allows Congress to pass an unbalanced budget, as long as it can muster 60% of the votes.

And, lawmakers could avoid that by simply running a budget surplus during growth years.

''The best technique is to aim for a modest budget surplus, of about 2% of GDP, over the course of the business cycle,'' Fred Bergsten, director of the Institute for International Economics, told the Judiciary Committee.

''This would permit the traditional 'automatic stabilizers,' and perhaps even some temporary tax cuts and spending increases, to provide a significant stimulus to the economy,'' he said. Interestingly, Rivlin herself made similar arguments in her book, ''Revving the American Dream,'' which was published shortly before she joined the Clinton administration.

In that book Rivlin said that the federal government should run annual budget surpluses—increasing national savings and, in turn, economic growth.

At the same time, Rivlin said the federal government could strengthen federal ''social insurance'' programs designed to mitigate economic swings.

To accomplish this, she proposed shifting whole blocks of federal programs down to the states, including education, welfare, job training, and so * * *.

Mr. SIMON. This is the lead story. The headline says: ''A Balanced Budget Myth Bared,'' in which the article talks about the fact that, in fact, we just do not act promptly enough to move in a recession, so to stop the balanced budget on that basis just does not make any sense. The article quotes James Bennett, an economist at George Mason University:

If anything, I think the government has made economic cycles worse.

I hear this: What about floods, earthquakes? We have an emergency in Michigan or Missouri, or someplace, and we have had them in Missouri and Illinois recently in our floods.

First of all, I will say that I favor creating a special emergency fund. We should not create a deficit every time. We ought to create an emergency fund of $5 or $10 billion every year, where we can tap into that for emergencies that will occur almost every year.

Take a look at the votes on these things. They say, well, we will be prevented from helping in natural calamities. Starting in 1991, I have not been able to find a single time when, in an emergency, we declined helping people. Now, there have been times when, years later or sometime later, we come back and they want help and they have been declined. In March 1991, 92 to 8; March 1991, 98 to 1. May 1991, voice vote. November 1999, 75 to 17. September 1992, 84 to 10. April 1992, 84 to 16. May 1992, 61 to 36. August 1992, voice vote. June 1993, voice vote. August 1993, 86 to 14. February 1994, 85 to 10. These are all more than 60 percent.

Then the argument is made, well, we will have the courts in this massively. What is the reality? Well, section 6 of this article says.

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

The only example you have of a Federal court acting is in the case of the State of Missouri, the Jenkins case, and there it was the Federal court acting, in terms of a State situation, under the 14th amendment, but we had no legislation and so you have a very, very different situation.

Second, we can say who has standing. I think we ought to say it takes 10 Senators or 30 House Members or 3 Governors to go before the courts. So we limit who can go before the courts.

And then, finally, the reality is we have a very good enforcement mechanism: You cannot increase the debt ceiling without a 60-percent vote. I think the likelihood that we are going to go before the courts is very, very slim, and the experience of the States is—and 48 of the 50 States have some kind of provision—the experience of the States is that it is rare for any kind of litigation. I remember when this came up—and Senator ABRAHAM will recall this—Senator HANK BROWN said in the history of the State of Colorado, which has such a provision in its constitution, there has been no litigation. This idea that we are going to be massively in the courts is just not true.

Then some say, ''Well, you are going to give the President impoundment authority and the President is going to increase taxes.'' If I thought there was any possibility of that happening, I would favor an amendment. I had my staff research this very carefully. And I want to pay tribute to Aaron Rapport of my staff who has really done a superb job, but my staff has researched this and it is very clear, there is no impoundment authority. Anyone who looks at the legislative record will know that, and we will make it clear through implementing legislation.

Then I hear people say, ''It is going to hurt my program, it is going to hurt my State, we are getting these letters from the Department of Defense and all the other departments.'' If you total up what everyone says is going to hurt and what is going to be taken out, we will have a huge surplus in this Nation.

Obviously, these figures are largely phony, and if the President of the United States had made a different decision, we would be getting all these letters from people saying what a great thing this is and this is going to be the salvation of our program.

I think you have to ask all these agencies and the States what is going to happen if we do not alter the present path. And the answer is, interest is

going to continue to squeeze out our ability to respond to States, interest rates are going to continue to go up, and eventually we will monetize the debt.

Then I hear about Social Security, and we are going to have an amendment on that on the floor. I suggest we listen to Bob Myers, chief actuary for Social Security for 21 years, in which he says the only protection that we need that is desperately needed is a balanced budget amendment so we do not monetize the debt. That is the only way to protect senior citizens.

Groups like the AARP, and others who are saying that we should not pass this are looking short term. They are not looking long term. We have to protect Social Security, and it is true it is running a surplus now, and I would love to balance the budget without that surplus, but starting in the year 2012 or 2013, it starts going in the red. We have an obligation to face this problem.

President Gerald Ford said:

> Unless we, as a Nation, face up to the facts of fiscal reality and responsibility and the sacrifices required to restore it, the economic time bomb we are sitting on will do us in as surely as any sudden enemy assault. We cannot go on living beyond our means by borrowing from future generations or being bailed out by foreign investors.

He is absolutely right. We have, and some will argue we have shown in 1993 we can do something. We did and to the praise of President Clinton we did do something. But you had an unusual confluence of things. You had a brand-new President in his honeymoon period, you had a Congress of both Houses that was in his party, and you had a President who had the courage to do something. What happened? Interest rates came down, even with the small gesture that we made at that point.

Listen to the lead witness against the balanced budget amendment 2 years ago before the House Budget Committee, Professor Laurence Tribe, of Harvard. I want to make clear he still opposes a balanced budget amendment: Listen to what he said:.

> Despite the misgivings I expressed on this score a decade ago, I no longer think that a balanced budget amendment is at a conceptual level an ill-suited kind of provision to include in the Constitution. The Jeffersonian notion that today's populace should not be able to burden future generations with excessive debt does seem to be the kind of fundamental value that is worthy of enshrinement in the Constitution. In a sense, it represents structural protection for the rights of our children and grandchildren.

People say, ''Well, let's just do it with statutory action.'' I voted for Gramm-Rudman, but as soon as it started to squeeze too much, we changed the law. It is just too easy. For people who say, ''Well, we're not going to pay attention to the Constitution''—JOHN ASHCROFT when you took that oath of office right over there, you took only one oath, to uphold and defend the Constitution. I cannot imagine any Senator, no matter how extreme, standing up and saying, ''Let's ignore the Constitution.'' That just is not going to happen. We are going to pay attention to it.

The language that we have devised, that we have cleared with a great many people, is constitutional in nature, and those who say we are violating the spirit of the Constitution by requiring more than a majority vote ignore the fact that eight times in the Constitution it requires more than a majority vote to prevent governmental abuse. Have we had governmental abuse in this area? I do not think anyone can say anything to the contrary.

I also hear, ''Oh, this is just a gimmick.'' I was in a press conference with OLYMPIA SNOWE, our new colleague in the Senate, when she was in the House, and a reporter said, ''Isn't this just a gimmick?'' And she responded, unfortunately with too much accuracy, ''If it was just a gimmick, Congress would have passed it a long time ago.'' And I am afraid there is some truth to that.

If it were just a gimmick, my friend—and he is my friend—Senator ROBERT BYRD, would not be working so hard against this. The reality is, this has teeth. That debt increase means something.

People say, ''Well, we have to show how we are going to do it. If they are talking in broad principles, I am all for, once this passes, spelling it out.

Let me give you one option, and that is we follow the present limits we set forth in our agreement through 1998 and then a combination of the Bush program for reducing the deficit and the Clinton program, something somewhat similar, neither of which did any great harm to anyone, that will do it by the year 2002.

I say to my colleagues who oppose this, who make these great speeches, ''We can do it without a balanced budget amendment,'' they insist we spell out what we are going to do, and I am for spelling it out in broad terms. But I think there is a responsibility on the part of those who say we can do it without a balanced budget amendment to spell it out.

We save at least, by the most conservative estimate, about $140 billion in interest and some people say as much as $600 or $700 billion in interest. But there is that substantial savings. There is not that savings on the other side.

Finally, Mr. President, let me just give you one illustration why we need this. Two or 3 years ago, I introduced a bill for long-term care, a problem that is going to escalate in this country. I had with it a half-percent increase in Social Security to pay for it. Two of my colleagues in the Senate, one of whom is still in the Senate, came to me and said, ''We really like your bill for long-term care. If you will just drop the taxes to pay for it, we would like to cosponsor the bill.''

My friends, that is our problem. Nothing is there to restrain us from doing that. Now, my colleague from Michigan and my colleague from Missouri may differ with me on whether or not we ought to have the program. That ought to be a legitimate area of debate. There should not be a debate that if we have the program, we have to be willing to pay for it, and if we are unwilling to pay for it, we cannot have the program. That is what it is all about. We need pay-as-you-go Government.

I hope this body will take a look not just at all the pressure groups that are coming at us right now, but take a look at future generations, take a look at those pages, take a look at your children and your grandchildren and ask: How do we best protect them?

Deficit reduction is a tax cut for future generations.

Do I make a little sacrifice myself so that my three grandchildren can live better? That is the real question. I do not have a hard time answering that. Are we going to have to make some unpopular decisions if we pass this? You bet. If it was easy, we would have done this a long time ago. That is why we need a constitutional amendment.

So I hope my colleagues will do the right thing—not politically but for future generations. The right thing clearly I think is adopting this balanced budget amendment.

Mr. President, I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank the Chair.

I rise today in strong support of the balanced budget amendment to the Constitution, and I would like to preface my remarks by extending a compliment to the Senator from Illinois for his extensive work over many years on this issue. Thanks to his leadership, we are already moving in the House and here in the Senate toward adoption of this after many years of debate.

In my judgment, the amendment would change the way Congress makes budgetary decisions by severely limiting the option to borrow money. Currently, when faced with demands for more spending, the Congress makes the easy choice to borrow money. Under the balanced budget amendment, Congress would be forced to make the tough choices, to either raise taxes or reduce spending elsewhere, unless it mustered the necessary supermajorities required to deficit spend.

With last week's historic vote in the House of Representatives to approve the balanced budget amendment by a bipartisan margin of 300 to 132, the American people sent a clear and powerful message to the Senate: It is time to restore fiscal control of the Federal budget and prevent politicians from increasing Government spending.

In my view, the balanced budget amendment to the Constitution embodies the spirit of the electorate that voted for a Republican Congress for the first time in 40 years last November,

and I believe that we in the Senate must not let them down.

When I was out on the campaign trail in Michigan in this most recent campaign, I encountered people all over the State. It did not matter where they lived. From Detroit to the Upper Peninsula, from Grand Rapids to Saginaw, north to south, and east to west, they all said the same types of things about the way Congress does business. They were totally perplexed and incapable of understanding why the Congress of the United States could not operate the way they did in their families or the way businesses did in trying to meet a bottom line of staying in the black.

I was constantly asked, ''Why is that the case? Can you make a difference?'' The one thing that was a clear note of consistent opinion across the spectrum was that the best and surest way to get the Federal Government under control was by adoption of a balanced budget amendment. The attitude in my State was not one of asking us to come up with a fancier bookkeeping way of handling Federal spending. They did not want me to come down here and say, ''Well, we will have a balanced budget amendment, but we will leave exceptions for this or that program; we will put something off budget and make you feel better about the bottom line.''

They said, ''Why can't you go down and do what we have to do every day in our lives here in Michigan?'' And that is what I came here to do.

Now, I have heard some people say in the course of the debate in the Judiciary Committee and already in the Chamber that this is not the way people behave. The families of the people of Michigan do not operate really in the black. They buy a house, and when they buy a house they have a debt. And if you put that debt into consideration, at the end of the year they still have that debt. They just make payments on the debt. And to them balancing the family budget really means that the amount of income they have is equal to the payments they make for the goods and services and the debts they encounter.

My response to those people, as I responded in the campaign was, ''But wait a minute. There is a very simple distinction here. Those people are spending their own money and we are spending the taxpayers' money.''

If people choose in their own lives to buy a house, I do not think that is the Federal Government's business. But if the Federal Government and those of us entrusted with the responsibility of spending over $1.5 trillion a year do not keep the public's interests in mind, I think we have made a huge mistake. And so in this campaign I got a clear message. It was a message that I should come here, that I should fight as hard as possible to put this country on a course to bring about a balanced budget as fast as possible and that the surest way to do it was with a balanced budget amendment. And so today I wish to speak about why that is so critical.

I believe that requiring a balanced Federal budget should no longer be a question for serious debate. For the past 25 years, the Congress has demonstrated its inability to manage effectively the Nation's purse strings. The national debt now stands in excess of $4.7 trillion. The Federal Government currently owes more than $13,000 for every man, woman, and child in America.

One of the major reasons for this explosion in Government spending and debt is that we have abandoned the implicit balanced budget requirements established by the Nation's Founding Fathers. Indeed, the Founding Fathers recognized that persistent Government deficits and the unfettered growth of Government had consequences for the long-term stability of our democracy and threatened our individual freedoms. The reason the Founding Fathers did not include a balanced budget requirement in the Constitution is because they felt it would be superfluous. Balancing the budget and reducing the outstanding debt were considered the highest priorities of Government. I think Thomas Jefferson summarized it best when he said that:

> The public debt is the greatest of dangers to be feared by a republican Government.

Because of this implicit balanced budget requirement, Government spending remained low, rarely exceeding 10 percent of our national income, for the first 150 years of this Republic. But starting in the mid 1930's, the rise of Keynesian economics gave politicians an economic rationale to increase Government spending. As a result, fiscal discipline was abandoned. Today, Federal spending as a share of our national income stands at 22 percent. Deficit spending has now become the fiscal norm. The purpose of the balanced budget amendment is to restore fiscal discipline upon the Congress by placing the balanced budget obligation in the supreme law of the land. Absent such an amendment, the Congress has proven itself incapable of making difficult spending decisions, given its free and easy access to deficit spending.

The amendment would contribute to a balanced budget by transforming the critical questions asked by Members of Congress who confront spending interests. Instead of asking merely, ''Is this a desirable spending measure or program?'' they will instead have to ask, ''Is this spending measure so desirable that we should either reduce spending for some other spending measure or raise taxes on the people to pay for it?''

The psychology of the budget process will also be transformed. No longer will spending interests be competing against the taxpayer for a portion of an unlimited budget. Rather, they will be competing against each other for a portion of a limited budget. No one doubts that Governors of States with balanced budget requirements will propose balanced budgets because they are obligated to do so. When the Congress is also obligated to do the same, I believe they, too, will propose balanced budgets. The details will inevitably be fought out in the budget process, where they should be. Without a balanced budget amendment, this Nation could be looking at Federal deficits in the trillions of dollars within 15 years.

All the opponents of the amendment want to talk about is the cost of reducing spending programs for special interests. But what about the economic costs of running high deficits and high levels of Government spending and taxation on the general public? The weight of economic evidence from around the world strongly suggests that as the size of government increases as a share of national income, the rate of economic growth and job creation declines. I was sent here by people who think it is time to put the welfare of the general public ahead of the special interests.

The proposed amendment does not read into the Constitution a mandate for any particular economic policy outcomes. It only restores the historical relationship between levels of public spending and available public resources. National solvency is not, nor should it be, a partisan political principle. It should be a fundamental principle of our Government.

Mr. President, I would like to spend a few moments on the question of judicial enforcement of the balanced budget amendment. There are many provisions of the Constitution that are effective in achieving their purposes, yet which do not require judicial enforcement. For example, the Senate does not introduce revenue bills despite the Court's refusal to involve itself in such political questions. The moral power of the Constitution itself serves as an enforcement mechanism.

The balanced budget amendment is largely self-enforcing and self-monitoring. Congress and the President are to establish procedures for compliance. Congress and the President are to monitor the actions of each other, and actions by the Congress and the President will be subject to even more effective monitoring by the public.

I would argue that the balanced budget amendment is already working, despite the fact that the Congress has not yet passed it. Indeed, the mere prospect of the congressional approval of the amendment has already forced congressional leaders to seriously consider a 7-year plan to reduce the growth rate of Government spending and balance the budget. Does anyone truly believe that this debate would be occurring in the absence of the debate over the balanced budget amendment?

Once the amendment is actually approved by both Houses of Congress, we will be under enormous political pressure to produce a balanced budget plan which achieves balance by the year 2002.

As the debate over the balanced budget amendment proceeds in the

Senate, I will address in more detail why we should not exempt any special areas of the budget from the balanced budget requirements. In essence these efforts are, in my judgment, nothing more than escape valves designed to alleviate the pressure on lawmakers to spend in different areas of priority than would otherwise take place. These exemptions violate the whole point of having a balanced budget amendment.

The Nation believes we already have enough tax revenue to balance the budget. In fact, the Congressional Budget Office projects that tax revenue collected by the Government will naturally increase from the $1.36 trillion in 1995 to $1.88 trillion in the year 2002. I know the people in Michigan, and I think most people across this country would agree, that $1.88 trillion is more than enough to run the Federal Government.

Finally, I am a strong supporter of the proposed supermajority requirements to limit tax increases. I think the inclusion of the tax limitation language would help avert the bias in our current system toward higher taxes. Although I am concerned about a balanced budget amendment that does not simultaneously place an explicit limit on taxes, I believe this can be accomplished through other means, not the least among them the wrath of an overtaxed electorate. Further, I believe that to truly limit the tax burden on the American people we must explicitly limit the total size of Government. It is for this reason I strongly support either legislation or a constitutional amendment to limit to a fixed percentage of our national income, except in times of emergency, the spending level of Government. Limiting total spending limits total taxes.

In my State of Michigan we have a similar government spending limitation in our State constitution called the Headlee amendment. Under that amendment, the size of State government is limited by holding State tax revenue to the same fraction of personal income that it was when the amendment passed in 1978. A blue ribbon commission appointed by Gov. John Engler to study the Headlee amendment recently concluded that it had been effective in limiting the growth of our State government.

This spending limitation proposal offered by Senator JON KYL does essentially the same thing as the Headlee amendment. It requires that the Federal Government only grow in size relative to the size of the national income. I think such a spending limitation concept ought to be a key ingredient as we proceed to the subsequent implementing legislation to balance the budget.

In conclusion, before we begin the necessary task of limiting the growth rate of Government spending, we ought to be able to assure the American people that any consequent pain will not be for naught, that cuts in spending will finally translate into reduction in the Federal deficit. A balanced budget amendment to the Constitution would restore a necessary, basic, and broad governing principle for our country; namely, that Government should spend no more than it takes in.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise today to oppose the proposed balanced budget amendment to the U.S. Constitution. I also rise as a person who I hope can be described as one of the strongest advocates of actually balancing the Federal budget. I believe the American people really want a balanced budget more than they want a balanced budget amendment. Although this may seem strange to a lot of people—and it is going to be very important to make this point both here and across America as we have this debate—I think passing the balanced budget amendment will make it less likely rather than more likely we will actually achieve a balanced budget in the next few years.

A number of respected authorities have raised a variety of significant points of concern with regard to the amendment itself. Some say the problems related to the role of the courts and the power it might confer on unelected judges to set our national budget policy is a reason not to vote for this.

Some talk of the damage the proposal could do to Social Security unless some changes are made to the current draft. I think that is a very, very important issue.

Others say there will be unintended changes to the Presidential impoundment authority. That is something we have to look at.

And still others say that unnecessary and possibly dislocating restrictions on our ability to establish capital or investment budgets will be a problem, producing the very surprising result that the Federal Government could end up being the only government anywhere that we know of that does not have a distinction between a capital and operating budget.

These are all very serious concerns and there are other ones as well that are being discussed and will be discussed in the coming weeks as we consider the balanced budget amendment.

My principal objection to the proposed balanced budget amendment is that it will most likely damage our efforts to reduce and eliminate the Federal deficit. I believe strongly in eliminating the Federal deficit. Along with health care reform, that was the issue on which I focused my campaign for the U.S. Senate, and it is the issue on which I focused the greatest amount of my time during the 2 years I have been here. But there is evidence that suggests strongly that this proposed constitutional amendment will only undercut the work I have had a chance to do, the work that others have done to bring down the deficit and clean up the mess that was created throughout the 1980's.

First, consider the basic argument of those who support the proposed amendment. The essence of the arguments made by supporters of the amendment is the assertion that a constitutional amendment is absolutely necessary in order to spur lawmakers into making the tough decisions they are otherwise unwilling to make. The amendment's supporters maintain that once the constitutional requirement is in place, lawmakers will suddenly make the tough decisions because they will be able to say this to their angry constituents: I am sorry I cut your program, but the Constitution made me do it.

I find it hard to believe that kind of conversation is going to really occur, but that is in effect what is being suggested, that Members of Congress will suddenly do what they must do and should have done a long time ago because they will be able to say, ''My hands are tied. I am going to have to hurt you by cutting this program.''

The notion that lawmakers require the Constitution of the United States to provide political cover is the defining rationale for the supporters of this proposed amendment. After all, if a constitutional refuge were not required, then the need for this amendment would vanish.

This assessment of our political process, I believe, ignores a basic political reality, that those who require political cover in order to make tough decisions under our current rules may end up being the very same people who will find a way not to make the tough decisions even if the balanced budget amendment is passed by this Senate and even if it does become a part of our Constitution.

As the distinguished economist Herbert Stein noted in his testimony before the Judiciary Committee:

> Objection to a balanced budget amendment is not an objection to balancing the budget. It is, instead, objection to using an appeal to a traditional symbol as a smokescreen behind which to hide unwillingness to face our real problems.

The only way we can balance the Federal budget is by enacting specific legislation that spells out a series of individual spending cuts that add up to sufficient cuts to eliminate that deficit. But the proposed constitutional amendment does not contain one single spending cut. The sponsors of it do not have to put their name on the line for any cut in order to go about their States and say: I fought to balance the budget.

I am not sure the people of the country realize this. I think what they are saying is: Balance the budget. I think many folks think the balanced budget amendment will also include the identification and, in fact, requirement of a series of cuts to achieve that. But there is nowhere in the balanced budget amendment where any of the courage that is required to identify specific

cuts is demonstrated. It is just the reverse. It is just the reverse. In fact, in many ways, it is the easiest vote in the world.

Mr. President, this raises a second point. Many of the supporters of the proposed constitutional amendment are unwilling to outline those spending cuts they would pursue in order to balance the budget. The majority leader of the other House, RICHARD ARMEY, a strong proponent of the constitutional amendment, has been quoted as saying that if Members of Congress knew what it took to comply with the proposal ''their knees would buckle.''

That is a candid statement, but a very disturbing one. Majority Leader ARMEY is also reported as saying that:

> Putting together a detailed list beforehand would make passing the balanced budget amendment virtually impossible.

Mr. President, this second point is a natural outflow of the underlying political view held by the amendment's supporters. That view I think is based on cynical assumptions about the American public and our democratic process. It implies that, if the people realized what it would take to balance the budget, they would just refuse to support such action.

Let us consider for a minute what this reasoning suggests. I think it assumes a very low opinion of the American people, the electorate. Supporters suggest that, rather than deal honestly with the people, we should evade, delay and dissemble. Mr. President, in my view that perception of the American people is a good example of the politics as usual that got us into this mess in the first place, and which I believe voters have been rejecting, not just on November 8 of last year but for the past several years where we have had two monumental elections.

Mr. President, I mentioned that I ran on the issue of deficit reduction in 1992, and, as a matter of fact, so did all of my three opponents in that race. I strongly believe that one of the reasons for my victory was that I spoke specifically with the voters about the deficit issue. While others supported the balanced budget amendment, they generally refused to specify how they would reduce the deficit. I opposed the balanced budget amendment but presented a specific 82-point plan—that has grown since—that pointed to exactly all the different ways we could cut the Federal budget which would add up to the elimination of the Federal deficit over 5 years.

Mr. President, despite the statements that nothing has been done here in the last couple of years, and that this institution is incapable of cutting spending without a balanced budget amendment, I can tell you that during the past couple of years many of those specific cuts that I had identified—and that many others had identified—were included in the President's deficit reduction package in 1993, passed, and became law. Why did the balanced budget amendment advocates refuse to even take seriously the progress that has been made in reducing the deficit during the past 2 years? Well, maybe it is not good politics. But it is unfair to the American people to continue to tell them that nothing has been done, that no effort has been made, that no progress has been made, and that no tough votes have been taken, because they have.

I regret that no Member of what is now the majority party chose to participate in either the other House or this House in trying to help us make those specific cuts. But that does not take away from the fact that those cuts were made. Why are we not out here telling the folks across America that, for example, we significantly cut hundreds of millions of dollars out of overseas broadcasting, Radio Free Europe and Radio Liberty? Why are not we telling the American people that we finally had the guts to get rid of the superconducting super collider, and the wool and mohair subsidy? My constituents say, ''These agriculture programs are eating us alive.'' The truth is we eliminated a program like that. It was not always fun for me with several thousand wool farmers in Wisconsin. But that was done here in this body in the last 2 years, and we are not telling the American people something that they need to hear.

This week I was informed that one of the cuts that we achieved, one of the changes we made, is actually working out better than the CBO estimated. I believe the estimates were that the FCC spectrum auction would achieve $7 billion. I hear now it may end up being $10 billion that we are now able, through a more sensible proposal, to use and to help reduce the Federal deficit. That story is not being told out here because, if that story were being told out here, the advocates of the balanced budget amendment would have an awful hard time saying what they always say; that is, there is no way to reduce the deficit and balance the budget without a balanced budget amendment.

I find it amazing that this is glossed over. And I believe that it is our obligation, as we go through this debate of the balanced budget amendment, to say that during the past 2 years—although certainly I would not describe it as the Camelot of deficit reduction—it was a very good start, and it helped our economy. And it reduced the deficit significantly. Now it just a question of finishing the job, and we have the power to do that today. And that is what we should be focusing on, not a balanced budget amendment that simply gives political cover.

So, Mr. President, I think it is interesting to realize that the ratification of the proposed constitutional amendment itself may be threatened by the failure of its supporters to be specific and direct to the American people about how it is going to be achieved. More importantly, even if the proposed amendment is ratified, the cause of fiscal prudence and deficit reduction could be severely jeopardized if we do not have the broad-based support of the Nation and of the people of this country. In the end without that support, without the support of the American people, an unpopular plan would be overturned, and we would be left with the balanced budget amendment that only serves to degrade and undermine the authority of our laws, and even worse the authority of our Constitution.

Mr. President, it should be reiterated that a majority of those supporters of the proposed amendment who were here in 1993 opposed the President's deficit reduction package. That package included many difficult provisions, including significant cuts to very popular programs. But this is precisely the kind of specific reduction package that will have to pass in this body, if we are ever going to really have a balanced budget, not a balanced budget amendment.

(Mr. COATS assumed the chair.)

Of course, if we are going to have what the American people really want, which is a balanced budget, I think one certainly can favor reducing the deficit but oppose a specific plan. But, Mr. President, many of the supporters of the proposed balanced budget amendment oppose any specific plan. In their best of all worlds, you do not propose a plan and identify the cuts, but you say that you supported the balanced budget amendment and you have done your job. You can go home and start focusing on other issues.

On another matter, some supporters of the proposed constitutional amendment promised to offer a specific plan of action but they promised to do it only after the joint resolution is adopted by both Houses of Congress after it is sent out to the States but before it is ratified by the States. But, if we apply those folks' own test, this would doom the proposed constitutional change because what it means is, even though it may have passed the House and the Senate and it is sent out to the States, the plan would be revealed before ratification. The specifics would come out, those same specifics that would make our knees buckle and that would make it impossible to pass the proposed amendment in Congress presumably would be so terrible and so upsetting to the States that they would not pass the balanced budget amendment.

Perhaps the supporters of the constitutional change would just keep the specifics secret throughout the whole ratification process. Taking this argument to its logical conclusion—the argument that we should not lay out the plan as we passed this amendment—the reasoning of the supporters of the proposed constitutional amendment dictate that a specific plan apparently could not be offered until after the States had ratified the amendment.

In fact, under this argument, no plan could be offered until the first year the article was to take effect which, of

course, is fiscal year 2002 at the very earliest, for not until the constitutional mandate is in force would the needed political cover be in place to protect those lawmakers that amendment supporters maintain are too hesitant to act without that protection.

Is this what the balanced budget amendment supporters want? Is that what they are saying? We are going to keep a tight lip in 1995, 1996, 1997, 1998, 1999, 2000, and 2001, and then suddenly in the year 2002 we are going to magically present this plan that will eliminate the Federal deficit, at which point, I assure you if we do this, will dwarf the deficit that we have now? Political cover will have made sure that this institution did not have to act during that time period, and it will not act. It will simply stand back and wait for the States to decide whether to pass this amendment.

This reasoning produces the absurd result that Congress would be paralyzed to act to reduce the deficit until the first balanced budget is required, which again is fiscal year 2002 at the earliest.

Mr. President, we know any delay in acting to eliminate the deficit only makes future action that much more difficult and politically distasteful. Waiting clearly makes it harder. In the world depicted by the amendments supporters, delay could be fatal for efforts to balance the budget as legislators would be confronted with an increasingly more difficult task and increasingly more difficult choices.

Thus, Mr. President, even using the reasoning of the balanced budget amendment supporters, adoption of the amendment would make it more difficult to actually balance the budget. I think that kind of delay is a tremendous disservice to our economy, and especially to our children and our grandchildren. As a result of this action by the Congress, the States will end up with a bigger debt and a bigger deficit. The specific plan to reduce the deficit must be passed before a constitutional amendment is sent to the States for ratification.

A budget plan is not only a safeguard against later inaction, it ensures that Congress deals with the American people honestly. I know I have not been the only Member of the Senate to propose a specific plan. I believe my colleague on the other side, the Senator from Colorado [Mr. BROWN], has put together a similar kind of specific plan to eliminate the Federal deficit. I was delighted to work with him during the past 2 years on a bipartisan basis, and with Senator KERREY of Nebraska, to craft that kind of a proposal. We signed onto it and we signed onto the specifics. No, we did not succeed in the vote on the floor, but we worked together to identify the cuts. That kind of approach is the only way we are going to reduce the deficits, not by letting Members of the Senate off the hook by providing them with the political cover of adopting a constitutional amendment that does not say one single thing about what should be cut and when and who should get hurt.

Professor Stein, in his testimony before the Judiciary Committee, commented on this very point. He testified:

> I believe it is basically improper and unfair to propose a balanced-budget amendment without revealing how the balance would, or might, be achieved—by what combination of expenditure cuts and tax increases. I do not think the American people should be asked to commit themselves to a constitutional limit on their future decisions without knowing what would be involved.

Mr. President, a specific plan of deficit reduction is the only way the budget will be balanced.

Passing a specific plan before the proposed amendment is sent to the States helps preclude delay and evasion. Without it, Congress could adopt the proposed amendment, declare victory, and do absolutely nothing. It is a great formula for politicians who have to run for reelection. They can sit back and say: Let the States do it; it is not my problem. I voted for the balanced budget amendment. It is up to the States now to worry about the Federal deficit.

That is what might be called a free pass. In fact, I think it is the equivalent of a politician winning the lottery. To not even have to talk about what cuts, to be able to say for the next 7 years it is up to the States to ratify the constitutional amendment, is like the political jackpot, because you do not have to say where the cuts should come from. That is what is going on here. It is punting to the States. It is leaving it up to the elected State legislatures instead of the people sent here, who took an oath to solve the Nation's problems themselves. That is what this balanced budget amendment is about.

Mr. President, equally as important, before the voters and local governments and State legislatures are asked to ratify the amendment, I think they are entitled to know what the supporters of the balanced budget amendment mean to do, before they modify the Constitution of the United States to endorse that action. I believe the Constitution is our great national contract. Before the people are asked to support a change in that contract, they are entitled to read the fine print.

Mr. President, there is at least one other issue that should raise serious doubts in the minds of Members. That is this clamor for a middle-class tax cut or an across-the-board tax cut by many of the same people who are saying they are dedicated to a balanced budget amendment and to the balanced budget. I think it is obvious to almost any American that this makes no fiscal sense. To give a big tax cut now, either to the middle class or across the board, and to maintain you can have a balanced budget amendment in the coming years is flim-flam, voodoo mathematics. The American people do not believe that we can have a tax cut and balance the budget.

I will have more to say on this subject later in the debate.

For now, I only want Members to note this obvious inconsistency and to consider that the two apparently contradictory positions really share one thing in common: They both flow from the politics of the free lunch.

In closing, let me add a brief personal note about one of the principal sponsors of the amendment, the senior Senator from Illinois [Mr. SIMON]. Unlike many who support the proposed amendment, he has consistently fought for deficit reduction and has taken tough stands in that effort, including voting for the President's deficit reduction bill. That vote, obviously, was essential, as was the vote of every Senator who voted for it, including, of course, the Vice President of the United States.

Senator SIMON has joined with a number of us who are questioning the wisdom of the tax cut bidding war that has started. So I want to say, out of great respect for the Senator from Illinois, that the supporters of the proposed amendment could have no greater champion than Senator SIMON. Though he and I differ on this issue, I regret very much his decision not to seek reelection.

I yield the floor.

THE TAXPAYERS DESERVE A BALANCED BUDGET AMENDMENT

Mr. ASHCROFT. Mr. President, when our ancestors were on the verge of a revolt against the British Government, Edmund Burke rose in the House of Commons to urge his fellow Members of the House of Parliament to refrain from using force to impose taxes on those in the United States, which were then Britain's American Colonies. Burke had the courage and the wisdom to speak for conciliation. He foresaw what no one else did—that if England persisted in taxing this country, it would lose its empire and would fight a long war for a bad cause. Burke told the Members of Parliament that in attacking America through taxation, they were really attacking their own British liberties.

As we discuss the balanced budget amendment, we usually talk about the impact of runaway spending on our economy and on our future. Those are our fundamental considerations. But we also must not lose sight of considerations that are far more fundamental and profound. Protracted deficit spending empowers the central Government with the means to undermine our basic liberties.

We hear it said in this Chamber, and by the media, that the American people are selfish because they want the benefits of Government without the cost of taxes. We forget that the power to impose taxes is a standing threat to freedom.

Mr. President, the acknowledgment that we can only control Government by controlling its capacity to take our money is as old as the idea of democracy. Money was—and is—the source of

the Government's basic power. The tale of history bears testament to this truth. The Magna Carta prescribed that the King could not impose taxes except through the consent of the Great Council. Charles I was executed because he tried to govern without seeking the consent of Parliament in spending public money. Let us not forget that the American Revolution itself was rooted in the relationship between taxation and representation.

Congress today does not have to vote to raise more revenue in order to spend more money. Instead, our legislature takes the debtor's path: Spend and beg; spend and plead; spend and borrow. Our current system lets the Government spend on credit and sign the taxpayers' name on the dotted line. When the credit card bill comes due, it is the American people who are confronted with the dilemma. They can either send more money to Washington to pay the bill or default on the debt incurred in their name.

When the American people express the belief that Government is out of control—as they did in this past November's election—they, indeed, are correct. For too long, this body has assembled to satisfy the appetites of narrow interests at the public's expense. The American people are fed up with a Congress that spends the yet unearned wages of the next generation.

Mr. President, deficit spending is not only a threat to our prosperity and our children's future, it is the method by which Washington's imperial elite has circumvented the public, the law, and the Constitution. Deficit spending allows beltway barons to run this country without regard for the people. Whether it is pork projects or political payoffs, the Washington elite know how to play the game.

That must end. A balanced budget amendment will compel the Members of this body to raise taxes if they want to spend more money. What better way to restrain spending than that? A balanced budget amendment will make it clear to all that the special interest is rewarded when the citizen is penalized and that we should refrain from penalizing citizens to reward special interests.

What will a balanced budget amendment mean? It will mean accountability to the Constitution and restraint on our spending—in short, it will mean integrity in Government. It will rightly return the power of the purse to the people.

Two centuries ago, in a nation across the sea, Edmund Burke reminded his fellow Members of Parliament of a fundamental principle. Burke said:

> * * * the people must in effect themselves * * * possess the power of granting their own money, or no shadow of liberty [can] subsist.

Mr. President, if we truly wish to preserve the liberties first inscribed into the Magna Carta and then brought to these shores—and preserved through the blood of revolutions on two continents—it is imperative that we return to the people the power of the purse.

We must take the American Express card away from the Congress and eliminate the expense account of the beltway barons. We must make the Members of this body accountable to the taxpayers—not to the lobbyists. We can do this if we have the will.

The balanced budget amendment is not a quick fix. But it is real reform and it will be felt. I know—from my service as Governor of one of the States—that 49 States, in effect, require a balanced budget. It is not a gimmick. We balance the budget.

I balanced budgets 8 years in a row while I was Governor. As a matter of fact, we put into place a cash operating reserve fund of several hundred millions of dollars. We established a rainy day fund—such as the emergency fund that the senior Senator from Illinois has suggested we have for the Federal Government—because we knew there would be episodes of fiscal crisis and financial difficulty in the future that we would need to meet. And we knew, since we were required by our constitution to have a balanced budget, that we would need to prepare for it in advance.

So, Mr. President, let me say it again for emphasis. A balanced budget requirement is not a gimmick. It is not a quick fix either, but it is real reform. It will reestablish the responsibilities observed in this country for decades—prior to the last two or three—that we would have balanced budgets except in time of war.

A balanced budget is a political reform that will be felt first and foremost by the imperial elite who have long run this town. It will be felt by a brood of beltway barons—both elected and unelected—who are robbing the next generation of their inheritance. And, most importantly, it will be felt by the American people who will have succeeded in restoring their right to self-governance.

There are those in this body, Mr. President, who suggest to us that we somehow have to forecast the next 7 years of priorities in spending for the United States of America in order to give allegiance to a balanced budget amendment. Nothing could be further from the truth as far as I am concerned.

I know of no State which tries to lock itself into a 7-year budget which would deny subsequent legislatures the opportunity to adjust to priorities, to respond to circumstances, and to create budgets which meet the real needs of the individuals in the jurisdiction at the time.

When President Kennedy came before the United States of America—and before the House and Senate—and suggested that we as a nation, adopt and embrace an aspiration to put a person on the Moon as an expression of our ability to expand our technological and scientific awareness, he did not have every answer for every way in which everything would happen, but he expressed it as an aspiration—an aspiration toward greatness.

The desire to climb a mountain does not always contain in it all the plans and processes and procedures, but you commit yourself to the objective and you launch your endeavor and you work your way toward the objective. And it is essential that we do that at this time.

The suggestion that our aspirations regarding Federal spending can be accomplished without a balanced budget amendment to the Constitution calls history a liar. For decades and decades, the United States of America has conceded the necessity—but never developed the discipline—to get this job done. It is time now that we make this commitment to a noble objective, to protect the birthright of a generation of Americans yet to come, to protect the opportunity for productivity and competitiveness for the next generation. It is time that we made this commitment for ourselves —and for those who follow us.

Mr. President, I am grateful to have had this opportunity to address this body on these issues. I note that Senator HEFLIN desires to speak, so I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise again to express my support for a constitutional amendment requiring the Federal Government to achieve and maintain a balanced budget. The time has finally come to pass this legislation and send it to the States for ratification. This amendment is not a gimmick, nor is it chicanery; it is good common sense.

We have seen in the House, on January 26, overwhelming, bipartisan support and passage of a balanced budget amendment. The vote in the House 300 to 132, 12 more than the two-thirds majority required for passage of a constitutional amendment, proves that the time for action is now. This momentum, shown by the House, is one which I believe will only grow as the Senate and eventually the State legislatures debate and vote to pass this vital amendment to our Constitution.

I commend the Members of both parties in the House, who formed an alliance to produce the vote, which was a culmination of over 10 years of House deliberation and debate. I applaud all for their determination to see this legislation succeed, as well as the many House Democrats who have worked unceasingly toward this victory.

And, as the waves of this tide roll into the Senate we should be aware of where the original swell began, the American people.

Since I first came to the Senate in 1979, every Congress I have introduced legislation proposing a constitutional amendment to balance the Federal budget, and I have dedicated myself to many years of work with my colleagues to adopt a resolution which

would authorize the submission to the States for ratification of a constitutional amendment to require a balanced budget.

For much of our Nation's history, a balanced Federal budget was the status quo and part of our unwritten constitution. For our first 100 years, this country carried a surplus budget, but in recent years this Nation's spending has gone out of control. Indeed, the fiscal irresponsibility demonstrated over the years has convinced me that constitutional discipline is the only way we can achieve the goal of reducing deficits.

As you know, in 1982, the Senate did pass, by more than the required two-thirds vote, a constitutional amendment calling for a balanced budget. There were 69 votes in favor of it and that time. It was sent to the House of Representatives, where, in the House Judiciary Committee it was bottled up. The chairman would not allow it to come up for a committee vote, in order that it might be reported to the floor of the House of Representatives.

In order to bring the measure up for a vote in the House of Representatives, it was necessary to file a discharge petition. This is a petition that has to be signed by more than a majority of the whole number of the House of Representatives, and then it is brought up and voted on without amendment. The Senate-passed amendment failed to obtain the necessary two-thirds vote that was required in the House of Representatives at that time.

In the 99th Congress, after extensive debate, passage of a balanced budget amendment by the Senate failed by one vote—but got 66 votes. During the 101st Congress, I supported a measure which passed the Judiciary Committee, but it was never considered by the full Senate. In the 102d Congress, the Judiciary Committee favorably reported a balanced budget bill, but since an amendment failed to pass the House of Representatives by the necessary two-thirds vote, this killed the possibility of favorable action by the Senate.

In the 103d Congress, the Senate narrowly defeated an amendment, which I cosponsored, by a vote of 63 to 47—4 votes short of the 67 votes needed for passage.

All the while, there has been considerable debate, various articles have been written in numerous publications, and editorials have appeared in countless newspapers. Many speeches have been made on the floor of the Senate, and I have made numerous speeches advocating the adoption of a constitutional amendment requiring a balanced budget.

Mr. President, I hope the time has come to finally adopt this long-overdue amendment and begin to move toward our goal of a balanced Federal budget.

Section 1 of the amendment requires a three-fifths vote of each House of Congress before the Federal Government can engage in deficit spending. A 60-percent vote in the Senate is a very difficult one to obtain. This requirement should establish the norm that spending will not exceed receipts in any fiscal year. If the Government is going to spend money, it should have the money on hand to pay its bills.

Section 2 of the amendment requires a three-fifths vote by both Houses of Congress to raise the national debt. In addition to the three-fifths vote, Congress must provide by law for an increase in public debt. As I understand it, this means presentment to the President, where the President has the right to veto or sign. If the President chose to veto the bill, it would be returned to Congress for action to possibly override the veto. It is also important to note that section 1, regarding the specific excess of outlays over receipts, contains this same requirement that Congress act by law.

Section 2 is important because it functions as an enforcement mechanism for the balanced budget amendment. While section 1 states outright that ''Total outlays * * * shall not exceed total receipts'' without the three-fifths authorization by Congress. Therefore, section 2 will require a three-fifths vote to increase the national debt. This provision will increase the pressure to comply with the directive of this proposed constitutional amendment.

In my judgment, section 2 puts teeth into the constitutional amendment. We have had many statutory enactments that say we are going to have a balanced budget. We have a procedure under this constitutional amendment that makes it more difficult to engage in deficit spending. This is a procedure by which, if there is an excess of outlays over receipts—and that means deficit spending during a fiscal year—we must approve that specific amount by a three-fifths vote of the whole membership of both Houses. That in and of itself is fine, but it is largely directory. It does not have an enforcement procedure. An enforcement procedure is provided by section 2 of the amendment, which is the public debt provision.

The public debt provision makes it more difficult for Congress to vote a deficit. It means that if we vote a deficit and fail to increase the public debt, then Government will come to a halt. If we do not increase the public debt, eventually, we run on a balanced budget.

Therefore, section 2 has the intention of making it more difficult. So I say it is not for the purpose of making it harder to pay our debts, it is to make it harder to go into deficit spending and to give an enforcement procedure—a process, a mechanism that is so important because it is not just words that we could pass by and ignore.

Other than just being directory, the amendment, by way of section 2, has some teeth and that is what is so important if we are going to do away with deficit spending and operate so that we do not spend any more money than the amount coming into the Government. That is what we are trying to achieve here.

Section 3 provides for the submission by the President of a balanced budget to Congress. This section reflects the belief that sound fiscal planning should be a shared governmental responsibility by the President as well as the Congress.

Section 4 of the amendment requires a majority vote of the whole number of each House of Congress any time Congress votes to increase revenues. This holds public officials responsible, and puts elected officials on record for any tax increase which may be necessary to support Federal spending.

Section 5 of the amendment permits a waiver of the provision for any fiscal year in which a declaration of war is in effect. This section also contains a provision long-supported by myself—that of allowing a waiver in cases of less than an outright declaration of war—where the United States is engaged in military conflict which causes an imminent and serious threat to national security, and is so declared by a joint resolution, which becomes law. Under this scenario, a majority of the whole number of each House of Congress may waive the requirements of a balanced budget amendment.

I firmly believe that Congress should have the option to waive the requirement for a balanced budget in cases of less than an outright declaration of war. Looking back over the history of our Nation, we find that we have had only five declared wars: The War of 1812, the Mexican War, the Spanish-American War, the First World War, and the Second World War.

The most recent encounters of the United States in armed conflict with enemies have been, of course, undeclared wars. We fought the gulf war without a declaration of war. In addition, we fought both the Vietnam and Korean actions without declarations of war.

This country can be faced with military emergencies which threaten our national security, without a formal declaration of war being in effect. Circumstances may arise in which Congress may need to spend significant amounts on national defense without a declaration of war. Congress and the President must be given the necessary flexibility to respond rapidly when a military emergency arises.

In the future, there could be a war like the Vietnam war—which went on for 11 years. Without a waiver for situations regarding less than an outright declaration of war, each year you would have to waive the constitutional amendment pertaining to a balanced budget by a three-fifths vote. We might look back and we would see that the vote to withdraw the troops from Vietnam carried by only eight votes. The difference between a majority and a three-fifths vote is a difference between 51 and 60, which is 9 votes.

As I previously stated, the United States has engaged in only five declared wars, yet the United States has engaged in hostilities abroad which required no less commitment of human lives or American resources than declared wars. In fact, our Nation has been involved in approximately 200 instances in which the United States has used military forces abroad in situations of conflict. Not all of these would move Congress to seek a waiver of the requirement of a balanced budget, but Congress should have the constitutional flexibility to provide for our Nation's security.

Twice since the end of the Second World War, first in Korea and then in Indochina, this Nation has been heavily engaged in armed conflicts abroad. In other instances, American troops have been sent to foreign countries in times of crisis—Lebanon in 1958, and the Dominican Republic in 1965. Other critical situations, including the confrontation in the Formosa Straits in 1955, and the Cuban Missile Crisis in 1962, have been met by use of American military forces.

I think it is wise to look at some of the other instances in which we have had undeclared war and to see how serious they were. During 1914 to 1917, a time of revolution in Mexico, there were at least two major armed actions by United States forces in Mexico. The hostilities included the capture of Vera Cruz and Pershing's subsequent expedition into northern Mexico.

In 1918, Marines landed at Vladivostok in June and July to protect the American consulate. The United States landed 7,000 troops which remained until January 29, as part of an allied occupation force. In September 1918, American troops joined the allied intervention force at Archangel and suffered some 500 casualties.

In 1927, fighting at Shanghai caused American naval forces and Marine forces to be increased. In March 1927, a naval guard was stationed at the American consulate at Nanking after national forces captured the city. A United States and British warship fired on Chinese soldiers to protect the escape of Americans and other foreigners. By the end of 1927, the United States had 44 naval vessels in Chinese waters, and 5,670 men ashore.

When a pro-Nasser coup took place in Iraq in January 1958, the President of Lebanon sent an urgent plea for assistance to President Eisenhower, saying Lebanon was threatened by both internal rebellion and indirect aggression. President Eisenhower responded by sending 5,000 marines to Beirut to protect American lives and help the Lebanese maintain their independence. This force was gradually increased to 14,000 soldiers and marines who occupied strategic positions throughout the country.

The most recent military involvement of the United States in an undeclared war is, of course, the Persian Gulf war. Although the actual gulf war lasted just over a month, this country had a peak strength of 541,000 troops. In addition, the Department of Defense estimates the cost of operation Desert Storm at $47 billion.

We should recall the circumstances which occurred on January 12, 1991, when the Senate, agreeing with the House, voted by a slim margin of 52–47 to approve the use of force to stop Iraqi aggression against the State of Kuwait. This slim margin illustrates how difficult it would be without such a provision, to achieve the needed 60 votes to take a budget into deficit posture in order to finance the gulf war. Thus, circumstances may arise in which Congress may need to spend significant amounts on national defense without a declaration of war. Congress and the President must be given the necessary flexibility to respond rapidly when a military emergency arises.

Section 6 of the amendment permits Congress to rely on estimates of outlays and receipts in the implementation and enforcement of the amendment by appropriate legislation.

Section 7 of the amendment provides that total receipts shall include all receipts of the United States except those derived from borrowing. In addition, total outlays shall include all outlays of the United States except those for repayment of debt principal. This section is intended to better define the relevant amounts that must be balanced.

Mr. President, the future of our Nation's economy is not a partisan issue, which was proven with the recent vote of the House. Furthermore, the problem of deficit spending cannot be blamed on one branch of Government or one political party. Similarly, just as everyone must share part of the blame for our economic ills, everyone must be united in acting to attack the growing problem of deficit spending. I recognize that a balanced budget amendment will not cure our economic problems overnight, but it will act to change the course of our future and lead to responsible fiscal management by our national Government.

Mr. President, I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I thank the Chair. I will not be long.

I come here this afternoon to speak in favor of the balanced budget amendment. This is not a surprise to my colleagues. I have been in support of a balanced budget amendment now for quite some time. I wish to add my voice to the voices in support of those who have up to this point indicated their support for the balanced budget amendment.

I would like to give one or two arguments that I believe are very important as we consider this very important amendment to our Constitution.

There is no question that we should not amend our Constitution very often and unless the reason is very, very important. We have only had 27 amendments to our Constitution over our history, so when we consider an amendment to our Constitution we clearly have to consider whether or not that amendment is of great importance. If it is not, we should not amend the Constitution.

In this case, we have to ask ourselves whether or not financial responsibility, however it is defined, is a very important measurement and indicator of how our country is functioning at the Federal level and whether those who are entrusted with the responsibility of presiding over the Federal Government have a responsibility to be financially responsible.

I think the answer is clearly yes. I do not think any of us, whether we favor or oppose the balanced budget amendment, would argue that we have a responsibility to exercise control and good judgment over our Nation's finances.

In my opinion, one need not look very far back in our history to conclude that enough time has gone by during which time we have not exercised financial responsibility to argue very strongly of the need for the balanced budget amendment.

Let us not forget that from 1789 to 1978, we had accumulated a total of less than $1 trillion of debt. In all the years, almost 200 years of history, our country had accumulated less than $1 trillion of debt.

In the 16 or 17 years since then, we have gone from less than $1 trillion to almost $5 trillion. I do not think anybody in the Senate would argue that the past 16 or 17 years is an indicator of financial responsibility; that there is no need to pass a balanced budget amendment because the Congress and the administrative branch of Government have been acting in a responsible way.

I do not think that argument can be made. In fact, any economist who would look at our present level of debt, which is about two-thirds to 70 percent of our gross national product, would argue that this is a very unhealthy and dangerous level of debt for our country to be in. So in terms of our history over the past 15 years, 17 years, there is no indication that we are prepared to exercise financial responsibility absent something more than what we have on the books now, which is basically nothing, by way of constraint.

I do not think any of us would argue that we are not in the process now of leaving to our children an enormous debt which will cloud their lives, make their lives less happy, make them less able to take care of their needs and their generation. We are head over heels in the process of adding to the debt and providing to our children that kind of a yoke around their neck. We should not do it. We are not able to stop ourselves. And so I think that argues for the need for a balanced budget amendment.

Oh, yes, there are those who say, ''Well, look at what we have done over

the past several years.'' I voted for the budget that is now in the process of reducing our debt. But we all know it is a quick fix or a short fix. We all know that what we voted for is not going to bring down our deficit to a proper level, not even going to bring us within hailing distance of a balanced budget in the foreseeable future and that, indeed, after these 3 years of reducing the Federal deficit, our deficit is going to start to increase in the outyears.

There is nobody suggesting we are prepared to make the hard decisions that will be required to bring what will be an increasing deficit into balance without something more than what we have on the books now, which is basically nothing, by way of restraint.

So I think it is clear that we have demonstrated we need more on the books, more restraint, more legal mechanisms, and, if you will, a constitutional amendment for a balanced budget.

Now, there are those who say, ''But this amendment is draconian. This amendment is something that will tie our hands. This amendment that we are considering right now, although it does lay on the books in the Constitution a requirement to balance the budget''—and that is a good idea in concept—''we do not like.''

That is fine. Let us come down here now and try to change that amendment. Let us come down here now and try to improve that amendment.

There are those who say we have to get Social Security out of that constitutional amendment consideration. I agree. And I support that. So let us see if we can argue it through and get to an elimination of Social Security as part of this constitutional amendment to balance the budget.

There are those who say we need some provision for capital outlays every year, that States that have balanced budget requirements in their constitutions have a provision for capital outlays. So, fine, let us work to get that in this constitutional amendment.

There are those who say that we should not be required to balance our budget every year, that that would not be a smart economic move. Fine. Let us see if we cannot get, instead of the 60-vote requirement, which does exist in this constitutional amendment, which would allow us to unbalance the budget in any year for any reason if we can muster a 60-percent vote in either House of the Congress—to those who say that is draconian, let us try to amend that to 55 percent, 51 percent of the vote.

If you do not believe in that, if you do not believe in coming down here to try to amend this amendment to the Constitution so that it more nearly conforms to what your ideas of what the balanced budget should look like, if you do not want to even argue that, then I would conclude that you do not want a balanced budget; that you do not believe in balanced budgets; that you do not believe we have a responsibility in normal years to balance our books.

If you do not believe that, then you ought to come down and say, well, that is the way I would argue it and this is the way, and maybe you can convince us and the American public that you are right.

I do not think it is fair to say, ''I believe in balancing our books but I do not believe in a balanced budget amendment, regardless of what it looks like.''

That to me is a specious argument, and I think it deserves to be pointed out. I think those people who believe that we should not have an amendment to balance this country's books should come down and really say why. If the fact is they do not like this amendment, I would like to see how they would tailor an amendment they could accept to the concept that we have a responsibility to balance the books of this country, if not every 1 year, every 3 years.

Bring that to the floor of the Senate and let us argue that. But do not say, ''I believe in a balanced budget, but I do not believe in a balanced budget amendment.'' To me that is a very difficult argument to make.

So I come down here to lend my support to those who believe we need to have an amendment to see that we exercise financial responsibility in the Congress. I look forward to this debate. I know it will be vigorous. It is very important. Undoubtedly, it will take more than just a few days, and it should take more than just a few days. I am looking forward to having that discussion with my colleagues.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Maine.

Ms. SNOWE. Mr. President, I rise in strong support of the legislation before us: a balanced budget amendment to the Constitution of the United States.

Mr. President, this year marks an important anniversary in our national history: the 50th anniversary of the end of World War II. But as we celebrate the victory of one struggle, this year we also mark the anniversary of a loss in another battle—one whose fiscal implications are almost as prophetic as the battles of 50 years ago.

But this anniversary is one that Congress has in fact marked each year since 1969—26 years of continually running budget deficits.

This is one of the longest losing streaks in Congressional history. It is a fiscal losing streak that every American citizen has had to pay for over the past generation.

But let us be sure of one thing—this debate is not about yesterday. It is not really even about today—1995. But it is most assuredly about America's future; it is about our children's future. As one American said when he was asked about his concern for our tomorrow, ''Of course I am concerned about the future. It is where we will spend the rest of our lives.''

Yet, tragically, we are squandering our future in spiralling debt—mortgaging our children's future down a vacuum of debt as we selfishly avoid the challenge of balancing our Federal budget.

Now we have another remarkable opportunity—an historic opportunity—to pass this amendment to the Constitution. I would like to commend our leader, Senator BOB DOLE, for bringing this legislation to the floor at such an early date.

I would also like to especially thank the sponsors of this bill—the Senator from Utah [Mr. HATCH], for providing exceptional leadership on this issue, and the Senator from Illinois [Mr. SIMON] for providing bipartisan support for this measure—as well as the Senator from Idaho [Mr. CRAIG] for his ongoing efforts on this critical amendment.

An early debate in this session of Congress is gratifying for many of us who have been working for more than a dozen years for a balanced budget amendment. We have already seen our efforts produce positive results—just recently, a requisite two-thirds majority in the other Chamber passed a resolution calling for a balanced budget amendment to the Constitution. The decision our colleagues made on that vote to pass this legislation for the first time, Mr. President, presents us with a renewed opportunity to act—and pass—this amendment in this Chamber, getting the requisite two-thirds majority.

We in Congress are at a precipice—a crossroads—in our relationship with the American people. We can either rise to the occasion and meet their expectations, or, we can merely do nothing and uphold the economic status quo.

Congress' focus on this measure comes after the American people cast resounding votes for change in November. By pulling the lever for action and progress, they also issued a call for an end to the economics-as-usual, an end to recurring deficits. An end to trillion-dollar debts and an end to fiscal irresponsibility and reckless spending.

In this debate, we have another opportunity to show the American people that, yes, we did listen to them, and we do get it.

And, perhaps most importantly, they voted to make Congress accountable for its actions. Thus far in this session we have taken great strides toward that responsibility. We passed legislation on congressional accountability, mandating Congress to abide by the same laws that we have passed onto the American people. And we passed legislation that will curb unfunded Federal mandates on State and local governments, which is presently being debated in the House of Representatives.

Now, we have the historic opportunity to send another message of accountability to the people by passing the balanced budget amendment. We will demonstrate our commitment to the American people. We will balance our budget, and put our Nation's fiscal house in order—permanently.

I am confident that this is the right thing to do: Every American family must balance their budget; they are not at liberty—as the Federal Government has been—to simply run annual household deficits. They play by the rules. They live by the rules. And Congress should not be living by any other standards.

For too long, we have spent without regard to our income, and in the process, we have squandered our children's future. How can we support the fiscal status-quo of increasing national debts and bequeath misery on the next generation of Americans?

We can begin a new regimen this year by facing up to our responsibilities. This is what accountability is all about. We must set our priorities within our income. We must stop borrowing against our children's future.

Without question, these will be difficult decisions, but we are not alone in facing these decisions. Nearly every State, every small business, every family, and every citizen faces similar choices each year in keeping spending under control.

I have seen firsthand the tough choices that must be made. For the past 8 years, my husband served as Governor of Maine. Like the Governors of 48 other States, he was required to balance our State's budget, irregardless of economic conditions or the State's financial status.

This means that Congress will have to make tough choices. But, with discipline these decisions are as possible as they are necessary. And lest anyone think that the States do not consider a balanced budget worthy of being a part of the U.S. Constitution, 49 States already require a balanced budget.

If accountability and discipline work at the State level, we can and should make it work at the Federal level. Congress should be able to confront the economic realities and challenges that 49 States—and every American—face as well. They have made the difficult choices even with declining revenues and a declining economy.

When we speak of interest payments, deficits, and the debt—we throw around numbers in the millions, billions and trillions. We paint a big picture that sometimes obscures the direct impact this issue has on each and every American family. We must now focus on exactly what these numbers mean in terms of people's daily lives.

There is little doubt that deficits and debt place a crippling burden on hard-working families in my home State of Maine and across our great land. An analysis compiled by the Concord Coalition, for example, suggests that the deficit takes an alarming toll in national productivity. In real terms for American families, increased productivity would mean an average American family income of $50,000 annually, instead of the current $35,000 a year. Lost income of $15,000 and untold costs, Mr. President: our constituents do not deserve this injustice.

How many children, I wonder, go without a proper education because of that missing $15,000?

How many couples or single parents forego proper, safe child care because of these numbers? How many Americans make difficult choices on health care coverage because they do not have these funds to provide coverage to their spouses or children?

Is this what has become of the American Dream when, by ignoring the deficit, we deny American families the opportunity to prosper financially, or survive economically?

But even more devastating for our workers looking for stable jobs with a good wage, the Federal deficit has had an alarming impact on our Nation's economic growth and job creation. The New York Federal Reserve Bank attributes a reduction in savings to the deficit, and says that in the 10 years from 1979 to 1989, this reduced growth in the gross national product and in personal income by 5 percent. This has a devastating effect on jobs in our Nation: 3.75 million jobs in 10 years—650,000 for every percentage point in the GNP—lost because of the deficit, according to a study by the Congressional Budget Office.

That is an astounding cost for our inaction that rests on the shoulders of every American worker.

Unfortunately, the statistics and examples of the burden our debt and deficit inflicts on each American continues to be staggering: Since 1980, our national debt has grown from $1 trillion to $4.7 trillion. This is expected to grow to $6.3 trillion by 1999—a 453-percent rate of growth since 1980. During the same timeframe, the annual interest we pay on our growing national debt has ballooned out of control, rising from $117 billion in 1982 to almost $300 billion in 1994 to $373 billion in 1999, or a 219-percent growth rate between 1982 and 1999. These numbers mean that in the next 5 years, the burden of this debt for every man, woman, and child in the United States will rise from $17,938 to $22,909—growing by about $5,000 in just 5 years. Just in 1½ years that per capita debt had increased by $1,300.

As the distinguished Senator from New Mexico [Mr. DOMENICI] has emphasized, our national debt represents the most unfair tax ever imposed. The Office of Management and Budget has already estimated that if we continue our current spending spree, future generations will be forced to suffer a tax rate of 82 percent in order to pay our bills. Those same generations have no say, no voice, and no vote.

But the prices of our inaction do not just come on an annual basis. Every day, we add $819 million of daily interest to the national debt.

One would think that, in the face of this track record that Congress would have mustered the courage long ago to meet the challenge of a balanced Federal budget, stopping short of an amendment. That is a major debate here as to whether or not we should have a constitutional amendment or a statutory approach.

It is interesting to note in the last 15 years in the Congress we have had seven opportunities to consider a constitutional amendment to balance the budget. Time and time again we heard from critics of such constitutional approach that we can do it, we do not need a constitutional amendment. All we need is to have the will and the courage and the discipline to make those choices. We have learned otherwise from that approach.

Mr. INHOFE. Will the Senator yield?

Ms. SNOWE. I will be happy to yield.

Mr. INHOFE. I thank the Senator from Maine for yielding, but I could not help thinking, when she was talking about what was going to happen to future generations, about people who keep coming up with this idea, saying, ''Where are you going to cut?'' And they try to single out all the programs to show that the individual who is trying to do this somehow lacks compassion. Yet, as the Senator pointed out, future generations, if we do not do something today and stay on the track where we are today, are going to have to pay for everything we are doing today.

If it gets down to a discussion of compassion, then why would we not be in a position to say that, if you really want to be compassionate, let us bite the bullet today? Let us do it.

I think the CBO and others have come up with the figures projecting out where we would be in the next 10 to 20 years if we do not make a change. If we do not pass something like this immediately, it gets down to a very personal basis. I have two grandchildren, ages 20 months and 21 months. It works out, if we do not do something and we continue on this trend that we have right now, that during their lifetimes they are going to have to pay 75 percent of their lifetime income just to service the debt.

So I guess I would ask the Senator from Maine if this is not really the most compassionate route to take, to go ahead, bite the bullet now and be responsible now?

Ms. SNOWE. Absolutely. I think the Senator makes an excellent point about that because clearly what we are doing is just deferring to future generations for payment of the bills. There is no doubt about it. I think the Senator from Oklahoma recognizes, having served in the House of Representatives over the years, as well, that it is institutionally incapable of making those decisions.

Ironically, the only time we had a lower deficit was back when we had the

Gramm–Rudman-Hollings legislation. That was because that was a tool to force the Congress to meet certain targets. But I know that many times in which I have been engaged in deficit reduction efforts as a member of the House Budget Committee in the last Congress, and previously back in the mid-1980's, I offered specific budget cuts on the floor in conjunction with some of my colleagues so that we could reach a balanced budget statutorily. And on each and every occasion, we had people objecting to every cut. There was a reason. For one, we could not cut any program.

So there are always those who have to make some tough choices. But I think the American people can do it fairly and prudently, and to prioritize and decide. What can we afford or can the American people afford? I think the American people have lost confidence in this institution, in the fact that their hard-earned taxpayer dollars are being spent wisely, because we have never been forced to make any choices here other than to spend and spend and tax and tax.

As the Senator from Oklahoma will recall, in the last Congress, we provided specific line-item reductions in numerous programs that we offered as Republicans in the House Budget Committee, and with the support of the Senator and all other Republicans on the floor. Those specific line-item cuts were ignored. We ultimately got the largest tax increase in the history of this country. Ironically, the CBO just indicated that we will get lower-than-anticipated revenues from those tax increases.

Mr. INHOFE. If the Senator will yield further, she has hit upon something that is very significant; that is, we cannot do it any other way. We served together for 8 years in the House of Representatives, and she was there before that. And I am sure what was going on before. But we tried again and again to do it from a statutory perspective, and it did not work.

I am a little embarrassed to say that it was one of the Members of the House from the State of Oklahoma that challenged in the courts the Gramm–Rudman approach to balancing the budget, which was an excellent approach. It was ingenious. However, apparently it did cause the administration to infringe upon legislative powers and there was some constitutional problem with it.

But those same people who took that to court and were able to strike it down so that we did not have to comply with the targets are the ones who say we do not want a balanced budget amendment in the Constitution because that is our job to do it. I say yes. I agree in this case with those who object to it. It is our job to do it. But we have clearly demonstrated for 40 years that we are incapable of resisting the insatiable appetite to spend the money that we generate from future generations.

Ms. SNOWE. Mr. President, I say to the Senator that 25 years ago was the last time we had a balanced budget. The Senator from Oklahoma will probably agree that we are hearing today, ''We will produce a 7-year budget to achieve the balanced budget amendment.'' We know it is a give-and-take process. But more than that, I say the burden of proof is on those opponents of the balanced budget amendment because the statutory approach has failed. They have had an opportunity, let us say, over the last 15 years, when they objected to a balanced budget amendment, to come up with a statutory approach. We have had statutory remedies, all of which have failed.

So now we are at the point of deciding the future of this country. Do we enact a constitutional amendment? There are those who will probably fundamentally disagree with having a balanced budget whatsoever. They disagree in principle. I happen not to. I think it is most important that we do it for the country, as the Senator does. But I think it is ignoring the choices that we are required to make. I think that this is the only way in which we are going to make those tough decisions on what exactly is affordable and acceptable to the American people.

Mr. INHOFE. Mr. President, if the Senator will yield further, I think it is a significant point to make that if it is not going to be done their way, it is not going to be done at all. I do not know of one person who goes out and campaigns for office and says: Elect me, because I want to increase your deficit. I honestly do not think they really want to increase the deficits. But there is the temptation to get these programs today, saying, ''Well, there is nothing wrong with it. We are borrowing from ourselves.'' They do not stop to think and realize sometimes what they are doing to the future generations.

I would also ask the Senator if she might stop and think about how long we have been looking at this. There was a very outstanding Senator from Nebraska by the name of Carl Curtis, many years ago. In 1970, I was in the State senate in the State of Oklahoma. At that time, just to remind you how far we have come, I can remember that the National Taxpayers Union had an advertisement that they showed on television. They said: Do you really want to know how bad the debt in this country is? Mr. President, they said: If you want to know how bad the debt is, if you took $100 bills and stacked the $100 bills on top of each other, by the time it reached the height of the Empire State Building—that was a tall building in those days—it would be the amount of our debt, which is $400 billion. Now, look where it is today.

Back in 1972, this Senator from Nebraska, Carl Curtis, had a brilliant idea. He was the author of the Senate budget balancing amendment at that time. So he called me up one day. I was a State senator. He said, ''INHOFE, if you would just try something new here. Let us break down the resistance in the U.S. Senate and in Congress, because these people up here live in their ivory towers, and they don't have a sense of what is going on at home.'' He said, ''Why don't you present a budget balancing amendment out in the State of Oklahoma?'' I said, ''Well, that is an ingenious idea.'' His thought was that if he could get 38 States to do that, it would indicate there was grassroots support for a balanced budget amendment.

Keep in mind this is 1972. So in 1972, I introduced and got passed in the State of Oklahoma a ratifying resolution. And I remember that there was a guy named Anthony Kerrigan, a syndicated columnist, who wrote an article entitled ''A Voice in the Wilderness.'' Way out in Oklahoma, there is a State senator that is going to figure out a way to balance the budget. Here it is now, a couple of decades later, and we still have not done it. But we found in that short period of time that there is such a ground swell for support, when you get closer to the people, that we are willing to do it. And we had commitments from 38 States in 1972 to ratify such a resolution.

Ms. SNOWE. Mr. President, I say to the Senator, look where we are today in terms of the level of debt since that period of time. The Senator mentioned that he was a State senator. I, too, was a State senator in the State of Maine. We had to balance our budgets. We have had to balance our budgets in some very difficult economic times regardless of the downturn in the economy, which certainly has been the case in New England and in the State of Maine, where we have had the most difficult downturn since the Depression. They have had to balance the budget. They made tough choices.

I know in the debate on the floor in the House of Representatives, the Senator will recall in the last Congress and back in 1992, Members of the House said, ''How can we possibly and accurately estimate revenue projections? How can we estimate inflation rates or interest rates or unemployment rates?''

That is going to be a very difficult and taxing responsibility. That is what every State has to do in the country, and every local government, every business, and each family does, in the final analysis. They have to make those projections and they have to correct those projections. So they have made those choices. They do not live in fiscal fantasyland like we have here in Congress. I think the American people have recognized that, and that is why they are demanding this most important and fundamental change.

Mr. INHOFE. If the Senator will yield further, going back to our years as State senators—and probably the same thing was true in Maine as in Oklahoma—people yell and scream about it. They do not like it. There are members in the house and senate in

Oklahoma who, every year, try to figure out ways to either inflate projections of income and revenues or minimize expenditures to circumvent this thing; yet, in the final analysis, they know that we have a type of sequestration that sets in. If they do not do it, they are going to have to bite the political bullet of all those people who have their programs cut by 1 or 2 percent, whatever it takes. And it works.

People in this body quite often talk about the States that have a balanced budget amendment. Look at the cities. I was mayor of the city of Tulsa—a major city—for three terms. In our charter, we had the same thing. There are always people on the city commission who want to circumvent that and somehow want to spend more money than comes in, but they have not been able to do it. For all those individuals who say this is different, the Federal Government should not be like States or should not be like the cities and the other subdivisions, they have yet to come up with any logical justification for that statement. If it works at the State level in almost all of the States and it works in almost every city charter, it would work in the Federal Government.

Ms. SNOWE. I think the Senator makes outstanding points, and I think we agree. What is more fundamental than providing fiscal order, especially for the future of this country, in making those kinds of choices, albeit difficult, but ones that are compelling and ones that need to be made? I thank the Senator for the points he has made.

In conclusion, Mr. President, might I just say, in terms of what we can expect for future deficits, it is disturbing to note the trend. The Congressional Budget Office, in fact, testified before the Senate Budget Committee recently and indicated that according to their recalculations, the deficit will increase by $25 billion over the next 5 years. So we can expect more debt over the next 5 years than we originally anticipated because of interest rates and, in fact, lower than anticipated revenue from the income tax increases and other tax increases of 1993. Between now and 2002 we will add a cumulative total of nearly $2 trillion to the existing debt if we make no changes in fiscal policy.

One further point. The CBO, in their testimony, indicated that, obviously, one of the positive benefits of a balanced budget would be to increase productivity because of less debt, but also, most importantly, increase the amount of personal savings in this country. And if you look at the testimony that was provided by Mr. Greenspan, that is clearly essential for the future, because the personal saving rate, in his words, has been running at its lowest level in nearly half a century. He said,

> If we were a high-saving nation, we might be in a position to better tolerate the Federal fiscal imbalance. But, as you can see in the chart, the Federal deficit has generally been absorbing half or more of the available domestic saving since the early 1980's.

Looking back at the history of the past century or more, the record would suggest that nations ultimately must rely on their domestic savings to support domestic investment.

He went on to say,

> The challenge for the United States over the coming decade is clear. We must sustain higher levels of investment if we are to achieve a healthy increase in productivity and be strong and successful competitors in the international marketplace. To support that investment, we shall need to raise the level of domestic saving. Absent a rise in private saving, it will be necessary to eliminate the structural deficit in the Federal budget.

So that is what it is all about—making choices, increasing the standard of living, not only for the present but for future generations, by improving productivity, job creation, and finally, I should say, improving the way in which we approach our budgetary process.

There was some testimony presented to the Budget Committee by Mr. Fosler, President of the National Academy of Administrators, saying we should have performance-based budgeting. This is an idea whose time has come, is long overdue, and in fact was proposed at the beginning of this century. I hope we will take these creative and innovative approaches as we begin the historic debate on a constitutional amendment to balance the budget.

Let me close with words of hope for a brighter future for our entire Nation. As Winston Churchill said in the days of World War II: ''This is not the end. This is not even the beginning of the end. But it is, perhaps, the end of the beginning.''

I hope that will be the case, because if you say ''no'' to a constitutional amendment to balance the budget, you are saying ''yes'' to the economic status quo, ''yes'' to the continued levels of deficits of $200 to $300 billion. I assure you, that is not an answer the American people want to hear, and it is one they do not deserve to hear.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California [Mrs. FEINSTEIN] is recognized.

Mrs. FEINSTEIN. Mr. President, I voted for the balanced budget amendment last year. I also voted for the Reid amendment to exempt Social Security, take it off budget, last year. I want to state for the RECORD—and it is my intention—that I want to vote for a balanced budget amendment.

There are two reasons I want to vote for a balanced budget amendment. The first is my own life experience. The year I was born, 61 years ago, the entire Federal debt amounted to just $25 billion. When my daughter was born, the entire Federal debt amounted to about $225 billion. And 2 years ago, when my granddaughter, Eileen, was born, the entire Federal debt was 150 times greater than when I was born; it was nearly $4 trillion. My life experience shows me that, with business as usual, the Congress is not going to be able to balance a budget that, in 61 years, has gone from $25 billion to $4 trillion in debt.

So, in a nutshell, I want to support a strong balanced budget amendment. But I want to support the right balanced budget amendment.

In my first 2 years as U.S. Senator, I have had the opportunity to observe the standard operating procedure of the Senate—the budget, authorization, and appropriations processes—and I have become convinced that a balanced budget amendment is in order. The American people are sitting on a debt time bomb. It jeopardizes the economic security of my daughter, my granddaughter, and even generations to come, because if it continues to be business as usual, the Nation's path is one toward bankruptcy and that, quite frankly, is not acceptable.

I have listened to a lot of arguments about why we should not require a balanced budget amendment to the Constitution. In theory, certain of these have a great deal of merit. But historical and present day practices often demonstrate the wide variation between theory and practice when it comes to dealing with the Federal budget.

In theory, the Government might run deficits in times of recession to stimulate the economy, or in war simply to pay its bills, and surpluses in times of prosperity because revenue increases and unemployment decreases. In fact, though, that has not happened. In the last 35 years, the Federal Government has balanced its budget exactly twice—once in 1960, a surplus of $300 million, and again in 1969, a surplus of $3.2 billion.

In the last quarter of a century, the Federal Government has run up this $4 trillion in debt without once balancing the budget. And during this time, the Nation has experienced war and peace and economic booms and recessions. Yet, never was this Government able to balance the Federal budget, let alone run a surplus.

As mayor of San Francisco, I balanced nine budgets, and I know it is tough to do so. I support this amendment, and I support a line-item veto, because I know that failing to balance the budget is a choice that this Nation can no longer afford, for the reasons so stated.

Let us talk for a moment about two charts which, when I came here, convinced me—and I regret that these are so small; we thought we had them enlarged, but we do not. These two charts, I think, are very instructive. If you can see them, Mr. President, in 1969—these are Federal outlay charts—military spending consumed 45 percent of our Federal outlays. In 1994, about 19 percent of our Federal outlays were military. So military spending has gone from almost one-half to just slightly under a quarter.

In 1969, entitlements—Medicare, Medicaid, Social Security, and AFDC—consumed about 27 percent of Federal outlays.

In 1994, they consumed almost 50 percent of Federal outlays. There is the rub. In 1969, interest on our debt consumed slightly less than 7 percent. In 1994, interest on the debt had doubled to nearly 14 percent of total outlays.

What is left? Discretionary spending—education, health, environment, Commerce, Interior, all those departments—in 1969 consumed 21 percent of Federal outlays. In 1994, 18 percent; actually down. Discretionary spending has gone down, military spending has gone down dramatically.

What has gone up? Interest on the debt and entitlements. And there is the rub. There is the answer I believe to the right to know. That is the road that lies before us. If we really want to make the budget balanced, those are the hard choices: What to do about interest on the debt—which today net interest consumes 40 percent of every person's tax dollar—and how do we control entitlements, Medicare, Medicaid, Social Security, and so on?

The Federal Government now spends $226 billion just on interest on its nearly $5 trillion debt. Our interest payments alone are $59 billion greater than the projected deficit of $176 billion for the year 1995. This means that if we did not have to service the debt, there would be no deficit this year. If we did not have to service our debt, there would be no deficit. As a matter of fact, there would be a small budget surplus. That is the irony of the problem that we have.

So if current policy continues, the CBO estimates that net interest payments will reach $387 billion by the year 2004, or roughly 58 percent of the amount that is expected to be spent on all discretionary programs, $669 billion will go by the year 2004 just to pay for interest on the debt. That is not for Commerce. That is not for Interior. That is not for an education program. That is not for a health program. That will not purchase a tank or an aircraft carrier or a battleship. It will be just paper to service the debt.

Today, every dollar in personal income taxes collected west of the Mississippi is used to pay for nothing more than interest. And that is the sad story, because the interest is growing and we need to stop it.

So what has 35 years of accumulated deficits meant on our committee? According to a study by the New York Federal Reserve Board, the low national savings rate, now under 3 percent—and it is the lowest of any major industrialized power—is mostly attributable to large Federal deficits. And it has resulted in a net loss of 5 percent of national income during the 1980's. That impacts interest rates, it impacts jobs, it impacts the ability to buy a home, a car, to afford an education. It impacts the job base. It impacts everything we do every day in our life.

And as it gets worse, I think what the Senator from Maine was saying is it impacts our children's destinies and our grandchildren's destinies as well.

So for all of these reasons—and I want my chairman on the Judiciary Committee to understand this—I want to vote for a balanced budget amendment because I do not believe we can make the hard choices without it. And as I have said, they are all in that 50 percent—Medicare, Medicaid, Social Security, AFDC—and then that 15 percent which is interest on the debt for the most part.

Now, I do not think Congress should push through just any amendment, no matter what. It has to be an amendment which balances the budget wisely and honestly.

And that is the rub for me. This is where we come to Social Security. Let me be frank. I do not want to speak in detail because we will go into this later.

But because of a statement I made yesterday indicating my position—and I am particularly delighted that my chairman is on the floor so that he can hear this. I consider the greatest flaw in the amendment that we have before us is the fact that it places moneys placed in reserve through the FICA tax to pay for retirements in the future. It places those revenues on budget. And I believe that that is not an honest way to balance the budget.

I believe that this puts Social Security essentially on budget. It reverses congressional action and it undermines the integrity of the Social Security system.

Now between its creation in 1935 and 1969, Social Security was always off budget. Then in an attempt to cover the cost of the Vietnam war and to mask the growing deficit, Social Security was put on budget by this Congress. This was a misuse of the Social Security trust fund.

In 1990, 2 years before I came to this place, the Congress saw that and they put an end to it. They declared as follows:

> 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 purpose 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.

In this body, that vote was 98 to 2. So clearly, Members said we must not use Social Security revenues held in trust for retirement to balance the budget. And, boom, the right thing was done and it was taken off budget.

What this amendment does is put it back on budget again.

This would clearly include Social Security. It would overturn both the historical treatment of Social Security and Congress' recent decision to affirm the off-budget status of Social Security. Worse, it would allow the misuse of Social Security funds to continue.

The important point is, Congress has already debated this. They have taken it off budget. It is not a loophole. This amendment is not meant to be an escape hatch.

I know that there is an amendment at the desk called S. 290. I reviewed that amendment. That amendment is flawed because that amendment deals with benefits. It does not deal with the moneys that are taken from the FICA tax paid by employees and employers and held in trust for retirees.

Now, even without this balanced budget amendment, just for one short moment let us look at what happens with Social Security now off budget.

Here we are today in 1995. Social Security is generating surpluses.

As a matter of fact, Social Security will generate these surpluses, up to the year 2002. In 1995, $69 billion; 1996, $142 billion. It climbs and it climbs. In 1999, it is $394 billion. It goes up to $705 billion of surpluses from the FICA tax held in trust to pay retirements for the baby boomer generation that is now, alas, beginning to retire.

What happens? What happens is this: There is $3 trillion by the year 2015 in revenue surpluses. Then they plunge. They go down to the year 2030, $700 billion negative. Negative. Now, here is the rub with this amendment. It takes all of these revenues and it puts them on budget. So these revenues are used to balance the budget. The way to avoid $705 billion in 2002 when this becomes relevant is to create a surplus of $705 billion. Nobody here believes we will be able to create a surplus of $705 billion to protect Social Security.

So what is the answer? The answer is, in an honest amendment, take it off budget. Do not allow those revenues to be used.

Now, I would like to have printed in the RECORD a letter I received today from Martha McSteen, the president of the National Committee to Preserve Social Security and Medicare. She says:

> I am writing with regard to S. 290, introduced recently by Senators Kempthorne, Dole, Thompson and Inhofe. The fact that the sponsors of S. 290 believe that it is necessary to take action to protect Social Security under a balanced budget amendment is, in my view, proof that it is imperative that the Senate adopt your amendment to exclude Social Security from the balanced budget amendment.

The pending balanced budget amendment reverses the 1990 law removing Social Security from a consolidated budget and put Social Security back on budget as part of the Constitution. This represents a serious problem for Social Security which cannot be addressed by S. 290 or any statutory measure. Sponsors of S. 290 cannot bind future Congresses to their legislation or, for that matter, ensure that this Congress will not modify or overturn this legislation while Social Security

would remain on budget as part of the Constitution.

I also note that while S. 290 attempts to prohibit Congress from increasing Social Security revenues or reducing benefits to balance the budget, it will allow Congress to continue using the surplus in the Social Security trust fund to conceal the deficit. This only confirms our understanding that the proponents of the balanced budget amendment intend to continue this budgetary charade, thereby avoiding balancing the budget well into the next century.

I ask unanimous consent that the letter in its entirety be printed in the RECORD.

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

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC, February 1, 1995.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: I am writing with regard to S. 290, introduced recently by Senators Kempthorne, Dole, Thompson and Inhofe. The fact that the sponsors of S. 290 believe that it is necessary to take action to protect Social Security under a balanced budget amendment is, in my view, proof that it is imperative that the Senate adopt your amendment to exclude Social Security from the balanced budget amendment.

The pending balanced budget amendment reverses the 1990 law removing Social Security from a consolidated budget and puts Social Security back on budget as part of the Constitution. This presents serious problems for Social Security which cannot be addressed by S. 290 or any statutory measure. The sponsors of S. 290 cannot bind future Congresses to their legislation, or for that matter ensure that this Congress will not modify or overturn this legislation while Social Security would remain on budget as part of the Constitution. I also note that while S. 290 attempts to prohibit Congress from increasing Social Security revenues or reducing benefits to balance the budget, it will allow Congress to continue using the surplus in the Social Security trust funds to conceal the deficit. This only confirms our understanding that the proponents of the balanced budget amendment intend to continue this budgetary charade thereby avoiding balancing the budget until well into the next century.

The nearly six million members and supporters of the National Committee to Preserve Social Security and Medicare strongly oppose this practice of using the surplus generated by the Social Security payroll tax to fund deficit reduction or mask the true size of the general fund deficit.

Let's not forget that the continued borrowing from the Social Security trust funds will only create huge debts for the next generation which will be forced to redeem the bonds through massive tax increases.

The only way for proponents of the balanced budget amendment to live up to the many promises not to harm or undermine Social Security is to explicitly exclude it from the text of S.J. Res. 1.

Sincerely,

MARTHA A. MCSTEEN,
President.

Mrs. FEINSTEIN. Mr. President, I earnestly implore my committee chairman, the key is simply to exclude the revenues from balancing the budget in an amendment to this amendment, and that would be presented next week. I believe it is the only way to have an honest amendment. I also believe that it makes sense.

There are 40 million people today on Social Security. By the time this amendment is ratified and the first balanced budget is prepared, there will be 80 million Americans on Social Security. Young people working today can expect that the money will not be there to pay for their retirement, and yet they are paying FICA taxes. That is not right. They should not have to pay if the money is not going to be there. If the money is used to balance the budget, it just brings the crunch to Social Security that much sooner. I do not think that that should be a byproduct of a balanced budget amendment. More fundamentally, I believe it is a flaw that will cause its nonratification by enough States to make it the law of the land.

What I want to say, the bottom line is if we can adopt the amendment—and I just read the amendments to the Constitution again this morning—I think if we are going to have monetary policy in the Constitution, it is fitting, just as there are technicalities in other amendments on double jeopardy and that kind of thing, that there be an amendment which simply exempts the revenues from the trust funds that hold the FICA taxes.

As I said yesterday, absent those, absent that amendment, I cannot vote for a balanced budget amendment. With that amendment, I can vote for a balanced budget amendment. So I say these things today, for whatever help it might be to my chairman in considering where this matter rests.

Mr. President, in the year that I was born, the Federal debt amounted to less than $25 billion. In the year my daughter was born, the Federal debt was about $225 billion—10 times greater. My granddaughter Eileen was born 2 years ago. At the time of her birth, the Federal debt was more than 150 times greater than it was when I was born—nearly $4 trillion.

That, in a nutshell, is why I am a strong supporter of a constitutional balanced budget amendment. The path we are on is unsustainable. We do not have another generation to allow this problem to fester. The time for action is now.

In my first 2 years as a U.S. Senator, I have had the opportunity to observe the standard operating procedure of the Senate—the budget, authorization, and appropriations processes. I am convinced that without a constitutional amendment, this body will simply be unable to balance the budget.

Let me share what I see the problem to be.

The American people are sitting on a debt time-bomb jeopardizing the economic security of generations of Americans to come and I believe that without the imposition of an amendment such as this, it will continue to be business as usual. In my opinion, business as usual just isn't acceptable.

Although amending the Constitution is strong medicine, I am convinced that without this strong medicine, America's fiscal health will not improve.

I have listened to the various arguments about why we should not require a balanced budget amendment to the Constitution. In theory, certain of these arguments have merit. But, I am afraid that historical and present day practices often demonstrate the wide variation between theory and practice with regard to the Federal budget.

In theory, the Federal Government might run deficits in times of recession to stimulate the economy or in war simply to pay its bills, and surpluses in times of prosperity because revenue increases and unemployment decreases. In fact, that has not happened.

In the last 35 years, the Federal Government has balanced its budget exactly twice. Once in 1960, a surplus of $300 million and again in 1969, a surplus of $3.2 billion.

In the last quarter of a century, the Federal Government has run up more than $4 trillion in debt without once balancing the budget. During this time, this Nation has experienced war and peace and economic booms and recessions. Yet, never did this Government balance the Federal budget, let alone run a surplus.

As mayor of San Francisco, I balanced nine budgets in a row. I know how difficult it is to do. But that is why we are elected—to make those tough choices. I support this amendment and the line-item veto because I know that failing to balance the budget is a choice that this Nation cannot afford.

INTEREST ON THE DEBT

The Federal Government now spends over $226 billion annually just to pay the interest on its nearly $5 trillion debt. Our interest payments alone are $59 billion greater than the projected deficit of $176 billion for fiscal year 1995. This means that if the United States did not have to service this enormous debt, there would be no deficit this year. In fact, we would have a small budget surplus.

If current policies continue, the Congressional Budget Office estimates that net interest payments will reach $387 billion by the year 2004 or roughly 58 percent of the amount that is expected to be spent on all discretionary programs—$669 billion will go just to pay for interest on the debt.

Today every dollar in personal income taxes collected west of the Mississippi is used to pay for nothing more than interest on America's staggering Federal debt, or put another way, that's 40 percent of each taxpayers' tax dollar. This money is not used to build new highways, planes, or ships, provide medical care to a child or grandparent, or education to our Nation's students. Americans receive no services, no public infrastructure, no investment for these interest payments. They get

nothing for 40 percent of their taxes. Left alone, that will become 50 percent, then 60 percent, and on and on till bankruptcy.

What has 35 years of accumulated deficits meant to our economy? According to a study by the New York Federal Reserve Board, the low national savings rate, now under 3 percent—the lowest of any major industrialized country—mostly attributable to large Federal deficits, and it has resulted in a loss of 5 percent growth in our national income during the 1980's. Now that's a big deal. Let me tell you what it means.

ISSUES OF CONCERN

For all those reasons, I believe the time has come to pass a constitutional balance budget amendment. I recognize, however, that amending the Constitution of the United States is very serious business. It has been amended just 17 times since 1791.

Congress should not push through just any amendment that says just balance the budget no matter what. We must pass an amendment which will let us balance the budget honestly and wisely.

SOCIAL SECURITY AMENDMENT

I must be frank. I don't believe that legislation before us is the best constitutional amendment. Its greatest flaw is that it continues the process of misusing Social Security funds. Let me explain how:

First, this amendment would put Social Security on-budget, thereby reversing congressional action and undermining the integrity of the system.

Between its creation in 1935 and 1969, Social Security has always been off-budget. In an attempt to cover the costs of the Vietnam war and later to mask growing deficits, Social Security was put on-budget.

This was a misuse of the Social Security trust fund. In the 1990 Budget Enforcement Act, Congress put an end to this by declaring Social Security funds off-budget. The act states:

> * * * the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund—which together make up the Social Security Program—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.

An amendment in the Senate to exclude Social Security from budget calculations was passed in the 101st Congress by a vote of 98 to 2. Every Member there that served in the 101st Congress voted for that amendment.

The joint resolution before us now requires total outlays not to exceed total receipts for any fiscal year. This would clearly include Social Security and thereby overturn both the historical treatment of Social Security and Congress' recent decision to affirm the off-budget status of Social Security. Worse, it would allow the misuse of Social Security funds to continue.

The important point is, Congress has already debated this matter and decided to take Social Security off-budget. This is not a loophole. It was an informed decision to budget honestly. Now this constitutional amendment will reverse that. This amendment would enshrine this abuse of Social Security in the U.S. Constitution.

This debate is not about who wants to protect Social Security and who does not. It is about who wants to be honest with the American people in our budgeting and fiscal policy and who does not. To be honest, Social Security must remain off-budget. Including Social Security in the budget calculations would be the enormous loophole. It is not the Federal Government's money and should not be used as if it is.

Second, Social Security is not like other Government programs and should not be treated like other Government programs.

Social Security is a publicly administered, compulsory, contributory retirement program. Through the Federal Insurance Contributions Act [FICA], workers are required to contribute 6.2 percent of their salaries to Social Security. Employers are required to match that amount. This 12.4 percent contribution funds the Social Security system. By law, these funds are required to be held by the Federal Government in trust. They are not the Federal Government's funds, but contributions that workers pay in and expect to get back.

Third, Social Security does not contribute to the Federal deficit.

In fact, the Social Security trust fund surpluses are masking the true size of the deficit. In 1995 Social Security will take in $69 billion more than it will pay out in benefits. By 2001, Social Security will be running surpluses of more than $100 billion a year. By including Social Security in the constitutional balanced budget amendment, Congress would obfuscate the true deficit problem.

Fourth, the failure to save Social Security's surpluses could undermine the system's viability.

In the late 1970's and early 1980's, Congress changed the way the Social Security system was financed. Recognizing the large demand on the system that would be created by the retirement of the baby boomer generation early next century, the Social Security system was changed from as pay-as-you-go system to a system that would accumulate large surpluses now to prepare for the vast increase in the number of retirees later.

Rather than saving these large surpluses, however, Congress has used them to finance the deficit. That means beginning in 2019, when Social Security is supposed to begin drawing down its accumulated surpluses to pay for the benefits of the vast numbers of retiring baby boomers, there will be no money saved to draw on.

Congress will be forced to either raise taxes, cut benefits, or cut other spending programs to meet the obligations workers are paying for now. In short, the American workers will have to pay twice for the retirement of the baby boomers because we are not saving what they contribute now.

As the chart next to me illustrates, the Social Security surpluses will decline and then plunge dramatically into deficit. The deficit will reach $700 billion a year by 2029.

Between 1995 and 2002, Congress will essentially steal $705 billion from the Social Security trust fund. That is the amount of surplus that is supposed to be saved over that period, but instead will be used to balance the budget. If we are to save that money, the budget would have to run a surplus of $705 billion and we know that will not happen.

By the year 2018, the Federal Government will owe the Social Security system $3 trillion. Those who say that Social Security is not on the table with this amendment are incorrect. It is—bigtime; to the tune of $3 trillion of reserves for retirement that will be involved unless our amendment is passed.

Clearly, unless we begin saving the Social Security surpluses and addressing the long-term needs of the system, we will be spearheading a financial Armageddon for Social Security.

The only way to save the Social Security surpluses to pay for future retirements is to balance the budget exclusive of Social Security.

The impact of this, of course, would be that the Federal Government would run a unified budget surplus—a balanced Federal budget and a surplus in the Social Security trust fund. In this way, we would cut the Federal debt and save Social Security funds, not just watch the debt keep growing. That is what the amendment Senator REID and I are offering would do—it would require a balanced Federal budget exclusive of Social Security.

Social Security system does have a long-term financing problem. In my opinion, an expert advisory board should be formed to advise Congress on how to adjust the system to restore balance and make the system live within its means.

The point, however, is that Social Security changes should be made to shore-up the long-term solvency of the Social Security system, not for any other reason. By keeping Social Security in this amendment, Congress would continue the shell game.

My support for maintaining the integrity of the Social Security system reinforces my support for the balanced budget amendment. But, a balanced budget amendment that uses Social Security funds is not truly balanced.

I support a constitutional balanced budget amendment that is honest, but I cannot support a balanced budget amendment which would enshrine the

theft of Social Security trust funds in the U.S. Constitution.

If my vote is needed to pass this amendment, then Social Security will have to be exempted.

Mr. HATCH. Will the Senator yield?

Mrs. FEINSTEIN. Mr. President, I yield.

Mr. HATCH. Mr. President, I personally understand what the distinguished Senator from California is saying and trying to do.

Keep in mind that although that curve goes up and down, in the year 2030, it starts going into a deficit. If the balanced budget amendment is in play, it will not be allowed to go into the deficit. It is one way we can protect Social Security.

Under the Senator's approach, it would go into the deficit. The only way to protect it is to increase taxes. Now, under the Senator's approach, there is no limitation on increasing taxes on Social Security. They can just go up every year. There is no way to stop it. With a balanced budget amendment, when that heads into deficit, we have to balance that account.

Now, I might also mention that the distinguished Senator knows that every penny of surplus of Social Security is being used to buy Government instruments now. Every nickel of that so-called surplus is being used to buy Government instruments; in other words, pieces of paper that say the U.S. Government owes the Social Security fund so much money. By the year 2030, it goes into deep deficit. The Senator is absolutely right on that. The balanced budget amendment forbids it from doing that because we cannot allow it to go into deficit.

The fact of the matter is that during this whole time, while that curve goes up and then down, all of that money is gone anyway, because they have purchased Government bonds, which if we do not get spending under control and if we do not get this economy under control, which only a balanced budget amendment can do, none of that surplus is going to be there when we need it, anyway. That is why we have to have a balanced budget amendment.

Now, I have listened to my dear friend and colleague from California. She said she wants to support a balanced budget amendment. I do, too. If I had the sole authority to write this amendment, it would undoubtedly be different. I did not have that luxury. Neither does my friend from California. As much as the Senator is sincere in trying to protect Social Security this way, she is not protecting it. If I had the sole authority, I would write it differently. I think the Senator from California would, also.

Let me just end this one thought. We have worked on this for 12 years—Democrats, Republicans, liberals, conservatives, moderates, people from all over the country. This is it. This is the best we can do. It is good. It is not perfect; nobody claims that it is. But it is as near perfect as we can get it, with the many varying viewpoints and differences that divide Members on both sides of this Capitol Hill and in both parties. So this is it.

If we do not pass this balanced budget amendment, then all the sincerity in the world that the distinguished Senator from California has in trying to protect the Social Security Trust Fund—and I am with her on that, and I will do everything in my power to help her throughout her whole Senate career to get there—everything she is arguing for will go down the drain for sure.

Because interest rates are going to go higher, the debt is going to get bigger, our children's future is going to be mortgaged away, and we are all going to wind up without the funds anyway because there will not be any way the Government can pay the instruments of debt that it is signing everyday on Social Security.

So I urge my colleague to really think this through because it is going to take both sides of the floor to really save Social Security from what really is a voracious Federal Government, a powerseeking monster that does not seem to care what the future is all about.

If we do not take this and seize this one opportunity to put through this bipartisan consensus amendment, which both Democrats and Republicans have worked on, and we let this go, I guarantee you—I guarantee you—that if we ever put through another one, it will be a lot tougher and a lot worse than this one, in the eyes of most people from the more liberal persuasion.

That is, if we get one at all, and if we do not get a balanced budget amendment at all, there will be no fiscal mechanism to force us to make priority choices among competing programs. I am willing to continue this dialog with my friend because I value her viewpoint, I value her, the distinguished Senator from California.

I know the sincerity that she has on this, and I know what she is trying to do. I am there with the Senator, but we will never get there without a mechanism called a balanced budget amendment in the Constitution. We all know it. I do not think anybody doubts it.

The fact of the matter is, this is it. There is nothing we can do to make it any better and keep the very close votes that we have to have to pass it. I might add, the distinguished Senator from California is a critical vote in this matter. We value that vote. Even though the Reid amendment went down last time, the distinguished Senator from California voted with us because it was the best we could do.

I have to say, as a Senator from Utah and as somebody who has worked on this for years who really, really, really has given everything he has to try and get this done, that I wish it could be otherwise. I wish we could solve every problem there is, but there is no way we can do it in this context, there is no way we can do it in this Congress. But we can move ahead by solving a lot of the problems and, I think, in the process protect Social Security better than it is protected today because we will be protecting the economy which, after all, is what Social Security depends upon.

If we reach a point where the debt has to be monetized, where we use cheap and worthless dollars to pay off the debt to get it off our backs, and inflation shoots up dramatically, which it will, 250-percent-plus range and we become like most of the Third World countries that are presently going through those problems, where is Social Security going to be at that time? Where are our seniors going to be? Where are the young people going to be? Where is the future?

The greatest country in the world is going to go down because we do not have the fortitude and the strength of mind and presence of mind and the guts to do the only thing that we can do right now. Look, there are people on my side who feel like killing because they are not getting a three-fifths vote requisite to increase taxes. They are just beside themselves. We saw 252 of them over in the House just beside themselves. I told them at the beginning of this Congress there is no way they can get more than 260 votes over there. We certainly do not have the votes here unless somebody tries to manipulate others, who do not want the amendment anyway, into voting that way.

(Mr. THOMPSON assumed the Chair.)

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. HATCH. Yes.

Mr. GRAMM. Mr. President, the Senator does not control the floor.

Mr. HATCH. The Senator from California controls the floor. I am trying to make this one point: I know what the Senator is trying to do. I appreciate it. I want to help her, and I will help her all the time that I am here in the Senate because I do not want to see the Social Security trust fund compromised in any way. I believe everybody on this side will help her. But if her point of view becomes—well, it will not become because there is no way we will have a balanced budget amendment if she insists that this has to be there and enough people do that we do not have the votes, there is no way we can have a balanced budget amendment.

But if her point of view becomes the law, then come the year 2028, 2029, 2030, we are going to be in a tremendous deficit, that is if we make it that far. In the interim time, of course, our debts are going to mount up, our interest rates will go off the charts, our economy is going to go bust and all those debt instruments that are supposed to pay this surplus to help people on Social Security are going to default, or else—we would never let them default—they would be paid by cheap dollars, by dollars that are worthless and people on Social Security will not be

able to buy the food, clothing, the shelter that they need under those circumstances.

So the best thing we can do right now, if we are really concerned about it, is pass a balanced budget amendment, get this mechanism in place, make us make priority choices among competing programs, have us live within our means, and keep this trust fund strong and keep Social Security strong well into the next century and beyond the year 2030.

I wanted to make those points. I am willing to work with the Senator from California. I am willing to line up with her and try and help solve these problems. It is just there is so much we can do on this balanced budget amendment. This is it. It depends on the good faith of all of us here whether we are going to pass it or whether we are not going to pass it. I believe we will in the end, but it is going to take an awful lot of effort by all of us, and I suspect it is going to be a long, hard debate.

I hope the distinguished Senator from California will keep an open mind and work with us on it, and I promise I will try to help her in her goals and her desires to make sure this trust fund is protected for everybody in our society.

Mrs. FEINSTEIN. I thank the Senator.

Mr. JOHNSTON. Will the Senator from California yield for a question?

Mrs. FEINSTEIN. Yes.

Mr. JOHNSTON. Mr. President, we had a discussion yesterday on the floor about the authority of the courts with respect to a balanced budget amendment, whether they would have authority to enforce that, and the distinguished Senator, Senator HATCH, responded to that in part. I will have more to say about that later.

Mr. President, my question today has to do with the authority of the President with respect to the balanced budget amendment. I wonder if the Senator from California can tell me when the President, on Inauguration Day, raises his hand and swears to uphold the Constitution of the United States, which at that time, let us assume, includes this amendment, my question is, what authority or what duty does the President have under this amendment to balance the budget if the Congress, in fact, has not balanced that budget?

Mrs. FEINSTEIN. I cannot answer that with specificity, but it would seem to me that if Congress fails to balance the budget that the President would have some authority, and whether this automatically confers a line-item veto or whether we do it separately, it would seem to me that the President should be a player and a dominant player in being able to assure that the budget is balanced.

Mr. JOHNSTON. If the Senator assumes that this amendment gives to the President that line-item veto, I assume that the Senator also assumes that that power is without limitation; that is to say, if the President has the authority under this amendment to balance the budget if Congress has failed to do so, then the President can take whatever part of the budget he wants and impound it without limitation. He can impound Star Wars, he can impound Social Security, he can impound railroad retirement, or any part to any degree of the Federal budget. Would the Senator agree with me on that?

Mrs. FEINSTEIN. Not necessarily, I say to the distinguished Senator from Louisiana.

If I might refer this to the chairman of the Judiciary Committee, I think it would be most interesting to have his response to this question.

Mr. HATCH. I am sorry; I was not listening.

Mr. JOHNSTON. Yes. The question I had, Mr. President, was to what extent does the President of the United States have a duty or authority under the Constitution, which he is sworn to uphold, to balance this budget if the Congress has failed to do so?

Mr. HATCH. Well, every President has a duty to do his best or her best, to try to bring our fiscal house into order. But for the last 26 years no President has been able to really submit a balanced budget to the Congress. They may have once or twice.

Mr. JOHNSTON. What I really have in mind is what is the limit of the President's impoundment authority under this amendment?

Mr. HATCH. He has no authority at this point.

Mr. JOHNSTON. Under this amendment, if this amendment passes?

Mr. HATCH. That is right. Do you mean under the balanced budget amendment?

Mr. JOHNSTON. If this constitutional amendment passes and becomes the law of the land and the President takes the oath to uphold this Constitution——

Mr. HATCH. There would be no impoundment authority under this balanced budget amendment. Under Senate Joint Resolution 1, or House Joint Resolution 1, there is nothing in either amendment, either the House or the Senate version—and they are both identical except for one comma——

Mr. DODD. Will the Senator yield?

Mr. GRAMM. I ask for the regular order.

Mr. HATCH. Under either version, there is no right to impound. It is not the intention of this amendment to grant the President any impoundment authority.

The PRESIDING OFFICER. The regular order is that the Senator from California has the floor.

Mr. HATCH. As I understand it——

The PRESIDING OFFICER. And may only yield for a question.

Mr. HATCH. As I understand it, she wanted me to answer these questions.

Mrs. FEINSTEIN. That is right.

The PRESIDING OFFICER. That would take unanimous consent.

Does the Senator yield?

Mrs. FEINSTEIN. Yes, I yield.

Mr. JOHNSTON. Mr. President, I would like to pose the question.

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

Mr. JOHNSTON. Then let whoever wishes answer it. I think it is a very serious question. And I do not think it is answered by the terms of the amendment or by the legislative history here. After all, we have a Budget Control and Impoundment Act, but this is the Constitution we are expounding. I think it is at least arguable, if not persuasive, that this constitutional amendment would overrule that Budget Control and Impoundment Act and would return us to the days of President Nixon where he felt that he had the inherent power to impound. Indeed, he might feel as if he had the inherent duty to impound. I think we better find the answer to that and, if it is not clear under the amendment, make it clear.

I might say to my friend from California that I propose later on to make it clear what the authority of the courts is by an amendment which I am working on, and I would like to also make it clear what the power of the President is. These are fundamental constitutional questions with overriding importance to the country, and before we pass a constitutional amendment we need to know whether it is enforceable and, if so, by whom.

So I hope the Senator will work with us and will withhold some judgment. Assuming she can get her Social Security issue successfully solved, I hope she will also understand the gravity of the question of enforceability and the absolute necessity to clear up what is an overhanging ambiguity in this amendment. It is an ambiguity so great that it is almost impossible to fly through that fog, and I hope she will work with us in trying to get that cleared up.

Mr. HATCH. Will the Senator yield?

Mrs. FEINSTEIN. I thank the Senator. I do yield.

Mr. GRAMM. Mr. President, I must raise a point of order. Under the rules of the Senate, you cannot yield for comments. You cannot yield through the person who holds the floor for someone else to ask questions. We have people who are waiting to speak. We have an order under which they speak. And I think if people want to speak, they should wait, be recognized, make their point, raise these profound questions about what happens if we do not do what the American people want us to do. The debate here is about how we do what the American people want us to do.

The PRESIDING OFFICER. The Chair is going to enforce the rules of the debate. The Senator may only yield for a question.

Mr. HATCH. May I ask a question——

The PRESIDING OFFICER. The Senator from California.

Mr. HATCH. Of the Senator from California. Then I will bring this to a close.

Mrs. FEINSTEIN. Absolutely.

Mr. HATCH. The question I have is would the Senator like me at this point to answer the question of the Senator from Louisiana?

Mrs. FEINSTEIN. That would be helpful.

Mr. HATCH. Mr. President, I wish to respond to the impoundment argument that Senator JOHNSTON has just raised. In each of the years the balanced budget amendment has been debated, I have noticed that one specious argument is presented as a scare tactic by the opponents of the amendment. This year the vampire rising from the grave is Presidential impoundment. Supposedly, a President, doing his best Charles I of England impersonation, when faced with the possibility of budgetary shortfalls after ratification of the balanced budget amendment, will somehow have the constitutional authority—nay duty—to arbitrarily cut social spending programs or even raise taxes. Well, Charles Stuart literally lost his head when he claimed as a prerogative the powers of the Commons. So too, a President may not claim authority delegated by the Constitution to the people's Representatives. The law is our Cromwell that will prevent impoundment.

I want to emphasize that there is nothing in Senate Joint Resolution 1 that allows for impoundment. It is not the intent of the amendment to grant the President any impoundment authority under Senate Joint Resolution 1. In fact, there is a ripeness problem to any attempted impoundment: indeed up to the end of the fiscal year the President has nothing to impound because Congress in the amendment has the power to ameliorate any budget shortfalls or ratify or specify the amount of deficit spending that may occur in that fiscal year.

Moreover, under section 6 of the amendment, Congress must—and I emphasize ''must''—mandate exactly what type of enforcement mechanism it wants, whether it be sequestration, rescission, or the establishment of a contingency fund. The President, as Chief Executive, is duty bound to enforce a particular requisite congressional scheme to the exclusion of impoundment. That the President must enforce a mandatory congressional budgetary measure has been the established law since the 19th century case of *Kendall* v. *United States ex rel. Stokes*, 37 U.S. (12 Pet.) 542 (1838). In Kendall, Congress had passed a private act ordering the Postmaster General to pay Kendall for services rendered. The Supreme Court rejected the argument that Kendall could not sue in mandamus because the Postmaster General was subject only to the orders of the President and not to the directives of Congress. The Court held that the President must enforce any mandated—as opposed to discretionary—congressional spending measure pursuant to his duty to faithfully execute the law pursuant to Article II, section 3 of the Constitution. The Kendall case was given new vitality in the 1970's, when lower Federal courts, as a matter of statutory construction, rejected attempts by President Nixon to impound funds where Congress did not give the President discretion to withhold funding. E.g., *State Highway Commission* v. *Volpe*, 479 F.2d 1099 (8th Cir. 1973).

The position that section 6 implementing legislation would preclude Presidential impoundment was seconded by Attorney General Barr at the recent Judiciary Committee hearing on the balanced budget amendment. Testifying that the impoundment issue was in reality incomprehensible, General Barr concluded that ''the whip hand is in Congress' hand, so to speak; under section 6 [the] Congress can provide the enforcement mechanism that the courts will defer to and that the President will be bound by.''

What we have here then, is an argument based on a mere possibility. Under the mere possibility scenario of an impoundment we would have to include any possibility, however remote, in the amendment. The amendment would look like an insurance policy. Why place something in the Constitution that in all probability could never happen, especially if Congress could preclude impoundment by legislation?

Mrs. FEINSTEIN. I thank the Chair. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I am going to get to the issue of Social Security toward the end of my speech, but I think it is very interesting that the focal point of the debate here is what would happen if we did not do what the American people want us to do, after we have amended the Constitution to require that we do it. It seems to me that the focal point of debate ought to be how do we do what the American people have demanded in overwhelming numbers that we do. That is, how do we balance the Federal budget?

Mr. President, there are a lot of issues about which I wish to talk. I certainly want to speak about Social Security because one of the things that I believe many people watching this debate do not know is that because of a profound election result on November 8, if every Democratic Member of the Senate were to vote the way that Senator did when we voted on the balanced budget amendment to the Constitution the last time, we will adopt it—the House has already adopted it—it will go to the States; it will be ratified; and it will become the law of the land.

So it is of some profound importance when Senators who voted for this very amendment in the last Congress now raise a multitude of objections against the very amendment that they voted for in the last Congress when there was no chance of it being adopted, when we were not shooting with real bullets, because now we are in fact shooting with real bullets and we have the opportunity to change the Constitution and to change the history of the United States of America.

Mr. President, I wish to begin by pointing out that, while I am sure there are a lot of people who believe this debate on the balanced budget amendment to the Constitution is driven by the tax and spend history of our country in the last 40 years, a history of runaway Government spending, of the explosion in growth of the Federal Government, of an explosion in the tax burden, in reality we are engaged today in an old debate and not a new debate.

In fact, no less of an authority than Thomas Jefferson, when he first saw the Constitution, raised his concern about the absence of a provision which in essence is the provision that we are debating today. If some of you will remember, Thomas Jefferson was the Minister to France when the Constitution was written, and he is one of our Founding Fathers who did not attend the Constitutional Convention.

When Jefferson had an opportunity to read the Constitution and to understand its provisions, he talked in a letter about one change that he would like to make. Some of us are familiar with this quote, but many engaged in the debate are not, and I wish to read it. Here is what Jefferson wrote:

> I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of its Constitution. I mean an additional article taking from the government the power of borrowing.

So, Mr. President, there is no doubt that we are here today debating a balanced budget amendment to the Constitution because of the utter failure of the Congress and the President, Democratic Presidents and Republican Presidents, primarily Democratic Congresses, but both to get the job done. But this is not a new debate. Thomas Jefferson recognized at the beginning of the Republic that it was desirable to put into the Constitution a limit on the ability of government to borrow money, and in a sense we are correcting a problem in the Constitution that Jefferson recognized from the beginning.

While I am on the subject of Jefferson, it is important to note that we see each day, I believe, in the numbers that we look at on the deficit, a debate which Jefferson engaged in with John Adams. Jefferson and Adams were political enemies during their careers, but once they had retired they became close friends. They engaged in correspondence. And part of that correspondence has become famous as the Jefferson-Adams debate.

It is more than I will outline, but the essence of the debate was as follows.

Adams, ever the pessimist, argued that people would discover that they could use Government to redistribute wealth and that once they made the discovery that Government power could be used to redistribute wealth, Adams argued that it would reward indolence, that it would impose a burden on productive behavior, and that democracy would fail.

Jefferson, ever the optimist, argued that people would make the discovery—they would discover that Government, through taxing and spending, could be manipulated by special interests and that it could be used to take the fruits of the labor from the laborer and give it to people who were not equally productive or who were more powerful politically. But Jefferson argued that the American people would always be so committed to broad-based opportunity that they would recognize that what the Government could take from someone else today and give to them, they could take from them and give to someone else tomorrow, and Americans would therefore reject Government as an instrument for redistributing wealth.

In a very real sense, today we are immersed in the Jefferson-Adams debate. While I believe that Jefferson is right, the debate as it is now structured is biased in favor of the Adams argument. Let me give a practical example.

I guess my first experience in budgetary politics was after I was elected to Congress in 1978 as a Democrat. In 1979 and 1980 the country got into trouble. We had 13.5 percent inflation, we had 21.5 percent interest rates under President Carter, and President Carter in 1980 withdrew his budget, in an extraordinary action, and he sent to the Congress, as best I can remember, about a $6 billion savings package. Most of the package was phony. Some of it supposedly saved money by spending money sooner rather than counting it in the future year. We have all seen that happen and some have practiced it. He also moved some spending to a future year. But there was $1 billion of real savings that he proposed by denying Government retirees a twice a year cost-of-living increase.

That saved $1 billion by giving Government retirees a once a year cost-of-living increase instead of a twice a year cost-of-living increase. At the time, 98 percent of all private retirees had no cost-of-living increase, but my purpose is not to debate the merits.

When we voted on the Carter budget revision, over 250 Members of Congress voted with the President to try to save the $1 billion. I was one of them. And then, when a conservative Republican, as it turned out, offered an amendment to force us to vote straight up or down on the twice a year cost-of-living increase rather than voting on the general concept of dealing with the deficit, as I recall there were about 50 brave souls in the House who stayed with the once a year cost-of-living increase and I was one of them. I was up for reelection at the time. I was running against a candidate who, at least initially, appeared to be a potential challenge. So I was doing a poll. It is a very small poll but it made a very big impression on me and I wanted to share it with my colleagues and with the people who are interested in this debate.

I asked in that poll: ''How many people knew that we had a vote on the twice a year cost-of-living increase for Federal employees and how many people did not know?'' Interestingly enough, not one person that I polled in my district who was not a Federal employee or a Federal retiree even knew the vote had occurred. But every Government employee and every Federal retiree that we polled knew it. In addition, on the second question, ''Knowing it, how did it affect your support in the upcoming election?'', every person who knew it planned to vote against me because of the vote. There is nothing wrong with that. The essence of democracy is accountability.

But here is my point. The reason the system is biased in favor of spending is because we vote on individual issues and every time we vote on spending money we have special interest groups—and we are all part of them—looking over our left shoulder, sending letters back home telling people whether we care about the old, the poor, the sick, the retired, the bicycle riders—and the list goes on and on.

Nobody is looking over our right shoulder telling people back home whether we care about the people who do the work and pay the taxes and pull the wagon in America, or whether we care about our children and their future.

I remember in 1979 we were going through a fairly boring period in Congress. As a young freshman Member I tried to keep up with real votes we cast. Not votes on big bills that cost billions of dollars where the vote would be 380 to 20, but actual amendments. In my little casual empiricism I made a discovery. The discovery basically was this. The average little amendment add-on we were voting on cost about $70 million. The average beneficiary, as best I could estimate, got about $1,000 to $1,500 apiece. And since there were 100 million taxpayers the average taxpayer was paying about 70 cents. You did not need a Ph.D. in economics to understand that a few people are willing to do more to get $1,500 than a lot of people are willing to do to prevent spending 70 cents.

My conclusion was that only if we change the way we spend money do we have any chance of gaining control of spending, because what tends to happen—and our colleague in the Chair is a new Member here, but as he will discover—what tends to happen is the only people who ever know how you vote on spending issues are the people who wanted the money and they remember most when they do not get it. It is like in a religious sense saying if you do good that when you get to the Golden Gate and Saint Peter opens the books that there is not going to be anything written down; no record of it. You are asking people to be responsible simply because that being responsible is the right thing to do.

The problem is, the Lord did not make many zealots. And that is why we have consistently, vote after vote, year after year, been losing the battle on Government spending. And as a result the Government has become bigger and bigger and bigger, more and more distant, more and more hostile, more and more burdensome. And that is why we are here debating this issue today.

In trying to deal with this problem we passed what was called the Gramm-Rudman law. On the day it passed, I stood up and said in that debate that the bill was the engagement but the balanced budget amendment to the Constitution was the marriage; that the problem with the Gramm-Rudman law was that it was a law, and what Congress could make, Congress could unmake.

I did not realize, when I was saying that in 1985, that exactly that was going to end up happening. What happened under the law is that we were able, in the 4½ years it was in place, to lower the deficit burden on the economy by about 42 percent. We were able to limit the growth of Government spending to 1.4 percent a year while the economy grew by 3.1 percent a year and the Government actually got smaller relative to the economy for the first time in the postwar period of the country.

But what happened is when the hill got steep from the recession and S&L bailout, then Congress bailed out on the Gramm-Rudman law, gave the new President the power to suspend it, and the first official act of Bill Clinton was to suspend the Gramm-Rudman law.

What is the problem we are looking at in terms of the deficit? I have some charts. Let me just basically go through them. We are engaged in an intensive debate here on what happens if we balance the budget but with relatively little attention paid to what happens if we do not. This chart is basically the question of when are we going to do it? But all of this red shows going back to 1969. The one time in the last 34 years, since 1961, that we have actually had a tiny little surplus was in 1969. From that point on, every year, we have run a Federal deficit. And right here is where we are headed if we do not adopt a balanced budget amendment to the Constitution and if we continue business as usual.

This next chart is a projection from the Congressional Budget Office. If you look at the last 34 years, this is what it looks like. Starting in 1961, we ran a deficit. We ran a deficit every year to 1969. That year we had a tiny little surplus, which is a lot of money for anybody but Ross Perot; $3.2 billion. But in the big scheme of things, it is a fairly

small surplus. But every year thereafter, since 1970, we have run a cumulative deficit which has raised the debt by $3.4 trillion.

Given current projections, nobody can honestly anticipate, short of a balanced budget amendment to the Constitution, that we will balance the budget anytime in the next 15 years. I ask my colleagues, is it possible for a country, year after year after year for half a century, to spend more money than it takes in and to pile up these debts so that the interest on the debt in the year 2005 will be greater than the total level of Government spending in 1975?

If we do not pass a balanced budget amendment to the Constitution, given the bills that are already the law of the land, given the spending that we are already committed to, by the year 2005, 10 years from now, we are going to be spending $334 billion a year simply paying interest on all of this debt. That is more money than we spent on Social Security, defense, discretionary spending, and every other single program of the Government in 1975. In fact, there are a number of Members of this body who were Members of the Senate in 1975. We are not talking about that long ago.

What happens if we do not balance the budget has to do with real people and real families. People talk about the difficulty of balancing the budget and the supposed excruciating pain that is presumed to result from what we are going to have to do, but I hear relatively little discussion about the excruciating pain that is going to occur if we do not do something about the deficit. Let me talk about that very briefly.

In 1950, the average family in America with two children sent $1 out of every $50 it earned to Washington, DC. Today, that average family is sending $1 out of every $4 it earns to Washington, DC. And if we do not pass a single new law in the next 20 years, if we just pay for the laws that are already on the books, if we just pay for the Government that we have already thrust upon the American people, that average family is going to be sending $1 out of every $3 it earns to Washington, DC. That is the cost of doing nothing.

The General Accounting Office has estimated that, if we pass a balanced budget amendment and we enforce it, the impact of balancing the budget will mean that our children can expect their family income to be 36 percent higher than if we do not eliminate a situation where government is borrowing 50 cents out of every $1 available meaning that 50 cents out of every $1 saved in America does not go to build a new home, a new farm, a new factory, to generate new economic growth; it instead all goes to pay for Government deficit spending.

The last time that we had a sustained period of a balanced budget so that the Government was not borrowing 50 cents out of every $1, mortgage rates were 3.5 percent. In fact, in the history of this country, whenever we have had any kind of prolonged period where the Government was living within its means, long-term interest rates have been down around 3 percent. The average home in America would have a mortgage payment of $500 a month less today if we had the fruits of a balanced budget.

So when we are talking about all of the excruciating pain that is held out, about what it would mean if the Government had to do what families and businesses have to do every year, I think it is important to ask ourselves what is going to happen if we do not do it.

A couple of other points: I just mentioned that over the next 10 years, the interest payment on the debt, at the rate at which we are piling up new debt, is going to rise by $134 billion. We are going to be paying an additional $134 billion a year in 10 years on interest payments because we are not balancing the Federal budget.

Do you know what we could do with $134 billion a year? The Senator from California got up and talked about Social Security. With $134 billion a year put into the Social Security trust fund, we could guarantee that we could finance the retirement of the baby boomers. With $134 billion a year, which we are going to be squandering on interest while we debate whether the world will come to an end if we have to live within our means, if we took that $134 billion a year and used it to cut taxes, we could double the personal exemption and have a flat tax rate of 17 percent.

We are talking about a tremendous ability to let working families benefit from their own creativity, from their own hard work. But what is going to happen if we do not do it? What is going to happen if we do not do it is that $134 billion is not going to go to Social Security. That $134 billion a year is not going to be returned to families to invest in the American dream. That $134 billion is going to be squandered the way the $200 billion a year we are spending this year is being squandered in paying interest on a debt that we have run up because this Congress and others like it have refused to say no to any organized special interest groups.

How would we balance the budget? This is a much discussed issue. We have heard some of our colleagues on the other side of the aisle make an argument that runs basically as follows: We have not balanced the budget since 1969. We are out of practice. We do not know how we would do it. How could we commit to do something when we cannot tell you exactly how we are going to do it?

I am going to talk about how to do it for a moment. But let me submit that is not the way people operate in the real world. In the real world, we commit to do things all the time even though we cannot tell you going in exactly how we are going to get the job done.

If, in the real world, you had to be able to say exactly how you were going to achieve something down to the finest detail, before you committed to a good and worthy goal, no one would ever commit to one.

If you had to know how you were going to pass all those courses when you went off to the university, nobody would ever go off to college. If you had to outline exactly how you were going to make your business work in good times and bad, nobody would ever start a business. If you had to figure out how you were going to make a marriage successful before you got into it, how you were going to deal with the 1,001 problems that you know are going to come up, nobody would ever get married.

After my wife-to-be turned me down for the second time and I got down on one knee in San Antonio and said, ''If you will marry me, I will spend the rest of my life trying to make you happy,'' my wife did not look down at me and say, ''Well, how are you going to do it?'' She looked at me and tried to gauge how much I was committed to it, and 25 years later I am still working on it. So forgive me if I feel a little bit cynical toward my colleagues who say, ''How can we commit to balancing the budget if we cannot sit down and write out in the greatest detail how we are going to do it,'' knowing that if anybody wrote out the detail, then they would stand here and say the world is coming to an end if we have to do these things.

I hope when people hear this debate, they will always remember these numbers—and nobody disputes these numbers. The White House, the Congressional Budget Office, nobody disputes these numbers. What I have here on this chart is a projection of Federal Government spending, which is the line in red, and then Federal Government revenue, which is blue. One thing that is clear, if you look at this chart, is that both of them have been growing. Both of them have been growing very rapidly. The problem is that the spending has been growing more rapidly. What has happened is that, since 1969, spending has been growing by an average of 8.7 percent a year. In fact, spending by the Federal Government has been growing 2½ times as fast as spending by the American family has been growing. I think that is a real index of our problem.

Revenues have been rising, but they have not been rising as fast as spending has been rising. So if you look here, in 1995, where that red ends and the yellow begins, that is where we are.

The Office of Management and Budget and the Congressional Budget Office project that over the next 7 years, the economy is going to grow—not as fast as it is growing now, but at a fairly modest rate compared to the kind of growth we had in the 1950's and 1960's.

If we could limit the growth of Government spending to no more than 3 percent a year, where we are spending only 3 percent more next year than we spent this year, we would balance the budget by the year 2002, which is what we are calling for in this balanced budget amendment to the Constitution.

Here is my point. I know that there are many people who say we cannot balance the budget, that it means hard choices, and that we have a Congress that in 40 years has not said no to any organized group with a letterhead. Obviously, it is a self-fulfilling prophecy. But I think if you go to main street America and you say to the people, ''Would you want the Government to balance the budget, to eliminate the kind of debt burden and taxes that we are looking at in the future if we do not do it, if it requires that the total growth of Federal spending be limited to no more than 3 percent a year for 7 years?'' my guess is that 95 percent of the people in this country would say ''yes.'' The other 5 percent are the people who understand this well enough to know that they are getting the 7 percent a year spending increase, and that they do not want it balanced; even if it mortgages the future of the country, it is worth it to them to get this extra spending.

I am not saying this is easy. I have worked on the budget as long and as hard as any person who has served in the Senate in the period of time I have been here. Limiting the growth of Government spending to 3 percent means you have to reform welfare, which we need to do anyway; it means you have to reform Medicaid; it means you have to reform Medicare.

When the average insurance policy in the private sector did not go up in price last year, and Medicare went up by 10.5 percent, and the Government is paying for it and our senior citizens are paying for it, we ought to go back and look at it and we ought to be reforming it. It also means you have to go through discretionary spending, because there are some parts of it that are going to grow, and that should grow, and you have to set priorities and cut spending elsewhere.

The point is, how many families in Illinois last year, or in Tennessee, or Texas, had to deal with budgets that were tougher than limiting their growth in spending to 3 percent? On almost every street, on almost every block in the Nation, there were families that had to make tough decisions last year. They did not like it, but they did it. They had to say ''no,'' not to strangers but to people they love. They did not want to do it, but they did it. How many businesses in America have had to restructure their business in the last 10 or 20 years, compared to which living within a 3 percent growth rate would look like child's play? Literally hundreds of thousands of them. What is the difference? Families and businesses live in the real world, and the Federal Government does not. The balanced budget amendment to the Constitution is an effort to bring it into the real world.

I now want to address the Social Security issue. First of all, there are profound questions that have to be answered if you are suddenly deciding that you want to not count the second-largest Federal revenue flow and the second-largest outlay flow as transactions of the Federal Government.

We heard the distinguished Senator from California talk about protecting Social Security. But the reality is that taking Social Security out of the budget in no way protects Social Security. In fact, when we ran into trouble with Social Security in 1982, what did we do? What we did is we started shifting money from trust funds; we started shifting money from among the various trust funds, and we took money out of general revenue and we saved Social Security, and we went back—finally, when we were shamed into it, when our parents were about not to get a check—on a bipartisan basis and we made the changes we needed to make. Had we had this provision in place, we would not have been able to do that.

But there is a more profound question. If you balance the budget and you did not count Social Security's revenues or the expenditures, you would be, today, running a surplus of about $80 billion. Do we want the Federal Government to run a surplus of $80 billion? We have done that, by the way. From 1867 to 1879, the Federal Government, as a policy, took in more than it spent. And what happened is, it imposed a deflationary pressure on the economy, prices fell, on average, 1 percent a year, and we resumed our gold payment at $20.67 an ounce, which is what it had been in 1860. That was the objective of the Government, but it achieved it by pushing prices and wages right through the floor. Is that a policy we want to undertake? My view is that if we do, it is something we need to make a fundamental decision about. The reality is that we have always lived up to our commitment under Social Security. We have always kept the promise on Social Security without any constitutional requirement. But we have not balanced the budget in a quarter of a century and with no realistic prospect of doing so any time in the next decade, we clearly have an urgent need for a constitutional requirement to do so.

I also have to admit that I am somewhat amazed at this sudden desire of our Democratic colleagues to protect Social Security, because I remember that last year when we had the Social Security tax increase go into effect, one of our own colleagues—I believe Senator MCCAIN—offered an amendment that said that the Social Security tax increase had to be dedicated to the trust fund, and his amendment was defeated on a partisan vote.

In fact, if you look at your new IRS 1040 income tax form, which every American is about to get in the mail, you are going to find that on page 7 it has a new section. The new section says ''Social Security Benefits.'' And it says, ''If your income, including one-half of your Social Security benefits, is over $34,000 a year,'' and then it goes on and says you have to pay taxes on it.

This Senate in the last Congress voted to dedicate those taxes not to the Social Security trust fund but to spend on social programs, which was the policy of the Clinton administration. Now we have the same people saying, ''Well, I voted for the balanced budget amendment in the last Congress, but now I do not know that I can vote for it because of Social Security.''

My point is this: The way to protect Social Security is to deal with this deficit. If we do not deal with this deficit, if we let it continue to mount, we are not going to be able to fulfill our promises anywhere.

If people are for protecting Social Security—which I am absolutely dedicated to and I believe that every Member of this Congress understands that it is a commitment that has been made. The Contract With America makes it clear that Social Security is not going to be tampered with as part of the deficit. There is a 60-vote point of order in the Senate for doing anything that lowers the solvency of the Social Security system. So we have a built-in protection.

It is clear, when you look at the fact that, if every Democrat who voted for this amendment in the past votes for it again, and based on the election of 11 new Republicans, the balanced budget amendment is going to pass and subsequently become the law of the land. When we start having people say, ''Well, look, I am for this and I voted for it in the past, but before I vote for it again, you have to fix this, you have to fix that,'' it raises the specter that now because we are shooting with real bullets, and are actually on the verge of achieving something, we are starting to see the possibility that this whole thing could come apart. And I hope it does not.

I think we have reached the moment of truth. I think we have to decide whether or not we want to force the Government to live on a budget like everybody else.

I know that there are some of my colleagues who say, ''Well, what could a President do if you did not fulfill the Constitution?'' Well, I hope a President, who had put his hand on the Bible and sworn to uphold, protect, and defend the Constitution, would live up to the commitment.

But I think we are asking the wrong questions. We are asking the wrong questions about what the President will do and what the courts will do. The question we should be asking is: What are we going to do?

Everybody understands the current system is broken. Everybody understands the current system is not working. Everybody understands that if we stay on the road that we are on today,

in 20 years we are not going to be living in the same country that we grew up in. We are going to lose the unique opportunity that has been part of America—the opportunity for someone to grow up in Tennessee I say to my distinguished colleague in the chair and, from very humble beginnings, have an opportunity to go to college, to go to law school, to be successful, to become a Senator; the opportunity for people all over the country to do extraordinary things. That is what is on the line here. That is what this vote is about.

A final point—and I have spoken a long time, but I wanted to be sure I addressed all these issues. This is not a new amendment that we are talking about. The Senator from Illinois and many people on our side and many people on his side have worked on this amendment for many years. I have been working directly or indirectly on this amendment for 15 or 16 years. I have sat in on numerous meetings with Congressman STENHOLM, who is a Democrat, with Senator SIMON, who is a Democrat, and we have worked out an amendment that we can agree on.

I would love to have a three-fifths vote requirement to raise taxes. I think the country would be better off if we had it. I want to deal with the deficit not by raising taxes but by cutting spending. But I am willing to fight it out. And I can tell you right now, if we impose a balanced budget amendment to the Constitution and if I am here or if I am involved in Government debate, I will not support raising taxes. I want to deal with this problem by controlling spending. I am sure there are others who feel differently.

But the point is, I cannot get 67 votes for the three-fifths tax protection requirement. There are always things that we could do that would be improvements. But, as Benjamin Franklin said so long ago when the original Constitution was written, you come down to a point where you have to make a decision.

If we want to alter American history, this is the amendment to alter it with. We have the votes to pass it. The House has already acted. The Nation is now looking to us to see if we have the will and the courage.

And I know you could come up with 1,001 excuses for changing your vote. But I believe the American people will understand that this is a test about who is serious about forcing the Federal Government to live within its means, who is interested in changing politics as usual in Washington, DC.

I am hopeful, prayerfully hopeful, that those on the other side who are now talking about changing their vote at the critical moment when we have the votes to pass the balanced budget amendment to the Constitution will engage in some prayerful deliberation and realize that, if they do that, we are going to lose a golden opportunity. We have no guarantee that the opportunity is going to come back and America's future is going to be permanently altered one way or another by what we do here. I hope people will look at this opportunity and not squander it.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Connecticut.

Mr. DODD. I thank the Chair.

Madam President, I rise this afternoon to address the issue of the balanced budget constitutional amendment.

Madam President, my intention will be, over the coming days, to address this issue from several different perspectives. I am very much opposed to dealing with our serious fiscal problems using this approach.

It has been pointed out in public survey after public survey that there is deep concern about the fiscal policies of the country and the direction in which we are headed. People are worried about whether or not we are going to be able to reduce significantly the size of the national debt and our deficits. I do not think there is any debate about that at all.

Madam President, I arrived here in January of 1981. The deficit in that year was about $35 billion, and the national debt was under $1 trillion. That debt had been accumulated over almost 200 years, through a Civil War and two World Wars, the Great Depression, and several smaller depressions.

I was, I believe, the second Member of my side of the aisle to support the Gramm-Rudman-Hollings deficit reduction measure at that time. I thought that was an honest and strong effort statutorily to get our arms around what was then a very small problem by comparison today. Regrettably, that solution did not work, primarily, in my view, because an awful lot of exceptions were created to it.

Gramm-Rudman-Hollings was to apply to, initially, the entire budget. And then, because of the way this institution has run for 200 years and, I suspect, will for as many more years as we are here we began creating exclusion after exclusion. One constituency group after another with major causes came before us and started to peel away the effects of Gramm-Rudman-Hollings so we were incapable of dealing with the budget deficit.

I then offered a pay-as-you-go budget—I was in the minority in those days, as I am today. My proposal would have required that every increase in every aspect of the Federal budget had to be paid for it. I got 22 votes for that idea. Had my pay-as-you-go proposal been adopted we could have achieved a balanced budget by 1987. We did not, of course.

I strongly urge my colleagues, if they have some time—and I guess they will in the next couple of weeks as we debate this issue—to read David Stockman's book where he described the economic policy decisions of the early 1980's.

I present that, Madam President, as background. I have always supported strong deficit reduction measures, but I believe that a balanced budget amendment will not achieve those goals. Adopting a constitutional amendment is the easy part of this. Clearly the amendment is popular before you start talking about the cuts it would require. The amendment would change the organic law of our country to deal with a contemporary fiscal problem. It would incorporate an economic theory as to how we ought to address our current deficit problem.

I have deep, deep, reservations about it based, first and foremost, on my concern that we ought not allow the organic law of the country to become a place where we deal with contemporary, perplexing problems that we face. I think there is a distinction between the organic law of a nation and a set of statutes and ordinances that allow us to come to terms with those questions.

I am also concerned, Madam President, with the view that somehow by amending the Constitution of the United States a bolt of lightning will strike the Congress and we will depart from our historic pattern of finding the easy way out of problems.

I noticed a moment ago the Senator from Texas was talking about a budget proposal here a year or two ago that included a tax implication dealing with Social Security, and Democrats were terrible people over here because we did that. There will be an amendment, I gather, offered that will take Social Security recipients and exclude their benefits from the constitutional amendment to balance the budget.

I suppose it would not do me any good to offer an amendment that to exclude 6-year-olds, as well. I could make a pretty good case that being a child in America today, based on age and circumstances, is very difficult. I am not trying to minimize the problems that all our seniors face. I simply cannot imagine anyone wanting to write into the Constitution an exclusion for people based on age to avoid the serious fiscal problems we face. Yet, that is an example of what some have proposed we do to the Constitution.

I have strong reservations about the constitutional amendment, and other ideas that would preclude us from facing all the difficult choices that we will be forced to confront.

Madam President, just briefly this afternoon, I would like to focus on one particular concern I have about this amendment. It relates to this issue of what I would call the gimmickry associated with the constitutional amendment. My concern, Madam President, is that if we pass a constitutional amendment, Congress will use every imaginable gimmick, sleight of hand, and tool of evasion to get around the requirements of a constitutional amendment to balance the budget.

If this happens, in my view, we will first of all have done nothing to get our fiscal house in order. And we will have done a great deal of harm in undermining public faith in the U.S. Constitution by increasing the public cynicism that exists about our Government generally, and more specifically about the institution of Congress.

My argument, Madam President, is not that Congress is somehow inherently dishonest or genetically programmed to cheat, but I do think if we showed some political courage and some bold leadership, we could honestly deal with our fiscal problems without resorting to gimmickry. In fact, what we are saying, in many ways, is that by writing a balanced budget requirement into the organic law of the Nation we will be precluded from coming up with other ideas to get around and circumvent our responsibilities. In some ways I wish that were true. But having served here for a few years, I am profoundly convinced that it will be untrue.

The courage and the leadership, in my view, must come first. We will not create them by changing some words, even in the Constitution. If we simply change the law without mustering the will to do the right thing, then we will come up with ways, in my view, to get around the law.

I think all Members know, Madam President, and experience should have taught us, who bears the greatest cost of this gimmickry. That is working Americans. When rosy scenarios lose their luster and the magic asterisks lose their magic, and the train wreck inevitably comes economically, it is always working Americans who are left to pick up the pieces and pay the price.

Perhaps the boldest budget gimmick of all time was the so-called supply-side economic approach I mentioned earlier. I arrived here in 1981 in the minority. President Reagan pointed to something called the Laffer curve and told all of us we could balance the budget, while at the same time cutting taxes and increasing spending. It was an Alice-in-Wonderland view of economics where up was down and down was up, and tax cuts always increase revenue. President Reagan's first budget submission in 1981 projected a balanced budget by 1984 and a $28.2 billion surplus by 1986. The budget confidently stated:

> The new policy of tax rate reduction is expected to expand the economy's productive base, lower unemployment, and reduce budget outlays. As a result, the decline in tax rates is likely to generate both strong economic improvement and impressive gains in receipts, paving the way for a balanced budget.

That was 1981. Well, that sure sounded very optimistic and nice but unfortunately, it does not bear much similarity to what actually happened. Let me tell Members what actually happened. In 1984, the year the supply-siders projected a balanced budget, we had a $185 billion deficit. The deficit went from $35 billion in 1981, to $185 billion by 1984, 3 years later. By 1986, the year the Laffer curve was supposed to produce a $28 billion surplus, we were $221 billion in the red. That was 5 years after our national deficit was $35 billion. Madam President, it got worse and worse and worse.

During those years, the national debt quadrupled. Today, every American—man, woman, and child—owes almost $13,500 on publicly held debt. In inflation-adjusted terms, that is 2.5 times more than what they owed in 1980. That is the legacy.

Madam President, I do not fault President Reagan for trying. It was an idea. There were many people, Democrats included, who thought it would work. I had my suspicions. I was one of 11 Members here who voted against it. But the point is here, when it did not work, we could change it. We could change it, and we did. We paid a price. What we were doing is fooling with the appropriations of the country, the Tax Code of the country, the statutory law of the country. We made a mistake, an awful one, and it has cost us dearly, but it was a statutory mistake. A mistake in appropriations, a mistake in the Tax Code, is mistake that could be corrected with much greater ease than if these policies had been written into the Constitution.

Imagine, however, in 1981, if we had incorporated in the Constitution of the United States an economic approach and then faced what David Stockman properly has pointed out, by good-intentioned and well-intentioned people, similar demands for greater spending. A situation where the Secretary of Defense said, ''Wait a minute, not me. I understand you want to cut here, but we have serious problems. We have a stronger Soviet Union,'' and those here or not here made a strong case and prevailed. And a situation where others came and said, ''Wait a minute; not Medicare, not Social Security.'' People said, ''Not me.''

Does anyone really believe here we will not face similar kinds of challenges? And the difference is that it will not be that easy to change now because it is written into the organic law of the country, an economic idea, a theory? Again, I do not fault, necessarily, President Reagan for having tried an idea. I think we need to do that, but not to write them into the Constitution.

In fact, to his credit, to President Reagan's credit, there was a lot of pressure on him to push for a constitutional amendment to balance the budget. As most people know, maybe to the disappointment of some, it was not really pushed. I suspect, President Reagan had serious doubts and concerns about changing the Constitution of the United States to incorporate economic ideas from people whom he trusted and liked and believed in, but had his doubts about whether or not we ought to incorporate their ideas into the most fundamental document that outlines the principles and the values of our Nation.

So, for those reasons, Madam President, I have serious reservations. I am willing to try some of the ideas that people have suggested. My colleague from Texas said maybe we just ought to cut across the board 3 percent.

I have my real suspicions about that approach, but it is an idea. And if we have 51 votes here and there is a majority in the House, it might be tried. If it did not work, it could be changed. I hope we will not want to incorporate that idea into the Constitution of the United States. It is economic theory. This is not a science. This is speculation.

I am reminded of Harry Truman's wonderful old line that he wished he could find a one-armed economist, someone who talked straight to him, instead of saying, on the one hand, one idea and, on the other, something else. Economics is full of theories. No one can say with absolute certainty anything. If that was not the case, we would have many more millionaires in the country. Economists talk about the projections of the market and others trust it will work out that way.

The point is, working Americans end up paying an awful bill when we substitute theories, gimmicks and cosmetic changes in law for good old courage and political will. At the end of the day, no matter how many times you change the Constitution, we are going to have to confront it. American workers will have to pay when we dodge and weave to get around the balanced budget amendment.

Our Federal budget is a highly complex document, and we necessarily rely on projections to forecast spending and taxes. To preserve the integrity of the budget process, I think we should strive to keep politics as much as possible out of those projections and economic calculations.

I will point out again that the potential for political abuse is huge, in my view. Last year, Stanley Collender, the director of Federal budget policy for Price Waterhouse, illustrated how effective altering such projections could be. Collender estimated a 1 percentage point drop in unemployment projections would reduce projected deficits by $37 billion the first year and $57 billion the next. To paraphrase and modify the words of our late colleague, Everett Dirksen, of Illinois, a percentage point here and a percentage point there and pretty soon you are talking about, of course, real money.

There is already some disturbing evidence that the authors of gimmickry are abroad, surviving and doing well in the land. The distinguished Speaker of the House of Representatives, and some others, have said they want to change the Consumer Price Index, which measures inflation, as a way of trying to cut spending and increase revenues. These advocates of the so-called ''contract'' know that their promises simply do

not add up. They cannot cut taxes, increase defense spending and balance the budget without draconian spending cuts, cuts they so far have been unable to spell out.

So we already see people resorting to some of the gimmicks I worry about if this constitutional amendment is adopted to get the job done. One of the first was to try and cook the books with changes in the technical calculation of the CPI.

I think there is a legitimate debate in the country as to whether or not the inflation figure is too high or too low. A lot of very sound economists debate that point. That is a legitimate discussion, and, in fact, if it has been too high, it can be brought down, then it seems to me we ought to examine that thoroughly and do so. But any changes must be based on sound economic reasons, not political ones.

The distinguished Speaker, as my colleagues no doubt have heard, threatened to cut off the funding of the Bureau of Labor Statistics, not exactly what you would call a partisan agency or organization in town, within 30 days if they did not get it right with regard to inflation. I admit, there is a legitimate debate about inflation, but I do not think it serves anyone's interest to be threatening the budget of an independent agency on whom all of us rely to get some indication of what the Consumer Price Index ought to be. That is what I worry about.

When people say, ''What do you mean by gimmicks,'' that is what I worry about. I worry about people beginning to fool with the numbers to make it all come out right and yet, at the end of the day it is otherwise and, of course, we are faced with terrible, terrible problems. So I worry about the gimmicks being used.

Senator DORGAN, Senator HARKIN and I offered a sense-of-the-Senate amendment in this body that simply stated that the CPI changes ought not to be politicized and economists ought to look at this and give us their sound judgment. The amendment was rejected, unfortunately. But I hope that my colleagues will discourage anyone threatening the budgets of agencies because we do not like the numbers we see.

Another effort recently to monkey with the books goes by the name of dynamic scoring. Dynamic scoring would provide cover for Members of Congress whose economic plans for the country simply do not add up. They draw up a budget that balances on paper but bounces in the real world. This dynamic scoring idea is to try and put the most favorable light on tax cuts.

I think it is important that we have accurate projections of what changes a tax cut may create. I recall opposing the tax cut on luxury automobiles and boats a few years ago. Those who offered that proposal projected there would be great revenue gains. It turned out quite the opposite. In fact, those provisions helped to destroy the boating industry in my part of the country. But they had rosy projections about revenues we were going to gain.

Again, I think it is important that as Members of Congress, before we vote, we ought to have some idea about what the projections are apt to be in these areas. But do I think we ought to incorporate it as part of the budget process? Should we not, in fact, be more conservative as we look at these matters, hope they turn out better, hope that they will, in fact, produce the revenues?

I never had anybody come to my office and say, ''You know, Senator, I would like you to support this tax cut and, by the way, let me tell you something, it is really going to cost the taxpayers some money.''

Everyone who ever has come to my office in 14 years here with a tax-cut proposal in mind has promised me—promised me—that this was going to produce revenues. In some cases they have. In many cases they have. But, not in all.

So when we are looking at how to score tax cuts, I would think it is in our collective best interests here to look at it with the most conservative point of view in mind. If it does a lot better, we are all winners, but if we project it is going to produce some fantastic results and it does not, then you have run right back into the problem I am talking about.

So, again, I think we have to be very, very careful as we look at these gimmicks. Hence, I come back to the point of why I am concerned about incorporating in the Constitution of the United States conclusions, demands that we will then be determined in our own way to try and reach through efforts that will be less than candid or up front with the American people.

Going beyond such narrow projections in an attempt to measure the impact of tax changes on the overall economy is very difficult. If we are going to get into the game, we can just as easily measure dynamic effects in education, I suppose, or job training.

I know there are those here who make the case that if we invest in education that we will get returns to the country. In health care, you can make a strong case, I suppose, that if we put all the money needed to eradicate some of the major diseases in the country, that would be a real net gainer for us in terms of the budget.

I do not know anybody who would want to accept the notion that if we invest *x* amount of the taxpayers' money to cure a particular disease, that we ought to score that as a great savings to the American public. The same thinking ought to be applied when we talk about tax cuts. As much as we may hope that they will produce the desired results, if that becomes a part of the budget process, then I think we do ourselves a great disservice.

The argument is often used that balanced budget requirements have successfully imposed fiscal discipline on our State governments. But the evidence on this is unclear as well. Gov. Lowell Weicker, a former Member of this body, testified in 1992 that Connecticut's $1 billion deficit came to pass in our State despite a balanced budget law that had been on the books for 53 years. The Constitution said balance the budget and yet we had, because of dreadful economic conditions, a $1 billion deficit in our State. All of the language in the Constitution did not change the economic realities.

Many States, of course, use creative budgeting now to comply with their constitutional requirements. Clever tools include: Delaying payments to suppliers. That happens all throughout the country.

Accelerating tax collections. How many times have we heard that used?

Shifting programs off budget. That is a great gimmick we use. Well, we will not count it as part of the budget. That is off budget. Somehow, miraculously, it does not end up in our accounting. Even though we are in the red, it has been pushed to a new category so it does not fit into the budgetary requirements.

The gimmick of choice for Governor Whitman of New Jersey has been delaying State contributions to employee pension plans—it is legal and it certainly saves money in the short term. But at some point a future Governor, a future legislature is going to have to belly up and pay those costs, and the taxpayers are going to have to pay. So you get a rosy picture in the short term but the reality is you are faced with those expenditures down the road.

Governor Whitman and others have also taken a lesson from the Federal playbook by shifting costs to more local units of government. In New Jersey there is going to be a State income tax cut of some $290, close to $300. Simultaneously, property taxes are going up in New Jersey about $1,000, a little more than that—roughly $1,000.

Now, it is great news that State income taxes are getting reduced, but if, simultaneously, property taxes are going up almost four times that amount, a taxpayer is a net loser. They may see headlines that read, ''State income taxes cut.'' You shift the costs to the towns; the property taxes go up; and you the taxpayers are net losers.

I do not think people are fooled by that in this country. Once again, we will have engaged in the kind of gimmickry people so detest and makes them so angry. We will have failed to confront head on the problems of getting our fiscal house in order.

So, Madam President, if we pass this constitutional amendment, I fear we are going to borrow some of the clever tactics that have been used at the State level. If we mimic their balanced budget requirements, we may also mimic their tricks of getting around them. The balanced budget amendment is, of course, the grand gimmick that would spawn 100 lesser ones, I fear.A

The amendment itself is a statement that we do not have the will to make the tough choices. If we did, we would not be confronting ourselves with changing the organic law of the country—if we did face up and do it.

Let me point out here that for the first time now in almost 4 decades we have had 3 consecutive years of deficit reduction. The last President to submit a balanced budget was Jimmy Carter, and the last Congress and President to

achieve a balanced budget was Lyndon Johnson in 1969.

Now, if we can get back on track and keep reducing our deficits, create incentives for growth and for people to work, make the kind of intelligent investments that reduce long-term costs—then I think we can continue down that path and achieve the desired results.

I would suggest to my colleagues and those who are listening that merely writing something into the Constitution, making it sort of a New Year's wish list, does not get the job done. Why not add, as I have said before, the eradication of ignorance, poverty, disease; all of these are desirable goals.

If we are going to turn the Constitution into nothing more than a wish list, then we devalue the very document that we have relied on for 200 years. It has only been amended 27 times in 11,000 efforts, by the way—11,000 amendments to the Constitution since 1789. We have gone through a Civil War, a Great Depression, two World Wars. We did not find it necessary when we confronted every contemporary crisis to resort to the Constitution as a way of solving the problem. We faced up to them and made the tough choices. Our predecessors did the job when confronted with crises that were far more serious than this one, as bad as it is.

So I would urge my colleagues—and I know there are those who are weighing the benefits and the liabilities of approaching our fiscal problems by amending the Constitution of the United States—people do want to see us get our fiscal house in order, but I think they would like us to do it the old-fashioned way. That is, to make the cuts and to encourage the kind of growth that can get the job done, not to wait 7 years and leave it to some future Congresses to grapple with.

Madam President, I urge my colleagues to think hard and long before they go this route. My view is the States will very quickly ratify this constitutional amendment, if it is adopted here. It is very appealing. They will assume that someone at a later time will have to deal with the problem.

The Constitution requires that we vote on the matter, that we do so here. I do not think it is proper or appropriate for us to just hope someone else might protect us and protect the document when we have the opportunity to do it as Members of the Senate.

So I urge rejection of the amendment and hope that we would get about the business of doing the hard work of reducing the cost of Government, to shrink the size of Government, to make the proper investments and to get people back to work. Those are the kinds of things that I think will get us on a better fiscal path than what we have been on for far too long.

Madam President, I yield the floor.

Mr. HATCH. Madam President, we have had an interesting day here today. We have had a lot of interesting speakers. I particularly want to pay tribute to Senator SIMON and his very extensive and good remarks that he made this morning. A lot of people feel he is a very unlikely person to be leading the fight on the balanced budget amendment, but I feel he is exactly the type of person who should do it because he understands the importance of our national spending decisions and he understands the importance of our taxing decisions and he understands the importance of fairness.

There have been a number of other excellent remarks here today. I would like to pay tribute to each and every person who has spoken today, including persons on the other side. They have raised issues that have been raised before and that we think we have answered before and that we intend to answer throughout this debate.

On the other hand, this has been an orderly and very sophisticated debate thus far. One thing I really want to make clear. That is, regardless of whatever arguments are brought against this amendment, this is the amendment. This is the best we can do. This has been worked out among Republicans and Democrats of good faith. It is the only hope I see for putting a mechanism into the Constitution or into the daily functioning of Congress—a mechanism that we cannot avoid—that might get us to make priority choices among competing programs. It is the only amendment that the House of Representatives has ever seen fit to pass by the requisite two-thirds vote, plus 10. It was a big victory over there. It was something that never happened before. And it took Democrats and Republicans to do it. Almost every Republican voted for it, and we had 72 courageous Democrats who stood up against the majority in their party and voted for it. And only 132 people were against it.

Now, we have an opportunity to do something in the Senate that is absolutely historic. The Senate up to now has been the only body that has passed a balanced budget constitutional amendment by the requisite two-thirds vote until that House vote.

Now, some people have had the temerity to say that the only reason the Senate passed the balanced budget amendment by 69 votes back in 1982 and the only reason we had 63 votes last year was because some in this body voted for it knowing it would not pass the House.

I do not believe that. I believe that people who voted for this voted for it for the right reasons. They voted for it because they knew it was the best we could do. They voted for it because they knew it was a bipartisan consensus amendment, and they voted for it because they knew it would work and they knew it would force Members of Congress to stand up and do what is right for a change.

Now we are down to bait-cutting time. It may take us another 2 or 3 or 4 weeks. I do not care how long it takes. I want this amendment to pass, and I am going to do everything within my power, physical and otherwise, to get this amendment passed. I hope everybody out there in this country will start working with their Senators, help them to realize this is it. This is our best chance to save this country.

I hate to put it that dramatically, but that is what it comes down to, because if we do not do this, those who are concerned about Social Security are really going to have a reason to be concerned because we cannot continue to be the profligate spenders we are and run the huge deficits we do and have the interest rates go up the way they will and lose the jobs we are going to lose and have the interest against the national debt continue to exponentially go higher and higher without hurting Social Security, without hurting Medicaid, without hurting Medicare, without hurting welfare, without hurting veterans' pensions, without hurting everybody's pensions, and without reducing the value of our dollar to the point where all of us are going to have a rough time.

If the United States starts to slide in this way, what about the rest of the world? There will be a worldwide recession or depression like never before. That is going to happen unless we bite the bullet and do what we have to do here.

There is good reason why you cannot amend the Constitution easily or readily. There have only been 27 amendments to the Constitution and most, if not all, of them have been hard fought. But never in history has there been a more important amendment than this one at this particular time. This is the chance for us to do something that could save the country. And it will not happen—and I say this to every citizen of this country—it is not going to happen unless you get mad and you let the Senators in this body know that you want them to adopt this amendment. They need to vote for this and we need 67 votes to do it.

The Founding Fathers made it very tough to amend the Constitution. That is as it should be. This amendment has been through 12 years of very tough treatment, very hard fighting, and very serious intellectual consideration. It is the best we can do.

Everybody here would like to add something or take something away. But sooner or later we have to come down to the conclusion this is the best

we can do. We have always looked at anybody's ideas, and we will continue to see if there is some way we could find that will help to satisfy the distinguished Senator from California, Senator FEINSTEIN, and others. But I have to tell my colleagues the more I think about it, the less inclined I am to make a change like that because of the loophole it would be, and because it will not solve the problem for Social Security anyway. The best thing we can do for Social Security is pass a balanced budget amendment that will keep our country strong. It will make us live within our means. It will make us treat budgetary matters in a fiscally responsible manner. That is the best thing we could do for Social Security, because no matter how much you pay people, if the money is worthless, it is not going to buy food or anything else.

There are people today who suffer because of their poor economic situation who rely on Social Security. But they are relatively few, and we have to work on them and try to resolve their problems within our budgetary process. But there are millions who are getting by on Social Security and consider it their life's blood. They are not going to be able to if we do not put this constitutional amendment into the Constitution and force the Congress to live within its means.

How can anybody doubt that the way we spend, the way we increase deficits, the way our interest against the national debt is exponentially rising, that that will affect everybody in this country at some time in the future unless we are forced to get serious about it?

We talk about being serious. We have tried every statutory budget mechanism we possibly can and none of them have worked over time. All of them have failed. This amendment will force us to succeed. It would force us to get serious. It would force us to do the things that have to be done. And that would protect Social Security in the long run.

I do not want to just look at things in the short run. I want to look at them in the long run, and this amendment will help us in the long run. If we put an amendment in that refers to a statute in the Constitution, and try to define in the Constitution what that statute means, I guarantee it will be a loophole through which you can fit any kind of spending program you want. All you have to do is call it ''Social Security,'' call it ''the trust fund,'' or call it whatever fits the language of the statutory reference in the constitutional amendment and that is it, it is over.

I know people are sincere and they are trying to do what is right here. But the place to deal with these issues is in implementing legislation. That is why we have implementing legislation. That is why section 6 says that the Congress has the power to implement this amendment. Through the implementing legislation we can resolve some of these problems and we can resolve them in a way that still forces us to make priority choices among competing programs, and Social Security will always fare well in competition with other spending programs in our budget. I do not think anybody doubts that.

So let us not get into an issue that really is a phony issue. Let us keep constitutional amendments the way they should be. Everybody knows the game here. Everybody knows this amendment is written in a constitutional form. Everybody knows what it is intended to do.

There will always be those who try to play games to get around a constitutional provision they dislike, but if we stand strong and we vote for this and we get it through, I guarantee it will work and it will go a long way toward resolving the problems of this country—which are not being resolved at the current time.

I know the distinguished Senator from Nevada wants to speak, so I yield the floor at this point.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

Mr. REID. Madam President, probably the most famous bank robber of all time was a man by the name of Willie Sutton. After Willie Sutton got out of prison, after having spent many, many years there, he was asked why he robbed banks.

He said, ''Because that's where the money is.''

Madam President, Social Security is where the money is and that is why we must protect Social Security recipients, whether they be my granddaughters or whether they be me or the millions of people around this country who today depend on Social Security.

The reason we must exempt Social Security from the balanced budget amendment is that is where the money is. This year the surplus in the Social Security fund will be some $70 billion. Shortly after the turn of the century the surplus in the Social Security fund will be $800 billion. I say ''will be.'' It will be if we protect those moneys. If we do not, if we do not set aside those moneys from the balanced budget amendment, when people go to draw their Social Security, when my granddaughters go to draw their Social Security, or my children, there will be no money left. Because that is where the money is and that is how the budget will be balanced.

There is no place else to get the money in those large sums. I offered a year ago on this floor an amendment to the balanced budget amendment that was then on the floor. In that amendment I included capital budgeting; I included as part of the amendment that, if in fact we were in a recession for a period of 3 years, we could waive the balanced budget amendment. Madam President, I have thought about this for the past year and I have come to the conclusion that what I need to do is focus on Social Security. Capital budgeting is important; 3 years of recession are important; but those are to one side. I now am focusing only on Social Security.

As my friend, the senior Senator from Utah, knows, I am going to offer this same amendment again. I am going to offer this amendment with the support of Senators CONRAD, DORGAN, FEINSTEIN, FORD, HEFLIN, HARKIN, GRAHAM of Florida, BAUCUS, and BOXER, and I am sure there will be others. I am doing this because there has been a lot of talk during these past few months about a Contract With America.

I think some of the things that have been focused during these past few months in the Contract With America are important. I have supported the two issues that have come through this body already. But I want to talk today for a few minutes, in preparation for the debate that will take place probably next week when we offer the balanced budget amendment, about the first contract, the real contract of this century with the American people.

That contract was initiated in 1935 during the throes of the Great Depression when Members of this body and Members of the other body together with President Roosevelt got together and said we think we need to make a Social Security contract with the people of America, and they did.

What was that contract all about? It said if you, the employee, pay into a fund along with your employers, during your golden years you can draw retirement, not welfare. You can draw retirement that you have earned, you have paid into this fund. That in fact is what the contract is all about.

Madam President, what we have done is we have taken these moneys that are collected from the employees of America and the employers of America and put them into a trust fund. That word of art ''trust fund'' means something. It means that you have a very important fiduciary relationship. We, the people, who control this trust fund, have a fiduciary relationship with the people who will draw money from that trust fund, a relationship that we must do what we can to protect the integrity of that trust fund.

I practiced law before coming to the Congress. I had a trust fund set up for my clients, a client trust fund. That money that I collected on behalf of my clients I could not make my car payments with, I could not buy myself a suit, I could not pay the law firm rent or the rent at home with any moneys out of that trust fund. If I in fact did that, I would be subject to disciplinary action by the State bar association and possibly by the criminal prosecutors in the State of Nevada. I could go to jail for violating the trust that I had in protecting my clients' money.

The term ''trust fund'' that I used as a practicing attorney is not the same connotation as trust fund for Social Security. It is identical. We have an obligation to protect that trust fund.

My friend from Utah, the senior Senator, is someone that I have great respect for. But on his statements regarding Social Security, he and I disagree. I recognize, as I think we all should and certainly the people within the sound of my voice should appreciate the fact, that Social Security does not contribute one penny to the Federal deficit. Social Security, as I have already explained briefly here, is running in excess, a surplus. It does not contribute to the deficit. In fact, it has been used to erase the deficit in years past. We worked very hard to have the Social Security trust funds not be part of the general revenues of this country. We set up a separate fund for Social Security. We set up a separate agency. Social Security does not contribute to the deficit.

We have heard statements, rightfully so, that the American public supports the balanced budget amendment. They do. Eighty percent of the people in Texas, Utah—I see my friend from Ohio coming onto the floor—and Nevada. It is about the same all over. About 80 percent of the people support the balanced budget amendment. But when those same people are asked, ''Do you want to balance the budget by taking Social Security surplus?'' the answer is 70 percent ''no.'' Only 10 percent of the original people who say they want a balanced budget amendment supported it if you say you are going to use Social Security. That is the original Contract With America of the century. That is the program that people want protected. They know Social Security is not welfare. This part of the Social Security fund that we are conducting deals with old age benefits. It does not deal with Medicare. It deals with the old age portion of that fund.

There have been statements made on this floor that the amendment creates a large loophole. I respectfully submit that if we could argue this case to a jury of our peers, we would win because it does not create a loophole. Anything that changes the long-term actuarial plan of Social Security is subject to a 60-vote point of order before this body. If someone wanted to place education or aid to families with dependent children into Social Security, it would not work. You would have to get 60 votes. If you use that reasoning, Madam President, you can look at the amendment as it is written. The amendment as it is written—the one that is before this body now—has exceptions. Congress may waive the provisions of this article, says section 5, for a number of reasons. One reason is it can be waived is if there is a military conflict in which an imminent and serious military threat to national security is declared. Does that mean that, if this were in effect, taking the troops into Haiti would mean that we could waive the balanced budget amendment? It does not say to what extent it can be waived. It does not say it can be waived for the actual cost of the imminent danger or whether it could be waived to the tune of billions of dollars more.

So let us stick with the facts. I do not think that this body would do that. I do not think that we would say that the event taking place in Haiti, or Rwanda, would be such that we could waive the balanced budget amendment that was in effect to the tune of billions of dollars. Having Social Security exempted from the balanced budget amendment does not—I repeat, does not—create a loophole. This is one of those figleafs that is being waived around this body so often on this amendment.

A point of order, of course, means that the truth would be brought to bear on any form of legislative shenanigans. That is why the 60-vote point of order is in effect. My amendment is intended to safeguard an easily identifiable and narrowly defined program.

There have been those in this body who have said, ''We will take care of this in implementing legislation.'' Let me explain to my colleagues and to the American public what this means. This means that there are people who recognize the danger of going where Willie Sutton said you need to go if you need money; that is, where it is. And that is why he went to the bank. The only place we can go is Social Security. But there are those who tell me that we are going to take care of this with implementing legislation. How? ''Well, we are going to pass a law when the balanced budget amendment passes that says we cannot touch Social Security.'' Boy, we should not fall for that one. I know that the senior groups in this country will not fall for that. The AARP and others are not going to fall for that because they know that a law which we could pass this morning—it is now 5 o'clock approximately in Washington, DC—this morning in Washington, DC, we could pass a law, and we could pass another law to take the place of that one at 5 o'clock this afternoon. We could pass a law and pass another one to take the place of it that same day. Implementing legislation will not protect Social Security. We could pass implementing legislation this year and repeal it next year. It simply is no way to protect Social Security.

Implementing legislation is another one of the figleafs that is so transparent that you should not wear it because it will not work. If you oppose raising the Social Security trust fund, you should support the simple amendment that I am going to offer with my colleagues which expressly prevents any looting of the Social Security trust fund.

I was on this floor a year or so ago with Senator MOYNIHAN, the senior Senator from New York. We were talking about the unfairness of collecting Social Security taxes, withholding taxes, when the moneys were not going to Social Security; they were going to help relieve the deficit.

During the colloquy between the Senator from New York and the Senator from Nevada, we talked about the Social Security trust fund, and we talked about maybe it really was not a trust fund; maybe it had become a slush fund. Well, it has not become a slush fund yet. But if we allow the balanced budget amendment to pass and do not protect Social Security, it will no longer be a trust fund, it will be a slush fund.

Again, I remind everyone here that people who are trying to balance the budget will go to where the money is; that is, Social Security. Remember, we are not talking about surpluses of a few thousand a year, a few million a year, a few billion a year; we are talking about surpluses that, after the turn of the century, will be in the trillions of dollars. Why do we need that much money in the trust fund? Because there is going to come a period of time when the outflow from the trust fund will be far in excess of what is coming into it. We need those surpluses.

We have been told that placing a statute in the Constitution is unprecedented. Well, Madam President, it is unprecedented. My friend, the senior Senator from Connecticut, said it the way it is. We have had 11,000 attempts to amend the Constitution of the United States. We have succeeded less than 30 times. This is the first time that we have tried to do an amendment to the Constitution fixing fiscal policy. So if we are talking about fiscal policy, should we not be concerned about one of the largest fiscal elements of our society, namely Social Security? Of course, the answer is yes. And we need to place it not in a statute; it would be part of the constitutional amendment. It would lose its statutory life and become part of the Constitution of the United States.

We also certainly should not allow talk about future generations being protected if we lump Social Security into the balanced budget amendment—that is, that Social Security will be easy picking, prime pickings to balance the budget. That will not protect future generations. Quite the contrary.

This debate is not about senior citizens versus children; this debate is about children who will become senior citizens and need their Social Security benefits. This is not an amendment that protects old people in America today. This is an amendment that protects all people in America today, because Social Security benefits are for the young and for the old because, if we are lucky, we all get old.

In effect, safeguarding Social Security in this trust fund means that Government will not be able to continue to borrow from this trust fund. Ending this robbing Peter-to-pay-Paul practice will allow us to maintain the trust fund for future generations of Americans.

Madam President, we have also heard last week on this floor that the Seniors

Coalition supports passing the balanced budget amendment and does not support my amendment. When I first heard of this organization, I was running for office. I was very concerned that a senior organization, after my work on the Aging Committee and doing a lot of things over the years for senior citizens, would not be helping me. Why would they oppose me? Well, what I have come to realize, Madam President, is that the Seniors Coalition has a history of employing exaggerations and falsehoods—which is a nice word for lies—because they want to make money from senior citizens by scaring them.

According to a 1993 article in the National Journal—the founders of this particular group have sent letters out against most Democratic candidates running for public office on the Federal level. The National Journal said that the founders of this particular group have been under investigation for fraud by the FBI, two U.S. attorneys, New York State's attorney general, and the Postal Inspector. In 1980, Richard Viguerie, father of the direct mailing system for the Republican Party, or certainly one of the founding fathers of that organization, and a man by the name of Dan Alexander, started the taxpayers education lobby to raise money through appeals of school prayer and other conservative policies. In 1986, Dan Alexander was indicted for extorting kickbacks from school construction projects and he served 4 years in prison for doing this.

In 1989, the Seniors Coalition was formed by his wife, a woman by the name of Fay Alexander, with help from Mr. Viguerie. In 1992, the coalition claimed to become independent of the taxpayers education lobby, though there remained a contract that paid Mrs. Alexander $20,000 a month, money seniors sent this organization, and paid her husband about $3,000 a month for consulting fees. Remember, this is the man that is in jail. In 1992, the board consisted of Fay Alexander and a business associate. For its first 3 years in operation, the coalition's president was Susan Alexander, the couple's teenage daughter. Mr. Alexander told the New York Times—and I am sure this is an understatement—that he hired his daughter because it was hard to find outsiders of any stature to serve on the board in view of his record. The coalition now has outside directors.

I will not go into a lot more detail. But I do not think it would be a good idea to cite the Seniors Coalition, and we should not base any vote in this body on what they do or do not do. I may talk a lot more about them later if we hear a lot more about the Seniors Coalition, because I have a lot more to say in that regard.

Let me say, Madam President, that the balanced budget amendment is something that should pass—if Social Security is protected. If Social Security is not protected, everyone should be very, very cautious and afraid in this body. But the fear generated from here should be for the people in America, those 70 percent of Americans who say you should not balance the budget on the backs of Social Security recipients, because if we do not exempt Social Security, as Willie Sutton has said, ''We will go where the money is,'' and we will balance the budget, which will be fairly easy to do if you use Social Security. That is what will happen, and that is too bad.

I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. DEWINE] is recognized.

Mr. DEWINE. Madam President, I rise today as a person who has spent the better part of the last 4 years traveling my great State and listening to the concerns of the people of Ohio. One thing I have found is that people are more skeptical than they have ever been before. I have really heard it everywhere I went. Today, people measure politicians not by the promises that they have made, but rather by the promises that they have kept. Empty promises simply no longer work. The people of this country want concrete action, not just promises.

Madam President, in 1992, people voted for change. But then there was not enough change, and so people did not see the concrete results. And then in 1994, they voted for change again. I ran in 1992. I ran in 1994, and I can tell you that people are fed up with promises. They want change and they want action. For the American people, nothing symbolizes Congress' inability to change, to back up words with action, more than Congress' unwillingness to balance the Federal budget.

Despite all the talk, year after year, Congress continues to run deficit after deficit. And if it is true that nothing symbolizes people's perception of Congress' inability to change more than our failure to balance the budget, I think it is also true that nothing will do more to restore people's faith in Congress, in the Government, in the country, than by passing a constitutional amendment that will mandate and compel a balanced budget.

The balanced budget amendment to the Constitution does represent fundamental change. This, Madam President, is the change the American people demanded, demanded in 1992 and again in 1994.

Over the last couple of days, we have had a somewhat academic debate about the balanced budget amendment. And I expect this debate will go on for a few more days, a few more weeks. The opponents of the balanced budget amendment tell us that we do not really need a constitutional amendment to balance the budget. They say all we really need is the political will.

Well, Madam President, I suppose that is right. I suppose that is technically true. But is there really anyone in this Chamber, is there really any Americans who believe that Congress, without a balanced budget amendment, will balance the budget? Nobody I talk to believes that.

Let us do a reality check. Let us look at the past.

Madam President, we have not had a balanced budget since 1969—1969, the year I graduated from high school. We have had a deficit in 5 of the last 63 years. When we had a Republican President, we had a deficit. When we had a Democrat President, we had a deficit. When we had a Democrat Senate, we had a deficit. When we had a Republican Senate, we also had a deficit.

The reason the American people, 80 percent of them in a recent poll, support the balanced budget amendment is that they simply do not believe Congress will ever balance the budget any other way. And I must say, Madam President, the past would indicate the American people are absolutely correct. For 25 straight years we have not balanced the budget; 25 budgets in a row.

Madam President, what are the chances, without a balanced budget amendment, without the discipline that this will impose on this body, on the House, on the Congress, on the Government, what are the chances in the 26th year or 27th year or 28th year, 30th year, 35th year, we will not continue to do what Congress has done for the last quarter of a century and that is not balance the budget?

Madam President, a lot of people say that Americans are cynical today. I am not sure that is really true. But Americans have watched Congress try to balance the budget in each of the last 25 years and Congress has failed every time.

What the American people are saying is pretty simple. ''Let's try something else. Let's try something else and see if that works.''

Madam President, I do not call that cynicism. I call it realism.

You know, I do not think any of us who support the balanced budget amendment are really happy that we have to do this. It is a last resort. But really it is our only realistic hope. And I believe that we have to do it.

(Mr. THOMAS assumed the chair.)

Mr. DEWINE. Mr. President, the opponents like to talk about how the balanced budget amendment is a threat to our children; that it would devastate the investments we need to make in our children's future. Let us look at this and let us look at this argument because it is a very serious argument.

Mr. President, the word ''cynical'' might be the most appropriate way to characterize that particular argument. To run up a colossal mountain of debt, $4 trillion and rising, a debt that threatens to leave our children's generation bankrupt is bad enough. But to use these very same children as an excuse for not biting the bullet on the budget deficit is just plain wrong.

Again, Mr. President, let us face the facts. If we do not pass the balanced

budget amendment, we simply will not have the money for investment in our children.

We are already paying over $235 billion a year in interest on the debt. As my colleague, the Senator from Illinois, pointed out earlier today, that is eight times what we today invest in education. It is 50 times what we invest in job training. It is 145 times what we pay for early childhood immunizations.

Every year we add to this mountain of debt and every year we are committing more of tomorrow's resource to pay for Congress' failures of today.

What does the future look like for children if we do not balance the budget? Well, let me tell you. This, Mr. President, is what it would mean to continue with business as usual.

If we continue with business as usual, next year the Federal budget deficit is set to start growing again. By the year 2003, just 8 years from now, spending on entitlements and interest alone, entitlements and interest alone, will exceed 70 percent of the whole Federal budget. If you take out defense, it leaves you just 15 percent of the budget for all the discretionary spending and domestic needs—15 percent out of entire budget.

That means less than 15 percent for education—and these are cumulative for everything—less than 15 percent for education, for job training, for the Women, Infants, and Children Program, the WIC Program, for Head Start, for drug treatment, for employment training, for the environment, for housing, for all the other programs that help the American people here at home—just 15 percent of the budget for all these programs, all these programs, Mr. President, combined.

And by the year 2012, just 9 years later, we will be looking back on that 15 percent as the absolute golden age of investment in our domestic needs because by that time, by the year 2012, just 17 years from today, there will be nothing left in the budget for these social needs—zero; no money for children—unless we change the direction we are going in. Every last red cent in the Federal budget will go to entitlements and interest payments. And 2012 is a year that has significance for my wife and I and for many other people, I am sure, because just a year before that, our grandson Albert, we hope, will graduate from high school; our daughter Anna will be in her first year of college—2012.

This is the human cost of Albert and Anna, all our children and our grandchildren, will have to pay because of Congress' unwillingness to change.

Mr. President, to hide these facts and then to hide behind these very children who will be hurt the most if we do not act is worse than absurd. I find it unconscionable.

The American people no longer, Mr. President, care what we say. They are tired of excuses, evasions, rhetoric. They do not care if some of us say we can balance the budget. What they care about is what we do. They are not listening to what we say. They are watching what we are about to do.

To say, Mr. President, that they are not happy with what Congress has done in recent years would certainly be a severe understatement. In the name of our future, in the name of our children, they are demanding change.

Mr. President, I will vote to create the change. I will vote in favor of the balanced budget amendment. It is a vote for less government, instead of more government. It is a vote for responsible government, instead of a runaway spending machine.

It is, Mr. President, the last hope of the American people for fiscal sanity and long-term solvency. This is the greatest gift we as Members of Congress can give to the next generation of Americans.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I have been interested and I want to personally thank the distinguished Senator from Ohio for the excellent remarks he has made today. He has brought this whole matter into focus when he talks about the effects on his children and his grandchildren. I feel exactly the same. Elaine and I have 6 children, and our 15th grandchild is on the way. We have 14 now, but the 15th will be here in a couple of months, and who knows when there might be some others. We are not sure.

The fact of the matter is we are very concerned about them. I am concerned about all the children, and grandchildren. The Senator from Ohio makes a good point. There will not be child care moneys if we do not get things under control. There will not be job training moneys. Forget about Job Corps. What about welfare? What money we have will not be worth anything. What about Social Security, if money becomes devalued through inflation and, therefore, worthless? How are people going to live? How are people going to live? There are people today in this affluent society who barely get by. Can you imagine what it will be like for the unlucky ones of the future? Such things should not happen. We ought to do something about it. But I will say, it will be everybody who will have trouble getting by if we keep going the way we are going.

I am not just using scare tactics. It is true. Everybody knows it. People feel it. This is the first time in the history of this country where parents are fearful that their children will not have lives as good as they did, will not have opportunities as good as they have. The first time in history where parents feel that their children will not have the great opportunities for growth and advancement that they had. The reason that is so is because Congress does not have the fiscal mechanism in place to force Congress to do what is right.

I want to thank the distinguished Senator from Ohio for his excellent remarks, and the other Senators today, especially our Senators who are here for the first time. They are here because of this issue, in part. People out there know this country is in trouble. They are here because people wanted them to vote for the balanced budget amendment. They are here because they make the difference.

Each Senator here makes a difference, including those who voted for the balanced budget amendment before. But these new Senators make up the difference from last year. We lost by four votes last time. Four votes. We had seven people who were here who voted with us last time who are now no longer here. That is 11 votes. We have picked up 11 new Senators, all of whom are on the Republican side and are going to vote for this balanced budget amendment. All of them were elected on the basis that they would vote for this balanced budget amendment. All of them are part of this revolution in our society, not a Republican revolution, but a revolution of people who are sick and tired of the way things are, of the status quo, who want a balanced budget constitutional amendment, for the express purpose of saving this country. Well, we have such an amendment here. It is not perfect. But nothing around here ever is. It is as perfect as it can be, as developed by both parties.

Now, let me just say a few words in response to the comments of my colleague from Nevada. And I do respect Senator REID from Nevada. He is a very dear friend and colleague. I have a great deal of feeling and affection for him. He said the Social Security trust fund will be raided if the balanced budget amendment is passed. That could not be more wrong. It just could not be more wrong. It will be raided if we devalue the dollar and make the dollars that are paid out in Social Security benefits worthless. And that is where we are headed if we do not have a balanced budget amendment.

The Social Security trust fund is not where the money is. This so-called surplus the distinguished Senator from California was showing us earlier with that big loop in the chart that she had, that money is not in a trust fund. Why this year's $70 billion surplus will be used to buy Treasury bonds. There is no stash of cash waiting to be raided. It is already going to be taken out of that trust fund. And there is going to be a nice little Treasury bond piece of paper saying ''guaranteed by the Government of the United States of America.'' And we will take that $70 billion trust fund surplus and we are going to spend it on general budget items and spending programs.

That money is gone. There is no question about it. There is no trust fund full of money. There is a trust fund of paper promises that will be valuable only if we pass the balanced budget amendment and get this country's spending profligacy under control. But that big pile of paper will be valueless if we do not.

The only way we will get spending under control is to pass this balanced budget amendment. There are some who think even if we do this we might not get there. I was looking at James Q. Wilson's article yesterday in the Wall Street Journal. He is one of America's leading political scientists. He is one who was never for the balanced budget amendment, but boy he is now. He said, in essence, ''I do not like it, but it is the only hope we have.'' I commend his reasons for now supporting the balanced budget amendment to my colleagues, and ask that the article be printed in the RECORD.

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

[From the Wall Street Journal, Jan. 30, 1995]

A BAD IDEA WHOSE TIME HAS COME

(By James Q. Wilson)

For yours I have been skeptical of a balanced budget amendment to the Constitution for all of the reasons that most of my colleagues in political science and many member of Congress so clearly express. Now I am a reluctant convert, not because I think the arguments against it wrong but because I think them beside the point.

There is no economic case for always having a budget that is balanced or in surplus. One doesn't have to be a Keynesian to know the occasional desirability of stimulating the economy by spending more than one takes in or the necessity of going into debt to make capital improvements. There are even a few economists who claim that, if we do our accounts properly, the budget is already balanced.

The problem with the economic objections to balancing the budget is that they fail to take into account the changed character of the American people and their representatives. From the time of George Washington to the time of Dwight Eisenhower, budgets were almost never in deficit except in wartime. But in those days the public expected rather little from Washington. They did not expect a federal solution to every problem—drugs, crime, education, medical care, and the environment. Their representatives generally believed that deficit spending was wrong, not simply imprudent, and to vote for it was to risk not only electoral retaliation but public censure.

It is astonishing that this culture—one of limited federal responsibilities and stringent fiscal prudence—should have survived for so long. Politics offers citizens this deal: Vote yourself big benefits now and let your grandchildren (or better yet, somebody else's grandchildren) pay for them. If you let the government borrow the money, you can get something for nothing. Yet for more than a century and a half, we turned down that deal. As a result, the annual deficit amounted, as late as 1955, to only 6% of federal outlays. Thirty-five years later, it was 18%.

James Buchanan, the Nobel laureate in economics, concluded from his study of our fiscal history that something akin to a Victorian ethos had restrained our spending. Now that ethos is gone, and with looming deficits in Social Security and Medicare, matters can only get worse.

There are serious political objections to the amendment as well. Won't Congress somehow cook the books so as to comply with the letter of the amendment but not with its purpose? Or if it doesn't cook the books, what is to prevent Congress from simply appropriating in excess of revenues, no matter what it had earlier resolved to do? For years Congress found ways to circumvent or ignore the Gramm-Rudman balanced-budget resolution.

And if Congress evades the amendment in any of these ways, how will it be enforced? Will a taxpayer sue the secretary of the Treasury for writing checks based on deficit appropriations? It is not obvious he or she would have standing in the courts. And even if a court heard the case, what would it do? Send U.S. marshals to arrest the Budget Committees? Issue an injunction to shut down government?

Many members of Congress have made these points publicly and many more make them privately. But notice what they are saying: You cannot trust us to do what you, the public, wants. Your amendment will not give us any backbone. We will evade and cheat. Therefore, do not enact such an amendment so that we can ignore your will with complete impunity.

And even those members of Congress who say they will comply with it are unwilling to divulge what cuts they would make or what taxes they would raise in order to comply. Critics love to play the Social Security trump card: ''You won't discuss Social Security or other entitlements, and yet you say you favor a balanced budget. Shame!''

Now we are at the heard of the matter, face to face with the reason why the balanced budget amendment is a bad idea whose time has come. Congressmen are elected by voters who want lower taxes, no deficit, and continued (or even more) spending. Almost every poll since the 1960s shows the same pattern.

The public has inconsistent preferences; the public wants something for nothing. Of course members of Congress will conceal their preferences, pretend that the public need make no hard choices, and take Social Security and Medicare off the table. To do otherwise is to court electoral disaster. Some leaders will try to finesse the issue by saying to the public that it can have lower taxes, no deficit, and more spending if only Washington would eliminate ''waste, fraud, and abuse.'' It was never true, and I doubt many people still believe it.

Voters are the problem. The balanced budget amendment is aimed at them, not at politicians. When it is in place, the electoral logic changes. Now challengers can run against incumbents by saying, not simply that they didn't cut spending or didn't fund a popular program, but that they violated the Constitution. The enforcement of this amendment will be political, not legal. It will be an imperfect enforcement, but it will probably make a difference.

For one thing, it will put Social Security (and Medicare and everything else) back on the table. Congressmen will have to go to the public and say something like this: ''What do you want, I cannot deliver. I wish I could. But you have to make some choices so that I can make some. What do you want most—lower taxes, more spending, or no deficit? I can't kid you anymore because the Constitution—and my opponent—won't let me.''

I am not sure what the public will say. But whatever it is, it will be an improvement over its current free-lunch mentality.

Mr. HATCH. Mr. President, the Social Security trust fund will continue to invest any surplus in Treasury bills from here on in. We will have that mound of paper that will be worth something only if America is viable, but it will be worth nothing if we keep going the way we are going. And we will have sold Social Security recipients down the river. We can avert such problems only if we adopt and comply with the balanced budget amendment.

I cannot, for the life of me, understand why people are so upset on the other side of this floor about the consensus balanced budget amendment. They know that if we do not do something to put a fiscal mechanism in place which will cause us to make priority choices among competing programs and get spending under control, that those trust fund Treasury bonds are not going to be worth the paper they are written on.

In the year 2015 the trust fund will start to draw down this so-called surplus by redeeming those Treasury bills. The only way to protect those funds is through a balanced budget amendment. If we did not pass this amendment we will not balance the budget. If we did not balance the budget, the Federal Government will have a tough, if not totally impossible job redeeming those bonds.

In fact, if we do not pass this amendment and balance the budget, it is highly likely that the Federal debt will be monetized. Now, this will only reduce the value of the Treasury bonds held by the trust fund, but by monetizing the debt it means that we print more money, inflate the economy, reduce the value of our money, which might go down to zero, and we pay off the debt with worthless money, lose our credit standing in the world community in the process, and trigger a worldwide depression.

Now, that is where we are headed. Make no bones about it. The only way to protect the Social Security trust fund and the Treasury bonds it buys, is to pass this amendment and balance the budget.

Now, Senator REID says we must exempt Social Security because what is where the money is. That just is not true. That is where the Treasury bonds are. There is no money there. There are only IOU's which will be valueless if we do not get spending under control.

How do we protect Social Security? We who support this amendment know how, through good economics, and through a balanced budget amendment. It is the best protection we could give them. The Social Security trust fund is not where the money is. There is no money there. There are only IOU's there.

We have already used the money to pay for other bills of the Federal Government and other spending items. The reason why we need a balanced budget amendment and why it should apply to Social Security is to ensure that the money is there to pay the IOU's to our seniors when those IOU's come due, and that those dollars they receive, when they get them, are worth something. Without a balanced budget amendment, there is some question whether we could repay our debt to our seniors, or whether the dollars will be worth anything at all. And Mr. President, the trust fund itself will run a

deficit in the future. And if it is allowed to run a deficit through an exemption in the balanced budget amendment there will be no incentive to balance the trust fund. But if the balanced budget amendment applies to Social Security, the Constitution will require Congress to have the money to pay our retirees. Real money. Not IOU's.

Not paper promises. Not a mountain of mere good intentions.

Well, I think it is very important that we understand these issues. If in the zeal to protect Social Security, such a proposed exemption defeats the balanced budget amendment, these folks in their zeal have will have actually killed Social Security, sooner or later.

Mr. President, the Senator from Nevada and I disagree on the merits of this issue, on the best way to protect Social Security, seniors, and our country's future. Let me reiterate that I believe the only way to assure that our Government is able to meet its obligation to future retirees is through the balanced budget amendment. It will help us ensure that we will have dollars that have worth, and that we have a nation and economy and a government that is worth passing on to our future generations.

That is what we are fighting for here. That is why I am spending this time and have for the last 18 years—now on the 19th year—spending my time trying to see if we can bring both sides together in a way that benefits this country, if not save the country.

This amendment is the best we can do, and it is as perfect as we can make it. It has bipartisan support. I really applaud those Democrats who are willing to stand up for it. There are not very many of them, but we hope that there are enough to pass this balanced budget amendment. We only need 15 to 17 of them out of the 47 that are here. I do not think that is too much to ask. And, frankly, there are courageous Democrats who are standing with us on the floor each day, like Senator SIMON, Senator HEFLIN, and others who are willing to pay the price to get this job done.

I just want to personally pay tribute to them and tell them how much I personally appreciate it. I really appreciate those 72 Democrats over in the House who had the guts to stand up against the majority in their party, had the guts to stand up and do what is right for this country.

Mr. President, I just want to make it very clear to everyone listening that if the American people do not get involved in this, if they do not realize that this is really bait-cutting time, if you folks out there do not start calling your Senators and letting them know how badly you feel about this and they had better support the balanced budget amendment, we may very well—we may very well—not get this job done.

Right now I believe that we have the votes to get it done. I believe that Senators, when they are really faced with the realities of what is really happening, and what will happen if we do not adopt this amendment at this time—this one rare time in history—after the House for the first time passed the balanced budget amendment, if we do not get it done, it is going to be a disaster for this country. I think they will vote for this amendment. We are all counting on it. But they will not do it if the American people do not let them know they want this done.

This is the time. We can no longer afford to spend beyond our means. We can no longer afford to not face the music. We can no longer afford not to enact implementing legislation pursuant to a balanced budget amendment that gets us on a glidepath to a balanced budget in the year 2002, and we can no longer afford the phony arguments against this.

For those who say, ''Well, you ought to outline every cut you are going to make,'' that is the most phony argument of all. It is ridiculous. It was said earlier that it is like trying to tell the weather each year 7 years from now.

The fact of the matter is, during all the years of Democratic control of both bodies, they have never been able to come up in these last 26 years with a balanced budget. Not once. And they know and we know that it is going to take all 535 Members of Congress working together on implementing the balanced budget amendment, over a period of a year or more, to come up with a glidepath that will get us to the result of a balanced budget in the year 2002.

They also know that we will never get there if we do not pass the amendment which will force us to work together to get there.

That is in spite of the sincerity of many people in both bodies who want to get there and are always talking about getting there and saying we ought to do it. But many of those who say that are the biggest spenders in Congress. We all say it, but many of those who are saying it and saying we do not need a balanced budget amendment—saying that we ought to just have the guts to do it—are those who are some of the biggest spenders in Congress, who never want a balanced budget amendment because they do not want their spending habits curtailed, because that is what they believe has reelected them time after time.

Unfortunately, in some ways, that is true. But now that time is gone. We have to do what is right for America and get spending under control.

Mr. President, we have had a good debate today, and I believe that we will keep plodding ahead until we get to the point where we all have to vote and we all have to show where we are going to be on this matter. I can live with whatever the outcome is. I have been through this so long that I can live with whatever it is. But it will be a tragic thing if we do not pass a balanced budget amendment. I believe we will if the American people will get involved.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

Mr. HATCH. Mr. President, it is my understanding this has been cleared with the Democratic leader.

I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 37, National Women and Girls in Sports Day; that the Senate then proceed to its immediate consideration, and that the resolution be considered and agreed to; that the preamble be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

So the resolution was agreed to.

The preamble was agreed to.

The resolution (Senate Resolution 37) and its preamble are as follows:

S. RES. 37

Whereas women's athletics are one of the most effective avenues available for women of the United States to develop self-discipline, initiative, confidence, and leadership skills;

Whereas sports and fitness activities contribute to emotional and physical well-being;

Whereas women need strong bodies as well as strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions as coaches, officials, and administrators has declined drastically since the passage of title IX of the Education Amendments of 1972;

Whereas there is a need to restore women to leadership positions in athletics to ensure a fair representation of the abilities of women and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the contributions of an athlete at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and who exhibited the true meaning of fairness, determination, and team play;

Whereas parents feel that sports are equally important for boys and girls and that sports and fitness activities provide important benefits to girls who participate;

Whereas early motor-skill training and enjoyable experiences of physical activity strongly influence life-long habits of physical fitness;

Whereas the performances of female athletes in the Olympic Games are a source of inspiration and pride to the United States;

Whereas the athletic opportunities for male students at the collegiate and high school levels remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by these projects is imperative to the health and performance of future women athletes: Now, therefore, be it

Resolved, That—

(1) February 2, 1995, and February 1, 1996, are each designated as ''National Women and Girls in Sports Day''; and

(2) the President is authorized and requested to issue a proclamation calling on local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe those days with appropriate ceremonies and activities.

MEASURES REFERRED

The following concurrent resolution, previously received from the House of Representatives for concurrence, was read and referred as indicated:

H. Con. Res. 17. Concurrent resolution relating to the treatment of Social Security under any constitutional amendment requiring a balanced budget; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

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. GRAHAM (for himself and Mr. HATFIELD):

S. 308. A bill to increase access to, control the costs associated with, and improve the quality of health care in States through health insurance reform, State innovation, public health, medical research, and reduction of fraud and abuse, and for other purposes; to the Committee on Finance.

By Mr. BENNETT (for himself, Mr. BUMPERS, and Mr. JOHNSTON):

S. 309. A bill to reform the concession policies of the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WARNER (for himself and Mr. ROBB):

S. 310. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself, Mr. CAMPBELL, and Mr. THOMAS):

S. 311. A bill to elevate the position of Director of Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes; to the Committee on Indian Affairs.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 312. A bill to provide for an Assistant Administrator for Indian Lands in the Environmental Protection Agency, and for other purposes; to the Committee on Indian Affairs.

By Mr. EXON:

S. 313. A bill for the relief of Luis A. Gonzalez and Virginia Aguilla Gonzalez; to the Committee on the Judiciary.

By Mr. EXON (for himself and Mr. GORTON):

S. 314. A bill to protect the public from the misuse of the telecommunications network and telecommunications devices and facilities; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS:

S. 315. A bill to protect the First Amendment rights of employees of the Federal Government; to the Committee on Governmental Affairs.

S. 316. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with knowledge that such abortion is being performed solely because of the gender of the fetus, and for other purposes; to the Committee on the Judiciary.

S. 317. A bill to stop the waste of taxpayer funds on activities by Government agencies to encourage its employees or officials to accept homosexuality as a legitimate or normal lifestyle; to the Committee on Governmental Affairs.

S. 318. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; to the Committee on Labor and Human Resources.

S. 319. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutionally-protected prayer in schools; to the Committee on Labor and Human Resources.

S. 320. A bill to protect the lives of unborn human beings, and for other purposes; to the Committee on Governmental Affairs.

S. 321. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. KASSEBAUM (for herself and Mr. DOLE):

S. 322. A bill to amend the International Air Transportation Competition Act of 1979; to the Committee on Commerce, Science, and Transportation.

By Mrs. KASSEBAUM:

S. 323. A bill to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER (for himself, Mr. COCHRAN, Mr. THOMAS, and Mr. SIMPSON):

S. 324. A bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. THOMAS:

S. 325. A bill to make certain technical corrections in laws relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

By Mr. HATFIELD (for himself, Mr. DORGAN, Mr. FEINGOLD, Mr. BUMPERS, and Mr. HARKIN):

S. 326. A bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Registrar of Conventional Arms; to the Committee on Foreign Relations.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. EXON, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. JOHNSTON, and Mr. KERREY):

S. 327. A bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home; to the Committee on Finance.

By Mr. SANTORUM:

S. 328. A bill to amend the Clean Air Act to provide for an optional provision for the reduction of work-related vehicle trips and miles travelled in ozone nonattainment areas designated as severe, and for other purposes; to the Committee on Environment and Public Works.

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

S. 329. A bill to direct the Secretary of the Interior to submit a plan to Congress to achieve full and fair payment for Bureau of Reclamation water used for agricultural purposes, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD:

S. 330. A bill to amend the Agricultural Act of 1949 to require producers of an agricultural commodity for which an acreage limitation program is in effect to pay certain costs as a condition of agricultural loans, purchases, and payment, and for other purposes.

By Mr. KOHL:

S. 331. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, and Mr. LEVIN):

S. Res. 75. A resolution to designate October, 1996, as ''Roosevelt History Month,'' and for other purposes; to the Committee on the Judiciary.

By Mr. HELMS:

S. Res. 76. A resolution to amend Senate Resolution 338 (which establishes the Select Committee on Ethics) to change the membership of the select committee from members of the Senate to private citizens; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself and Mr. HATFIELD):

S. 308. A bill to increase access to, control the costs associated with, and improve the quality of health care in States through health insurance reform, State innovation, public health, medical research, and reduction of fraud and abuse, and for other purposes; to the Committee on Finance.

THE HEALTH PARTNERSHIP ACT

Mr. GRAHAM. Mr. President, many people count the death of health care reform as being in 1994, when the Congress failed to adopt the proposals that had been adopted as submitted by the

President, by various factions within the Congress itself, by some groups that were external to the Congress. I personally think that is the wrong date for the death of health care reform in America. I believe the appropriate date for health care reform's demise occurred 20 years earlier, in 1974.

Prior to 1974 we in fact had a very vibrant, innovative, creative set of health care reform initiatives. They all had one principal characteristic, they were emerging from the States. We had a decentralized federalized system of health care innovation.

The State of the Presiding Officer was one of those States involved in those early efforts of health care reform, as was my State and the State of Oregon, the State of our colleague, Senator HATFIELD. Maybe the best known example of those innovations that occurred prior to 1974 was the State of Hawaii.

The State of Hawaii set some objectives in terms of increasing the percentage of its population covered, to reduce the cost of health care, and to focus attention on the prevention of illness rather than crisis intervention. Hawaii, as an example, has achieved almost all the objectives that were established two decades ago.

But in 1974 the Congress began to restrict the capacity of States to serve as the laboratories for health care innovation through restrictions on the ability of States to secure waivers from Federal laws such as Medicaid, the health care program for indigent Americans, and the restrictions on the States' ability to innovate as it related to persons who secured their insurance through a place of employment, the so-called ERISA restraints. States, for 20 years, have largely been restricted from their role of serving as centers of innovation, of field-based experience on what would actually work in terms of improving the health of Americans.

The legislation we are going to introduce today seeks to reverse that 20-year period of sterility. As Supreme Court Justice Louis Brandeis once said,

> It is one of the happy incidents of the Federal system that a single, courageous State may, if its citizens choose, serve as a laboratory and try novel social and economic experiments without risk to the rest of the country.

We propose to restore that opportunity of States to serve as that novel laboratory to try things to see if they work; if they do, to enlarge them; if they do not, to discard them—but not put the entire Nation at risk as we experiment with new approaches to achieve the objective of better health for all Americans.

There are some principles behind the bill that Senator HATFIELD and I will introduce, and those principles include the concept of incrementalism. Incrementalism is not just a synonym for drift and indecision that you move willy-nilly from one step to the other. Incrementalism infers that you have a clear set of goals, destinations, and then you understand the steps that are required to get from where you are to that destination.

While these goals can be defined with greater specificity—and they shall be—the basic goals that we seek to attain with this legislation are:

First, to increase the access of Americans to health care services;

Second, to contain the level of increase of the cost of health care services;

Three, to reduce the incidence of illness and disease by a greater investment in those things that we know will tend to maintain a state of good health.

A second principle of our proposal is decentralization. One of the common elements of all of the health care legislation considered in 1994, no matter how much they differed in specifics, is that they all shared one thing in common; that is, they assume that the solution to health care was a centralized solution. There was an assumption that health care can be dealt with by one-suit-fits-all approach.

Senator HATFIELD and I believe that is fundamentally flawed—that in a Nation that is as large and diverse as the United States of America the attempt to have a central health care system for all of our almost 260 million citizens is an inherent prescription for failure. The differences just between let us say a State such as Wyoming, which has large land area and relatively few people who have a principal problem, is how to provide not the financing but just the actual access to health care professionals in such a diffused population compared for instance to a highly urbanized State such as New Jersey where the issues are fundamentally different. To attempt to have such a health care approach to such extreme circumstances is in our opinion not a logical beginning point for health care reform.

Finally, we believe in the concept of partnership, that States and local communities and individual citizens will bring a great deal to the table. They are the ones who are most directly affected by gaps in our current health care system. They are the ones who are most likely to have precise reality-based prescriptions to fill those gaps and current concerns with our system.

We believe that the sense of arrogance that has sometimes pervaded Federal-State relations—in which we assumed that we knew what the solution was and it was only for others to accept our infinite wisdom—those days are over, and we need to have a respectful relationship.

Let me, Mr. President, just briefly review the principal titles of our legislation. I will submit the legislation for introduction as well as a section-by-section analysis of the proposal. But the bill contains a title which relates to insurance reform.

In this area, we are building on a very successful recent experience which related to problems including out outright fraud that existed in the sale of so-called Medigap insurance policies. These are the policies that extend the normal reach of Medicare. The way in which the Congress chose to go about dealing with the problem of Medigap insurance was to ask the State insurance commission to work together to develop a standard set of principles to govern those types of insurance policies. Each State must then be required to adopt the basic principles that have been developed by these State officials. Each State deserves the right to go beyond what the standard set of principles were.

We are proposing a similar policy as it relates to health insurance. We are going to call on the 50 insurance commissioners of America to develop the programs on portability, on preexisting conditions, on the other gaps in health insurance coverage that have caused such anxiety and loss of insurance coverage to American families.

The second title is State innovation. It has two basic approaches. One, we are going to seek relief for States from some of the shackles that have been imposed upon them for 20 years so that they will have the ability to innovate. We want to make it easier for States for instance to get waivers from a risk, easier for States to get waivers from Medicaid, easier for States to shape their own approach to what they believe will best meet the needs of their people. We are going to go beyond this in that we are going to provide grants, grants over the next 5 years totaling $50 billion to States which apply and which can demonstrate that they have a plan that will move toward the three objectives of increased coverage, cost control, and provision. We believe this will give a positive encouragement to the States to accelerate a process of innovation that has been asleep for 20 years.

Third, in the area of public health we are proposing for a significant increase in the Federal role in public health. The Federal Government used to be the primary level of government in public health. It is a partnership with the States. Our partnership has been faltering. States have been taking up a larger and larger share. With the States' financial constraints, one of the problems is we are going to see frays in our public health system. Tuberculosis, for instance, which is a disease that we thought had been eradicated, has made a resurgence and a significant part of the reason for that resurgence is laid to the fact that we have gaps in our public health service that have allowed that to occur.

We also are proposing, in the next title, increases in assistance to medical research. Again the States will have a major role since many of the most significant health care training and research institutions are hospitals and medical centers which are associated with State government. We also are proposing increased funding for the National Institutes of Health. We believe

that Americans want to have investments that will increase our knowledge, and therefore ability to arrest adverse health care conditions.

Finally, we come to what may be the bitter pill of that; that is, how we pay for it. We are proposing a $1 per unit increase in the tax on tobacco products as a means of financing these initiatives in State innovation, public health, in medical and health research. We believe this is appropriate in terms of the contribution that reduction in the use of these products will have on the health of America. It also will raise approximately $68 billion over the next 5 years which will be necessary in order to finance the various initiatives that we have outlined.

Finally, we have a provision that relates to fraud and abuse. I want to particularly commend Senator COHEN of Maine whose ideas are heavily involved in this particular title. He has done outstanding work in the area of Medicare fraud and abuse, and has helped to bring to the Nation's attention the shocking level of abuse in terms of inappropriate services, services not rendered, overbilled services which are estimated to be costing us $1 out of every $10 in our Medicare expenditures. But fraud and abuse is not limited to Medicare. It also occurs in other governmental programs such as CHAMPUS, which is the program for the Department of Defense. It occurs in Medicaid with the State-Federal partnership program, and it occurs in many private insurance programs. We believe that the frontal assault on fraud and abuse is an important element of this health care reform effort.

I close, Mr. President, by quoting a fellow Floridian, columnist and editorial writer of the St. Petersburg Times, Martin Dyckman, who stated that this approach that we are suggesting to health care reform is.

> * * * of course, is how most of this country's important social reform including public schools, child labor laws, anti-sweatshop legislation, wage-hour laws and workers' compensation, came into flower. They originated not in Congress but with the States. It is the genius of federalism.

We seek to unleash that genius to the benefit of all of the American people. As we will learn more about what policies actually contribute to increased coverage, containment of cost and the prevention of illness, we will improve the lives of individual citizens within their States. And with that experience, we will have the opportunity to make better policies across America that will improve the lives of all of our citizens.

Mr. President, during the long, arduous and extended debate over health care last session of Congress, Senator HATFIELD and I were concerned that Congress had become fixed on thinking about health care reform from a single, centralized, one-size-fits-all, national model. In the bipartisan rush to attempt to solve the Nation's problems and federalize health care, Congress overlooked what may be the best opportunity we have—State-led reform.

In fact, that has been the case for over two decades. In the early 1970's, many States were working on initiatives to develop health care infrastructure or were, as in the cases of Hawaii, Maine, and California, undertaking progressive reform proposals to expand coverage. Hawaii passed its Prepaid Health Care Act in 1974 and has been the only State to receive necessary implementation waivers from Congress. As a result, Hawaii has managed to cover 96 percent of its citizens and has costs below the national average.

Unfortunately, most other State reform initiatives have been stalled by the overriding national health reform efforts of President Nixon and Congress in 1974, the growing federalization of Medicaid policy throughout the period and the passage of the Employee Retirement Income Security Act or ERISA in 1974.

These three efforts to nationalize health care have worked together to stall or limit State health reform efforts over the past two decades. In fact, ironically, due to the very fact that very little experimentation or innovation occurred in the States over the last two decades, virtually all of the national health reform proposals—whether it was managed competition, single payer, employer or individual mandates, pay or play, vouchers, the expansion of Medicare or market reform—had as their centerpiece a variety of untested reform theories in American society. In short, past efforts to limit state flexibility paradoxically helped thwart Congress' reform efforts last year.

As a result, on September 22, 1994, Senator HATFIELD and I introduced legislation that would attempt to attain the goals of health reform—expanded coverage and access, cost containment and improved quality—with State innovation as an underlying theme. After working to improve the legislation over the recess, we are reintroducing the Health Partnership Act today. We introduce this legislation as a working document and encourage any and all comments to help further refine the proposal.

First, the legislation recognizes that, in a nation as diverse as ours, one solution or means cannot be formulated for the wide range of health programs and needs in our country. For example, Florida, Pennsylvania, Iowa, Rhode Island, and West Virginia have 50 percent more elderly per capita than do Alaska, Utah, Colorado, and Georgia. Addressing the long term care needs and specific health care problems associated with aging would clearly be a greater point of emphasis in the former States than in the latter.

As former Governors and as Senators from States that have enacted substantial health reform plans, Senator HATFIELD and I believe the States have demonstrated some tremendous creativity and ability to implement innovative health care initiatives often in the face of stiff resistance from the Federal Government.

As Supreme Court Justice Louis Brandies said in 1932,

> It is one of the happy incidents of the Federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.

To summarize the Health Partnership Act, the bill establishes increased coverage, cost containment, improved quality and decentralization as its overriding goals. Our proposal would achieve this through Federal-State partnerships in five areas: insurance reform, state innovation, public health, medical and health research, and fraud and abuse.

INSURANCE REFORM

The first title deals with insurance reform. Through recommendations from our Nation's State insurance commissioners, our bill would address the longstanding problems of portability, preexisting conditions, solvency standards, community rating, and other needed insurance market reforms.

The State insurance commissioners would establish a set of national minimum insurance standards that would be approved by the Secretary of Health and Human Services. This is modeled after the Baucus amendment to the Omnibus Budget Reconciliation Act of 1990 that related to the development of the largely successful Medicare supplemental insurance standards or Medigap. In our bill, States that wish to do beyond the minimum standards established by NAIC could proceed with more progressive reforms.

STATE INNOVATION

Title II is concerned State and local innovation. Both States and localities would be allowed to submit health reform projects that—if they meet the health reform goals of expanding coverage, cost containment and improving quality—would enable them to receive broad flexibility in the Medicaid Program, Public Health Service programs, the maternal child health block grant and the social services block grant.

To further improve the Federal-State partnership, our legislation would grant these waivers and greatly expanded flexibility through the vast reduction of process requirements and regulation. Instead, the Federal Government and States would jointly develop performance and accountability measures that specifically relate to the State's project. For example, if a State were to submit a children's health initiative as a health reform project, performance measures might include infant mortality, immunization rates or unnecessary pediatric hospitalization rates.

Eligible States would also have available $50 billion in grants to enact their reforms over a 5-year period.

The bill also gives states greater flexibility by clarifying the impact of

the ERISA preemption. While ERISA was intended to recognize the desire by multi-State corporations to have uniformity in their employee benefit programs, it has gone beyond what is required for that purpose. The result has been the preemption of an increasing number of State laws.

For example, it does not make sense to preclude States from having access to data, from establishing quality standards for HMO's and from raising revenue through providers to fund uncompensated care pools. In effect, States are prevented by ERISA from enacting some reforms that would reduce the numbers of uninsured, contain costs and ensuring, or enhancing quality. Our intention in the bill is to find a balance between the legitimate and proper interests on business and labor in ERISA and that of States.

Consequently, the bill provides for the establishment of an ERISA Review Commission to study the issues affected by ERISA and to make recommendations on points of compromise between States, business, and labor.

PUBLIC HEALTH

Title III promotes prevention, public health, cost effective treatment, and improved overall health through four distinct approaches: First, strengthening the partnership with and capacity of local and state public health departments to carry out core public health functions; second, expanding access to preventive and primary care services for vulnerable and medically underserved communities; third, supporting applied research on prevention and effective public health interventions, and fourth, addressing public health work force needs and access problems.

At a time when tuberculosis, AIDS and other public health problems such as E. coli increasingly threaten the public's health, as investment in our Nation's public health infrastructure as necessary and overdue.

Dr. C. Everett Koop and other members of the Health Project Consortium published an article in the New England Journal of Medicine in 1983 noting that 70 percent of all illness is preventable and that there are about 1 million deaths annually that are preventable. That amounts to in excess of $600 billion annually in costs. However, our Nation now invests less than 1 percent of our total health care costs on health care. The waste of both lives and money must be addressed.

As a result, our legislation would increase the investment in public health by $9 billion over 5 years.

MEDICAL AND HEALTH RESEARCH

Title IV emphasizes medical and health research. Our initiative recognizes the importance of medical and health research and would provide $6 billion over a 5-year period in increased funding for that function. This builds on the excellent track record of medical research in our Nation's State-supported research and medical centers. In addition, if finding the cure for diseases such as AIDS, Alzheimer's, and cancer is to be achieved, such an investment is critical.

FRAUD AND ABUSE

Title V is a section tackles the issue of fraud and abuse. Senator BILL COHEN, who has studied this issue at length and contributed to this section, recently said,

> As much as $100 billion is lost each year to fraud and abuse, driving up the cost of health care in America for million of patients and families—as well as for the American taxpayer. Losses over the last 5 years are almost four times the total costs to date of the entire savings and loan crisis.

One of the provisions establishes closer coordination of fraud investigation among the Federal, State, and private sector. This would positively impact State and local governments as providers, payers, and employers.

COST

The bill's costs over a 5-year period would be $65 billion which Senator HATFIELD and I propose to be financed with a $1 tax on tobacco products. This funding source, while providing funds for our proposal, would also discourage smoking and improve the overall health of Americans.

WHY STATE-LED REFORM?

Why federalism or state-led reform? First and most obvious, the Federal Government failed and will continue to fail to truly address the agreed upon goals of this nation in health care.

Second, the combination of Federal failure, hinderance of State flexibility through Medicaid regulations and ERISA, and anticipate budget cuts to Medicare and Medicaid this year would result in what I would call triple-negative health reform. We should break that downward spiral at the second point and grant State and local governments increased flexibility to improve our Nation's health care. The contrast would be further Federal inaction and abritrary budget cuts, neither prescriptions for improved health.

Third, the diversity in our Nation dictates federalism. As St. Petersburg columnist Martin Dyckman said in a column endorsing our approach,

> This, of course, is now most of this country's important social reform including public schools, child labor laws, anti-sweatshop legislation, wage-hour laws and workers' compensation, came into flower. They originated not in Congress but with the States. It is the genius of federalism.

Fourth, States have historically led in reform—Hawaii, Minnesota, Florida, New York, Maryland, Oregon, and Washington and others come to mind. States have led in reform because they can respond quicker to the rapid changing dynamics of health care. They are also more efficient. One look at the Medicare fraud problem in south Florida would shy anybody away from having Washington, DC, too involved in reform.

Fifth, doing nothing is unacceptable. State and local governments continue to bear the brunt and serve as much of our Nation's safety net. As last year's Advisory Committee on Intergovernmental Relations report entitled ''Local Government Responsibilities in Health care'' noted, ''Local governments spend an estimated $85 billion per year on health care services—about one of every eight dollars spent by local governments.''

Failing to recognize this important contribution and failure to address it will only increase this heavy burden. Uninsured rates will only continue to increase, costs will continue to explode while problems such as infant mortality, where the United States ranks 21st in the world, are not going away.

Finally, waiting for uniformity is a pipedream. As many of you know only too well. Medicaid regulation and ERISA have effectively preempted the ability of State and local government from enacting anything other than incremental reform for 20 years due to what everyone thought was impending national health care reform. Since that time, States have largely been held back from enacting reforms while Presidents Nixon, Ford, Carter, Reagan, Bush, and Clinton have all failed to enact comprehensive national health reform.

Therefore, the purpose of our bill is to free the States to be innovative to addressing their specific health care needs and problem while providing States the resources to encourage and accelerate the process. Mr. President, I believe the time for State-led reform is now.

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

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

S. 308

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 Partnership Act of 1995''.

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

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

TITLE I—HEALTH INSURANCE REFORM

Sec. 1001. Establishment of standards.
Sec. 1002. Expansion and revision of medicare select policies.
Sec. 1003. Effective dates.

TITLE II—STATE INNOVATION

Subtitle A—State Waiver Authority

Sec. 2001. State health reform projects.

Subtitle B—State Laws

PART A—EXISTING WAIVERS AND HAWAII PREPAID HEALTH CARE ACT

Sec. 2101. Continuance of existing Federal law waivers.
Sec. 2102. Preemption of Hawaii Prepaid Health Care Act.

PART B—ERISA REVIEW

Sec. 2110. Specific exemption from ERISA preemption.
Sec. 2111. Discretionary exemptions from ERISA preemptions.

Sec. 2112. Procedures for adopting discretionary exemptions.
Sec. 2113. Operation of the Commission.
TITLE III—PUBLIC HEALTH AND RURAL AND UNDERSERVED ACCESS IMPROVEMENT
Sec. 3001. Short title.
Sec. 3002. Establishment of new title XXVII regarding public health programs.
TITLE IV—MEDICAL AND HEALTH RESEARCH
Sec. 4001. Short title.
Sec. 4002. Findings.
Sec. 4003. National Fund for Health Research.
TITLE V—FRAUD AND ABUSE
Sec. 5001. Short title.
Subtitle A—All-Payer Fraud and Abuse Control Program
Sec. 5101. All-payer fraud and abuse control program.
Sec. 5102. Application of certain Federal health anti-fraud and abuse sanctions to fraud and abuse against any health plan.
Subtitle B—Revisions to Current Sanctions for Fraud and Abuse
Sec. 5201. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 5202. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
Sec. 5203. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 5204. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 5205. Intermediate sanctions for medicare health maintenance organizations.
Sec. 5206. Effective date.
Subtitle C—Civil Monetary Penalties
Sec. 5301. Civil monetary penalties.
Subtitle D—Payments for State Health Care Fraud Control Units
Sec. 5401. Establishment of State fraud units.
Sec. 5402. Requirements for State fraud units.
Sec. 5403. Scope and purpose.
Sec. 5404. Payments to States.
TITLE VI—REVENUE PROVISIONS
Sec. 6000. Amendment of 1986 Code.
Subtitle A—Financing Provisions
PART I—INCREASE IN TAX ON TOBACCO PRODUCTS
Sec. 6001. Increase in excise taxes on tobacco products.
Sec. 6002. Modifications of certain tobacco tax provisions.
Sec. 6003. Imposition of excise tax on manufacture or importation of roll-your-own tobacco.
Subtitle B—Health Care Reform Trust Fund
Sec. 6101. Establishment of Health Care Reform Trust Fund.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Americans support universal coverage. The people of this country agree that all Americans should be guaranteed access to affordable, high-quality health care.

(2) Although there is common agreement on the goal of universal coverage, there are many different ways to achieve this goal. The States can play an important role in achieving universal coverage for our population, demonstrating additional health reforms that may be needed on a national level to enhance access to affordable, high-quality health care. A number of States have already initiated health care reform that takes into account their special economic, demographic, and financial conditions. These State models combine unique reform innovations with the various strengths of their existing State health care systems, including market competition, employer pools and association plans, technology review and public health outreach projects. The States can also serve as testing grounds to identify effective alternatives for making the transition to universal coverage, while maintaining the strengths of the current health care system.

(3) Maintaining the high quality of health care Americans expect and controlling costs are also important goals of health care reform. As payers of health care, the States have a strong incentive to ensure that such States purchase high-quality, cost-effective services for the residents of such States. The States can develop and test alternative payment and delivery systems to ensure that these goals are achieved.

(4) In light of the success of various State-initiated reforms and in the absence of comprehensive Federal health reform, there are many health-related issues that should be addressed at the State level. As with social security and child labor protections, States can lead the way in testing ideas for national application or application in other States.

(5) The States should have the flexibility to test alternative health reforms with the objectives of increasing access to care, controlling health care costs, and maintaining or improving the quality of health care.

SEC. 3. DEFINITIONS.

Unless specifically provided otherwise, as used in this Act:

(1) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(2) PERFORMANCE MEASURES.—The term ''performance measures'' means measurable indicators that are used to assess progress towards achieving the broad goals of increasing access to care, controlling health care costs, and maintaining or improving the quality of health care.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(4) STATE.—The term ''State'' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, the Northern Marina Islands, and America Samoa.

TITLE I—HEALTH INSURANCE REFORM

SEC. 1001. ESTABLISHMENT OF STANDARDS.

(a) IN GENERAL.—The Secretary shall request that the NAIC develop, not later than 6 months after the date of enactment of this Act, standards for health insurance plans with respect to—

(1) the renewability of coverage under such plans;

(2) the portability of coverage under such plans, including—

(A) limitations on the use of pre-existing conditions;

(B) the concept of an ''amnesty period'' during which limitations on pre-existing conditions would be suspended; and

(C) the advisability of open enrollment periods;

(3) guaranteed issue with respect to all health insurance coverage products;

(4) the establishment of an adjusted community rating system with adjustment factors limited to age (with no more than a 2:1 variation in premiums based on age) and geography;

(5) solvency standards for health insurance plans regulations under Federal and State law, including the development of risk-based capital standards for health plans, solvency standards for health plans, self-funded employer-sponsored health plans, and multi-employer welfare arrangements and association plans;

(6) stop-loss standards for self-funded health insurance plans and multi-employer welfare arrangements and association plans;

(7) the identification of minimum employer size for self-funding and the interrelationship between self-funding and the community-rated pool of enrollees; and

(8) any other areas determined appropriate by the Secretary, including enforcement of standards under this section.

(b) REVIEW.—Not later than 60 days after receipt of the standards developed by the NAIC under subsection (a), the Secretary shall complete a review of such standards. If the Secretary, based on such review, approves such standards, such standards shall apply with respect to all health insurance plans offered or operating in a State on and after the date specified in subsection (d) herein.

(c) FAILURE TO DEVELOP STANDARDS OR FAILURE TO APPROVE.—If the NAIC fails to develop standards within the 6-month period referred to in subsection (a), or the Secretary fails to approve any standards developed under such subsection, the Secretary shall develop, not later than 15 months after the date of enactment of this Act, standards applicable to health insurance plans, including standards related to the matter described in paragraphs (1) through (8) of subsection (a) (''Federal standards'') and such standards shall apply with respect to all health insurance plans offered or operating in a State on and after the date specified in subsection (d) herein.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the effective date specified in this subsection for a State is the date the State adopts the standards developed under this section or 1 year after the date the NAIC or the Secretary first adopts such standards, whichever is earlier.

(2) EXCEPTION.—In the case of a State which the Secretary, in consultation with the NAIC, identifies as—

(A) requiring State legislation (other than legislation appropriating funds) in order for health insurance policies to meet the standards developed under this section, but

(B) having a legislature which is not scheduled to meet in 1996 in a legislative session in which such legislation may be considered,

the date specified in this subsection is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(e) WORKING GROUP.—In promulgating standards under this section, the NAIC or Secretary shall consult with a working group composed or representatives of issuers of health insurance policies, consumer groups, health insurance beneficiaries, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

(f) EFFECT ON STATE LAW.—Nothing in this section shall be construed to preempt any State law

to the extent that such State law implements more progressive reforms than those implemented under the standards developed under this section, as determined by the Secretary.

SEC. 1002. EXPANSION AND REVISION OF MEDICARE SELECT POLICIES.

(a) PERMITTING MEDICARE SELECT POLICIES IN ALL STATES.—

(1) IN GENERAL.—Subsection (c) of section 4358 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1320c-3 note) is hereby repealed.

(2) CONFORMING AMENDMENT.—Section 4358 of such Act (42 U.S.C. 1320c-3 note) is amended by redesignating subsection (d) as subsection (c).

(b) REQUIREMENTS OF MEDICARE SELECT POLICIES.—Section 1882(t)(1) of the Social Security Act (42 U.S.C. 1395ss(t)(1)) is amended to read as follows:

''(1)(A) If a medicare supplemental policy meets the 1991 NAIC Model Regulation or 1991 Federal Regulation and otherwise complies with the requirements of this section except that—

''(i) the benefits under such policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), and

''(ii) in the case of a policy described in subparagraph (C)(i)—

''(I) the benefits under such policy are not one of the groups or packages of benefits described in subsection (p)(2)(A),

''(II) except for nominal copayments imposed for services covered under part B of this title, such benefits include at least the core group of basic benefits described in subsection (p)(2)(B), and

''(III) an enrollee's liability under such policy for physician's services covered under part B of this title is limited to the nominal copayments described in subclause (II),

the policy shall nevertheless be treated as meeting those standards if the policy meets the requirements of subparagraph (B).

''(B) A policy meets the requirements of this subparagraph if—

''(i) full benefits are provided for items and services furnished through a network of entities which have entered into contracts or agreements with the issuer of the policy;

''(ii) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network;

''(iii) the network offers sufficient access;

''(iv) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network;

''(v)(I) the issuer of the policy provides to each enrollee at the time of enrollment an explanation of the matters described in subparagraph (D), and

''(II) each enrollee prior to enrollment acknowledges receipt of the explanation provided under subclause (I); and

''(vi) the issuer of the policy makes available to individuals, in addition to the policy described in this subsection, any policy (otherwise offered by the issuer to individuals in the State) that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation and other requirements of this section without regard to this subsection.

''(C)(i) A policy described in this subparagraph—

''(I) is offered by an eligible organization (as defined in section 1876(b)),

''(II) is not a policy or plan providing benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, and

''(III) provides benefits which, when combined with benefits which are available under this title, are substantially similar to benefits under policies offered to individuals who are not entitled to benefits under this title.

''(ii) In making a determination under subclause (III) of clause (i) as to whether certain benefits are substantially similar, there shall not be taken into account, except in the case of preventive services, benefits provided under policies offered to individuals who are not entitled to benefits under this title which are in addition to the benefits covered by this title and which are benefits an entity must provide in order to meet the definition of an eligible organization under section 1876(b)(1).

''(D) The matters described in this subparagraph, with respect to a policy, are as follows:

''(i) The restrictions on payment under the policy for services furnished other than by or through the network.

''(ii) Out of area coverage under the policy.

''(iii) The policy's coverage of emergency services and urgently needed care.

''(iv) The availability of a policy through the entity that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation without regard to this subsection and the premium charged for such policy.''.

(c) RENEWABILITY OF MEDICARE SELECT POLICIES.—Section 1882(q)(1) of the Social Security Act (42 U.S.C. 1395ss(q)(1)) is amended—

(1) by striking ''(1) Each'' and inserting ''(1)(A) Except as provided in subparagraph (B), each'';

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end the following new subparagraph:

''(B)(i) Except as provided in clause (ii), in the case of a policy that meets the requirements of subsection (t), an issuer may cancel or nonrenew such policy with respect to an individual who leaves the service area of such policy.

''(ii) If an individual described in clause (i) moves to a geographic area where the issuer described in clause (i), or where an affiliate of such issuer, is issuing medicare supplemental policies, such individual must be permitted to enroll in any medicare supplemental policy offered by such issuer or affiliate that provides benefits comparable to or less than the benefits provided in the policy being canceled or nonrenewed. An individual whose coverage is canceled or nonrenewed under this subparagraph shall, as part of the notice of termination or nonrenewal, be notified of the right to enroll in other medicare supplemental policies offered by the issuer or its affiliates.

''(iii) For purposes of this subparagraph, the term 'affiliate' shall have the meaning given such term by the 1991 NAIC Model Regulation.''.

(d) CIVIL MONEY PENALTY.—Section 1882(t)(2) of the Social Security Act (42 U.S.C. 1395ss(t)(2)) is amended—

(1) by striking ''(2)'' and inserting ''(2)(A)'';

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(3) in clause (iv), as so redesignated—

(A) by striking ''paragraph (1)(E)(i)'' and inserting ''paragraph (1)(B)(v)(I), and

(B) by striking ''paragraph (1)(E)(ii)'' and inserting ''paragraph (1)(B)(v)(II)'';

(4) by striking ''the previous sentence'' and inserting ''this subparagraph''; and

(5) by adding at the end the following new subparagraph:

''(B) If the Secretary determines that an issuer of a policy approved under paragraph (1) has made a misrepresentation to the Secretary or has provided the Secretary with false information regarding such policy, the issuer is subject to a civil money penalty in an amount not to exceed $100,000 for each such determination. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).''.

SEC. 1003. EFFECTIVE DATES.

(a) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the NAIC makes changes in the 1991 NAIC Model Regulation (as defined in section 1882(p)(1)(A) of the Social Security Act) to incorporate the additional requirements imposed by the amendments made by section 1002, section 1882(g)(2)(A) of such Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subsection (c), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed under this subsection (such changed Regulation referred to in this section as the ''1995 NAIC Model Regulation'').

(b) SECRETARY STANDARDS.—If the NAIC does not make changes in the 1991 NAIC Model Regulation (as so defined) within the 6-month period specified in subsection (a), the Secretary of Health and Human Services (in this subsection as the ''Secretary'') shall promulgate a regulation and section 1882(g)(2)(A) of the Social Security Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subsection (c), as if the reference to the Model Regulation adopted in June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed by the Secretary under this subsection (such changed Regulation referred to in this section as the ''1995 Federal Regulation'').

(c) DATE SPECIFIED.—

(1) IN GENERAL.—Subject to paragraph (2), the date specified in this subsection for a State is the earlier of—

(A) the date the State adopts the 1995 NAIC Model Regulation or the 1995 Federal Regulation; or

(B) 1 year after the date the NAIC or the Secretary first adopts such regulations.

(2) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(A) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the 1995 NAIC Model Regulation or the 1995 Federal Regulation, but

(B) having a legislature which is not scheduled to meet in 1995 in a legislative session in which such legislation may be considered, the date specified in this subsection is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1995. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE II—STATE INNOVATION

Subtitle A—State Waiver Authority

SEC. 2001. STATE HEALTH REFORM PROJECTS.

(a) OBJECTIVES.—The objectives of the waiver programs approved under this section shall include, but not be limited to—

(1) achieving the goals of increased health coverage and access;

(2) containing the annual rate of growth in public and private health care expenditures;

(3) ensuring that patients receive high-quality, appropriate health care; and

(4) testing alternative reforms, such as building on the private health insurance system or creating new systems, to achieve the objectives of this Act.

(b) STATE HEALTH REFORM APPLICATIONS.—

(1) IN GENERAL.—A State, in consultation with local governments involved in the provision of health care, may apply for—

(A) an alternative State health program waiver under paragraph (2); or

(B) a limited State health care waiver under paragraph (3).

(2) ALTERNATIVE STATE HEALTH PROGRAM WAIVERS.—

(A) IN GENERAL.—In accordance with this paragraph, each State desiring to implement an alternative State health program may submit an application for waiver to the Secretary for approval.

(B) WAIVER REQUIREMENTS SPECIFIED.—A State that desires to receive a program waiver under this paragraph shall prepare and submit to the Secretary, as part of the application, a State health care plan that shall—

(i) provide and describe the manner in which the State will ensure that individuals residing within the State have expanded access to health care coverage;

(ii) describe the number and percentage of current uninsured individuals who will achieve coverage under the alternative State health program;

(iii) describe the benefits package that will be provided to all classes of beneficiaries under the alternative State health program;

(iv) identify Federal, State, or local programs that currently provide health care services in the State and describe how such programs could be incorporated into or coordinated with the alternative State health program, to the extent practicable;

(v) provide that the State will develop and implement health care cost containment procedures;

(vi) describe the public and private sector financing to be provided for the alternative State health program;

(vii) estimate the amount of Federal, State, and local expenditures, as well as, the costs to business and individuals under the alternative State health program;

(viii) describe how the State plan will ensure the financial solvency of the alternative State health program;

(ix) describe any changes in eligibility for public subsidies;

(x) provide assurances that Federal expenditures under the alternative State health program shall not exceed the Federal expenditures, other than expenditures made available under this Act, which would otherwise be made in the aggregate for the entire program period;

(xi) provide quality control assurances, agreements, and performance measures as required by the Secretary;

(xii) provide for the development and implementation of a State health care delivery system that provides increased access to care in areas of the State where there is an inadequate supply of health care providers;

(xiii) identify all Federal law waivers required to implement the alternative State health program, including such waivers necessary to achieve the access, cost containment, and quality goals of this Act and the alternative State health program; and

(xiv) provide that the State will prepare and submit the Secretary such reports as the Secretary may require to carry out program evaluations.

(C) PROJECT WAIVERS.—

(i) CRITERIA FOR SELECTION.—In selecting from among the applications for alternative State health program waivers, the Secretary shall be satisfied that each approved State alternative State health program—

(I) will not have a negative effect on quality of care;

(II) increase coverage of or access for the State's population; and

(III) will—

(aa) provide quality of care and premium comparisons directly to employers and individuals in an easy-to-use format,

(bb) contract with an external peer review organization to monitor the quality of health care plans, and

(cc) establish a mechanism within the State's grievance process that allows members of a health plan to disenroll at any time if it can be shown that such members were provided erroneous information that biased their health plan selection.

(ii) WAIVER APPROVAL.—The Secretary shall approve applications submitted by States that meet the access, cost containment, and quality goals established in this Act and shall waive to the extent necessary to conduct each alternative State health program any of the requirements of this Act, including, but not limited to, eligibility requirements; alternative data collection systems and sampling designs that focus on measuring health status, patient treatment outcomes, and patient satisfaction with health plans, rather than on the collection of 100 percent of patient encounters; and benefit designs; and any provisions of Federal law contained in the following:

(I) Titles V, XIX, and XX of the Social Security Act.

(II) Title XVIII of the Social Security Act, to the extent such a waiver is granted only for the operation of an all-payor system or a long-term care system.

(III) The Public Health Service Act.

(IV) Any other Federal law authorizing a Federal health care program that the Secretary identifies as providing health care services to qualified recipients.

(3) LIMITED STATE HEALTH CARE WAIVERS.—Each State which does not receive or apply for an approved application under paragraph (2) may apply for a limited State health care waiver. The Secretary shall award limited State health care waivers to ensure State demonstrations of health reforms that could address, but are not limited to addressing, the following issues that are likely to provide guidance for the development of additional national health reforms:

(A) Integration of acute and long-term care systems, including delivery and financing systems.

(B) Establishment of methodologies that limit expenditures or establish global budgets, including rate setting and provider reimbursements.

(C) Implementation of a quality management and improvement system.

(D) Strategies to improve the proper speciality and geographic distribution of the health care work force.

(E) Initiatives to improve the population's health status.

(F) Development of uniform health data sets that emphasize the measurement of patient satisfaction, treatment outcomes, and health status.

(G) Methods for coordinating or integrating State-funded programs that provide services for low-income individuals, including programs authorized by this Act.

(H) Programs to improve public health.

(I) Reforms intended to reduce health care fraud and abuse.

(J) Reforms to reduce the incidence of defensive medicine and practitioner liability costs associated with medical malpractice.

(K) Development of a uniform billing system.

(c) ADDITIONAL RULES REGARDING APPLICATIONS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall, if requested, provide technical assistance to States to assist such States in developing waiver applications under this section.

(2) INITIAL REVIEW.—The Secretary shall complete an initial review of each State application for a waiver under paragraph (2) or (3) of subsection (b) within 40 days of the receipt of such application, analyze the scope of the proposal, and determine whether additional information is needed from the State. The Secretary shall issue a preliminary opinion concerning the likelihood that the application will be approved within such 40-day period and shall advise the State within such period of the need to submit additional information.

(3) FINAL DECISION.—The Secretary shall, within 90 days of the later of—

(A) the receipt of a State application for a waiver under paragraph (2) or (3) of subsection (b), or

(B) the date on which the Secretary receives additional information requested from a State under paragraph (1),

issue a final decision concerning such application.

(4) WAIVER PERIOD.—A State waiver may be approved for a period of 5 years and may be extended for subsequent 5-year periods upon approval by the Secretary, except that a shorter period may be requested by a State and granted by the Secretary.

(d) QUALIFICATION FOR FEDERAL FUNDS.—For purposes of this Act, a State with an approved alternative health care system under subsection (b)(2) shall be considered a participating State and shall maintain such status if such State meets the requirements established by the Secretary in the waiver approval and in this section.

(e) EVALUATION, MONITORING, AND COMPLIANCE.—

(1) STATE HEALTH REFORM ADVISORY COMMISSION.—

(A) IN GENERAL.—Within 90 days after the date of the enactment of this Act, the Secretary shall establish, an appoint the members of, a 17-member State Health Reform Advisory Commission (hereafter in this subsection referred to as the ''Commission'') that shall—

(i) be comprised of members representing relevant participants in State programs, including representatives of State government, employers, consumers, providers, and insurers;

(ii) be responsible for monitoring the status and progress achieved under waivers granted under this section;

(iii) report to the public concerning progress made by States with respect to the performance measures and goals established under this Act and the State project application procedures, by region and State jurisdiction;

(iv) promote information exchange between States and the Federal Government; and

(v) be responsible for making recommendations to the Secretary and the Congress, using equivalency or minimum standards, for minimizing the negative effect of State waivers on national employer groups, provider organizations, and insurers because of

differing State requirements under the waivers.

(B) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(C) CHAIRPERSON, MEETINGS.—

(i) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(ii) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(iii) MEETINGS.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting. The Commission shall meet at the call of the Chairperson.

(D) POWERS OF THE COMMISSION.—

(i) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subsection.

(ii) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subsection. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(iii) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(iv) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(E) PERSONNEL MATTERS.—

(i) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(ii) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(iii) STAFF.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(iv) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(v) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(F) FUNDING.—For the purpose of carrying out this subsection, there are authorized to be appropriated from the Fund established under section 9551 of the Internal Revenue Code of 1986, $1,000,000 for each of the fiscal years 1996 through 2000.

(2) ANNUAL REPORTS BY STATES.—Each State that has received a waiver approval shall submit to the Secretary an annual report based on the period representing the respective State's fiscal year, detailing compliance with the requirements established by the Secretary in the waiver approval and in this section.

(3) CORRECTIVE ACTION PLANS.—If a State is not in compliance, the Secretary shall develop, in conjunction with all the approved States, a corrective action plan.

(4) TERMINATION.—For good cause, the Secretary may revoke any waiver of Federal law granted under this section, and if necessary, may terminate any alternative State health program. Such decisions shall be subject to a petition for reconsideration and appeal pursuant to regulations established by the Secretary.

(5) EVALUATIONS BY SECRETARY.—The Secretary shall prepare and submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Commerce and the Committee on Ways and Means of the House of Representatives annual reports that shall contain—

(A) a description of the effects of the reforms undertaken in States receiving waiver approvals under this section;

(B) an evaluation of the effectiveness of such reforms in—

(i) expanding health care coverage for State residents;

(ii) providing health care to State residents with special needs;

(iii) reducing or containing health care costs in the States; and

(iv) improving the quality of health care provided in the States; and

(C) recommendations regarding the advisability of increasing Federal financial assistance for State alternative State health program initiatives, including the amount and source of such assistance.

(f) STATE COMMISSIONS.—The Secretary shall encourage States to establish a State commission to gather, review and report to the public concerning the progress the State is making in meeting the project goals of improved access, cost containment and quality and established performance measures.

(g) FUNDING.—

(1) IN GENERAL.—The Secretary may provide a grant to a State that has an application for a waiver approved under subsection (b)(2) to enable such State to carry out an alternative State health program in the State.

(2) AMOUNT OF GRANT.—The amount of a grant provided to a State under paragraph (1) shall be determined pursuant to an allocation formula established by the Secretary.

(3) PERFORMANCE-BASED FUNDING ALLOCATION AND PRIORITIZATION.—In awarding grants under paragraph (1), the Secretary shall—

(A) give priority to those State projects that the Secretary determines have the greatest opportunity to succeed in providing expanded health insurance coverage and access without penalizing those States that have been successful in expanding coverage and access through reform efforts in prior years;

(B) give priority to those State projects that the Secretary determines have the greatest opportunity to succeed in providing expanded health insurance coverage and in providing children, youth, and vulnerable populations with access to health care items and services; and

(C) attempt to link allocations to the State to the meeting of the goals and performance measures relating to health care coverage and access, health care costs, health care outcomes and vulnerable populations established under this Act through the State project application process.

(4) MAINTENANCE OF EFFORT.—A State, in utilizing the proceeds of a grant received under paragraph (1), shall maintain the expenditures of the State for health care coverage purposes at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received. The requirement of this paragraph shall not apply in the case of a State that desires to alter health care coverage funding levels within the scope of the State's alternative health program.

(5) REPORT.—At the end of the 5-year period beginning on the date on which the Secretary awards the first grant under paragraph (1), the State Health Reform Advisory Board established under subsection (e)(1) shall prepare and submit to the appropriate committees of Congress, a report on the progress made by States receiving grants under paragraph (1) in meeting the goals of expanded access, cost containment and quality through performance measures established during the 5-year period of the grant. Such report shall contain the recommendation of the Board concerning any future action that Congress should take concerning health care reform, including whether or not to extend the program established under this subsection.

(h) LOCAL GOVERNMENT APPLICATIONS.—

(1) IN GENERAL.—Where a State fails to submit an application under this section, a unit of local government of such State, or a consortium of such units of local governments, may submit an application directly to the Secretary for programs or projects under subsection (b). Such an application shall be subject to the requirements of this section.

(2) OTHER APPLICATIONS.—Subject to such additional guidelines as the Secretary may prescribe, a unit of local government may submit an application under this section, whether or not the State submits such an application, if such unit of local government can demonstrate unique demographic needs or a significant population size that warrants a substate waiver under subsection (b).

(i) AVAILABILITY OF FUNDS.—With respect to each of the calendar years 1996 through 2000, $10,000,000,000 shall be available for a calendar year to carry out this section from the Health Care Reform Trust Fund established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986. Amounts made available in a calendar year under this paragraph and not expended may be used in subsequent calendar years to carry out this section.

(j) CRIMINAL PENALTIES FOR ACTS INVOLVING MEDICARE OR STATE HEALTH CARE PROGRAMS.—

Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking ''and'' at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(F)(i) any premium payment made to a health insurer or health maintenance organization by a State agency in connection with

a demonstration project operated under the State medicaid program pursuant to section 1115 or the Health Partnership Act of 1995 with respect to individuals participating in such project; or

''(ii) any payment made by a health insurer or a health maintenance organization to a sales representative or a licensed insurance agent for the purpose of servicing, marketing, or enrolling individuals participating in such demonstration project in a health plan offered by such an insurer or organization.''.

Subtitle B—State Laws

PART A—EXISTING WAIVERS AND HAWAII PREPAID HEALTH CARE ACT

SEC. 2101. CONTINUANCE OF EXISTING FEDERAL LAW WAIVERS.

Nothing in this Act shall preempt any feature of a State health care system operating under a waiver granted before the date of the enactment of this Act under titles XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 1396 et seq.) or under an exemption from preemption under section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)).

SEC. 2102. PREEMPTION OF HAWAII PREPAID HEALTH CARE ACT.

Section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)) is amended to read as follows:

''(5)(A) Except as provided in subparagraphs (B) and (C), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. Chapter 393, as amended) or any insurance law of the State.

''(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any State tax law relating to employee benefits plans.

''(C) If the Secretary of Labor notifies the Governor of the State of Hawaii that as the result of an amendment to the Hawaii Prepaid Health Care Act enacted after the date of the enactment of this paragraph—

''(i) the proportion of the population with health care coverage under such Act is less than such proportion on such date, or

''(ii) the level of benefit coverage provided under such Act is less than the actuarial equivalent of such level of coverage on such date,

subparagraph (A) shall not apply with respect to the application of such amendment to such Act after the date of such notification.''.

PART B—ERISA REVIEW

SEC. 2110. SPECIFIC EXEMPTION FROM ERISA PREEMPTION.

(a) IN GENERAL.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by adding at the end the following new paragraph:

''(9) Upon application by a State, subsection (a) shall not apply to any State program that—

''(A) requires participation in an uncompensated care pool, including a program which imposes a tax on health care providers to fund an uncompensated care pool; or

''(B) provides for the imposition of a tax on health care providers as permitted under section 1903(w) of the Social Security Act.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed on and after the date of the enactment of this Act.

SEC. 2111. DISCRETIONARY EXEMPTIONS FROM ERISA PREEMPTIONS.

(a) IN GENERAL.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)), as amended by section 2110, is amended by adding at the end the following new paragraph:

''(10) Upon application by a State, subsection (a) shall not apply to any State program which the Secretary finds to be a State program implementing an exemption from subsection (a) established under section 2116 of the Health Partnership Act of 1995.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications filed on and after the date of the enactment of this Act.

SEC. 2112. PROCEDURES FOR ADOPTING DISCRETIONARY EXEMPTIONS.

(a) COMMISSION RECOMMENDATIONS.—The ERISA Review Commission shall—

(1) within 6 months after its establishment, make recommendations to the Secretary of Labor with respect to the issues described in subsection (c), and

(2) within 18 months after its establishment, make recommendations to the Secretary of Labor with respect to the issues described in subsection (d).

(b) ACTION BY SECRETARY OF LABOR.—

(1) IN GENERAL.—The Secretary of Labor shall, within 6 months of the receipt of any recommendation under subsection (a), implement the recommendation with or without modification or notify the Commission that the Secretary does not intend to implement the recommendation.

(2) NOTIFICATION.—The Secretary of Labor shall notify the appropriate committees of Congress of its decisions under this subsection.

(3) IMPLEMENTATION.—If the Secretary of Labor decides to implement any recommendation of the Commission, such recommendation shall take effect on—

(A) the 60th day after notification to the Congress under paragraph (2), or

(B) such later date as the Secretary of Labor determines appropriate.

(4) FAILURE TO IMPLEMENT.—If the Secretary of Labor under paragraph (1) elects not to implement the recommendations, the Secretary shall include in the notification to Congress under paragraph (2) the recommendations of the Commission.

(c) INITIAL ISSUES TO BE ACTED UPON.—The issues described in this subsection are as follows:

(1) UNIFORM DATA COLLECTION.—The establishment of uniform data collection with respect to use, cost, and quality information and to require common claims processing.

(2) MINIMUM BENEFITS.—The authority of the States to establish interim minimum benefits packages until the implementation of any recommendation under subsection (d)(4), including an exemption for self-insured plans which provide benefits which are actuarially equivalent to the minimum benefits package.

(3) MINIMUM SIZE.—The application of the preemption rules only to self-insured employers which have more than a minimum number of employees.

(4) MANAGED CARE.—The authority of the States to regulate the quality of managed care plans which contract with self-insured plans.

(5) STATE HEALTH CARE FINANCING PROGRAMS.—The establishment of State programs which—

(i) provide for the imposition of a broad-based, nondiscriminatory premium tax, or a broad-based, nondiscriminatory tax on health services, the proceeds of which are used to increase health insurance coverage of State residents or to pay for the uncompensated care of such residents, or

(ii) provide for the imposition of a tax on employers to provide for health care coverage of their employees, but only if the program allows a credit to employers for health care coverage provided by the employers to their employees.

(6) RATE SETTING.—A requirement that the State participate in a hospital reimbursement system or other system which sets rates for health care providers in the State.

(d) OTHER ISSUES.—The issues described in this subsection are as follows:

(1) MANDATES.—The authority of States to require employers to pay for or offer health benefits.

(2) REMEDIES.—The authority of the Federal Government of the States to provide remedies and consumer protections to beneficiaries of self-insured plans.

(3) PURCHASING COOPERATIVES.—The authority of the States to require self-insured plans to participate in purchasing cooperatives and risk adjustment systems.

(4) UNIFORM BENEFITS.—The development of a national uniform benefits plan applicable to all health plans, including self-insured plans.

(5) UNRESOLVED ISSUES.—Those issues unresolved under subsection (c).

SEC. 2113. OPERATION OF THE COMMISSION.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The ERISA Review Commission shall be composed of 17 members. Members shall be appointed not later than 90 days after the date of the enactment of this Act.

(2) CHAIRPERSON.—The President shall designate 1 individual described in paragraph (1) who shall serve as Chairperson of the Commission.

(b) COMPOSITION.—The membership of the Commission shall include—

(1) 9 individuals appointed by the President, 3 of whom shall be Federal officials representing the Departments of Labor, Health and Human Services, and the Treasury, 2 of whom shall represent business, 2 of whom shall represent labor, and 2 of whom shall represent State and local governments,

(2) 4 appointed by the Majority Leader of the Senate, in consultation with the Minority Leader, 2 of whom shall represent business and 2 of whom shall represent State and local governments, and

(3) 4 appointed by the Majority Leader of the House of Representatives, in consultation with the Minority Leader, 2 of whom shall represent business and 2 of whom shall represent State and local governments.

(c) TERMS.—The terms of members of the Commission shall be for the life of the Commission.

(d) VACANCIES.—

(1) IN GENERAL.—A vacancy in the Commission shall be filled in the same manner as the original appointment.

(2) NO IMPAIRMENT OF FUNCTION.—A vacancy in the membership of the Commission does not impair the authority of the remaining members to exercise all of the powers of the Commission.

(3) ACTING CHAIRPERSON.—The Commission may designate a member to act as Chairperson during any period in which there is no Chairperson designated by the President.

(e) MEETINGS; QUORUM.—

(1) MEETINGS.—The Chairperson shall preside at meetings of the Commission, and in the absence of the Chairperson, the Commission shall elect a member to act as Chairperson pro tempore.

(2) QUORUM.—Nine members of the Commission shall constitute a quorum thereof.

(f) ADMINISTRATIVE PROVISIONS.—

(1) PAY AND TRAVEL EXPENSES.—

(A) PAY.—Each member shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in

lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(2) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint an Executive Director.

(B) PAY.—The Executive Director shall be paid at a rate equivalent to a rate for the Senior Executive Service.

(3) STAFF.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Executive Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(B) PAY.—The Executive Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for level GS–15 of the General Schedule.

(C) DETAILED PERSONNEL.—Upon request of the Executive Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(4) OTHER AUTHORITY.—

(A) CONTRACT SERVICES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(B) LEASES AND PROPERTY.—The Commission may lease space and acquire personal property to the extent funds are available.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Fund established under section 9551 of the Internal Revenue Code of 1986, $1,000,000 for the operation of the Commission.

(h) EXPIRATION.—The Commission shall terminate 2 years after the date on which all of its members are appointed.

TITLE III—PUBLIC HEALTH AND RURAL AND UNDERSERVED ACCESS IMPROVEMENT

SEC. 3001. SHORT TITLE.

This title may be cited as the ''Public Health and Rural and Underserved Access Improvement Act of 1995''.

SEC. 3002. ESTABLISHMENT OF NEW TITLE XXVII REGARDING PUBLIC HEALTH PROGRAMS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following title:

''TITLE XXVII—PUBLIC HEALTH PROGRAMS IMPROVEMENT

''Subtitle A—Core Functions of Public Health Programs

''PART 1—FORMULA GRANTS TO STATES

''SEC. 2711. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

''For the purpose of carrying out this subtitle, there are authorized to be appropriated from the Health Care Reform Trust Fund established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986 (hereafter referred to in this title as the ''Fund''), $200,000,000 for fiscal year 1996, $350,000,000 for fiscal year 1997, $500,000,000 for fiscal year 1998, $650,000,000 for fiscal year 1999, and $700,000,000 for fiscal year 2000.

''SEC. 2712. FORMULA GRANTS TO STATES FOR CORE HEALTH FUNCTIONS.

''(a) IN GENERAL.—In the case of each State that submits to the Secretary an application in accordance with section 2715 for a fiscal year, the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall make a grant to the State for carrying out the activities described in subsection (c). The award shall consist of the allotment determined under section 2716 for the State.

''(b) GENERAL PURPOSE.—The purpose of this subtitle is to provide for improvements in the health status of the public through carrying out the activities described in subsection (b) toward attaining the Healthy People 2000 Objectives (as defined in section 2799). A funding agreement for a grant under subsection (a) is that—

''(1) the grant will be expended for such activities; and

''(2) the activities will be carried out by the State in collaboration with local public health departments, health education and training centers, neighborhood health centers, and other community health providers.

''(c) CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS.—Subject to the purpose described in subsection (b), the activities referred to in subsection (a) are the following:

''(1) Data collection, and analytical activities, related to population-based status and outcomes monitoring, including the following:

''(A) The regular collection and analysis of public health data (including the 10 leading causes of death and their costs to society).

''(B) Vital statistics.

''(C) Personal health services data.

''(D) The supply and distribution of health professionals.

''(2) Activities to reduce environmental risk and to assure the safety of housing, schools, workplaces, day-care centers, food and water, including the following activities:

''(A) Monitoring the overall public health status and safety of communities.

''(B) Assessing exposure to high lead levels and other environmental contaminants; and activities for abatement of toxicant hazards, including lead-related hazards.

''(C) Monitoring the quality of community water supplies used for consumption or for recreational purposes.

''(D) Monitoring sewage and solid waste disposal, radiation exposure, radon exposure, and noise levels.

''(E) Monitoring indoor and ambient air quality and related risks to vulnerable populations.

''(F) Assuring recreation, worker, and school safety.

''(G) Enforcing public health safety and sanitary codes.

''(H) Monitoring community access to appropriate health services.

''(I) Other activities relating to promoting and protecting the public health of communities.

''(3) Investigation, control, and public-awareness activities regarding adverse health conditions (such as emergency treatment preparedness, community efforts to reduce violence, outbreaks of communicable diseases within communities, chronic disease and dysfunction exposure-related conditions, toxic environmental pollutants, occupational and recreational hazards, motor vehicle accidents, and other threats to the health status of individuals).

''(4) Public information and education programs to reduce risks to health (such as use of tobacco;, alcohol and other drugs; unintentional injury from accidents, including motor vehicle accidents; sexual activities that increase the risk to HIV transmission and sexually transmitted diseases; poor diet; physical inactivity; stress-related illness; mental health problems; genetic disorders; and low childhood immunization levels).

''(5) Provision of public health laboratory services to complement private clinical laboratory services and that screen for diseases and conditions (such as metabolic diseases in newborns, provide assessments of blood lead levels and other environmental toxicants, diagnose and contact tracing of sexually transmitted diseases, tuberculosis and other diseases requiring partner notification, test for infectious and food-borne diseases, and monitor the safety of water and food supplies).

''(6) Training and education of new and existing health professionals in the field of public health, with special emphasis on epidemiology, biostatistics, health education, public health administration, public health nursing and dentistry, environmental and occupational health sciences, public health nutrition, social and behavioral health sciences, operations research, and laboratory technology.

''(7) Leadership, policy development and administration activities, including assessing needs and the supply and distribution of health professionals; the setting of public health standards; the development of community public health policies; and the development of community public health coalitions.

''(d) RESTRICTIONS ON USE OF GRANT.—

''(1) IN GENERAL.—A funding agreement for a grant under subsection (a) for a State is that the grant will not be expended—

''(A) to provide inpatient services;

''(B) to make cash payments to intended recipients of health services;

''(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

''(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

''(E) to provide financial assistance to any entity other than a public or nonprofit private entity.

''(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—A funding agreement for a grant under subsection (a) is that the State involved will not expend more than 20 percent of the grant for administrative expenses with respect to the grant.

''(e) MAINTENANCE OF EFFORT.—A funding agreement for a grant under subsection (a) is that the State involved will maintain expenditures of non-Federal amounts for core health functions at a level that is not less than the level of such expenditures maintained by the State for the fiscal year preceding the first fiscal year for which the State receives such a grant.

''SEC. 2713. NUMBER OF FUNCTIONS; PLANNING.

''(a) NUMBER OF FUNCTIONS.—Subject to subsection (b), a funding agreement for a grant under section 2712 is that the State involved will carry out each of the activities described in subsection (c) of such section.

''(b) PLANNING.—In making grants under section 2712, the Secretary shall for each State designate a period during which the State is to engage in planning to meet the responsibilities of the State under subsection (a). The period so designated may not exceed 18 months. With respect to such period for a State, a funding agreement for a grant under section 2712 for any fiscal year containing any portion of the period is that, during the period, the State will expend the grant only for such planning.

''SEC. 2714. SUBMISSION OF INFORMATION; REPORTS.

''(a) SUBMISSION OF INFORMATION.—The Secretary may make a grant under section 2712 only if the State involved submits to the Secretary the following information:

''(1) A description of the relationship between community health providers, public

and private health plans, and the public health system of the State.

''(2) A description of existing deficiencies in the public health system at the State level and the local level, using standards under the Healthy People 2000 Objectives.

''(3) A description of public health priorities identified at the State level and local levels, including the 10 leading causes of death and their respective direct and indirect costs to the State and the Federal Government.

''(4) Measurable outcomes and process objectives (using criteria under the Healthy People 2000 Objectives) which indicate improvements in health status as a result of the activities carried out under section 2712(c).

''(5) Information regarding each such activity, which—

''(A) identifies the amount of State and local funding expended on each such activity for the fiscal year preceding the fiscal year for which the grant is sought; and

''(B) provides a detailed description of how additional Federal funding will improve each such activity by both the State and local public health agencies.

''(6) A description of activities under section 2712(c) to be carried out at the local level, and a specification for each such activity of—

''(A) the communities in which the activity will be carried out and any collaborating agencies; and

''(B) the amount of the grant to be expended for the activity in each community so specified.

''(7) A description of how such activities have been coordinated with activities supported under title V of the Social Security Act (relating to maternal and child health).

''(b) REPORTS.—A funding agreement for a grant under section 2712 is that the States involved will, not later than the date specified by the Secretary, submit to the Secretary a report describing—

''(1) the purposes for which the grant was expended;

''(2) the health status of the population of the State, as measured by criteria under the Healthy People 2000 Objectives; and

''(3) the progress achieved and obstacles encountered in using uniform data sets under such Objectives.

''SEC. 2715. APPLICATION FOR GRANT.

''The Secretary may make a grant under section 2712 only if an application for the grant is submitted to the Secretary, the application contains each agreement described in this part, the application contains the information required in section 2712(c), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

''SEC. 2716. DETERMINATION OF AMOUNT OF ALLOTMENT.

''For purposes of section 2712, the allotment under this section for a State for a fiscal year shall be determined through a formula established by the Secretary on the basis of the population, economic indicators, and health status of each State. Such allotment shall be the product of—

''(1) a percentage determined under the formula; and

''(2) the amount appropriated under section 2711 for the fiscal year, less any amounts reserved under section 2717.

''SEC. 2717. ALLOCATIONS FOR CERTAIN ACTIVITIES.

''Of the amounts made available under section 2711 for a fiscal year for carrying out this part, the Secretary may reserve not more than 15 percent for carrying out the following activities:

''(1) Technical assistance with respect to planning, development, and operation of activities under section 2712(b), including provision of biostatistical and epidemiological expertise, provision of laboratory expertise, and the development of uniform data sets under the Health People 2000 Objectives.

''(2) Development and operation of a national information network among State and local health agencies for utilizing such uniform data sets.

''(3) Program monitoring and evaluation of activities carried out under section 2712(b).

''(4) Development of a unified electronic reporting mechanism to improve the efficiency of administrative management requirements regarding the provision of Federal grants to State public health agencies.

''PART 2—COMPREHENSIVE EVALUATION OF DISEASE PREVENTION AND HEALTH PROMOTION PROGRAMS

''SEC. 2718. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

''For the purpose of carrying out this part, there are authorized to be appropriated from the Fund, $100,000,000 for fiscal year 1996, and $150,000,000 for each of the fiscal years 1997 through 2000.

''SEC. 2719. EVALUATION OF PROGRAMS.

''(a) GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, eligible entities for the purpose of enabling such entities to carry out evaluations of the type described in subsection (c). The Secretary shall carry out this section acting through the Director of the Centers for Disease Control and Prevention, subject to subsection (g).

''(b) REQUIREMENTS.—

''(1) ELIGIBLE ENTITIES.—To be eligible to receive an award of a grant, cooperative agreement, or contract under subsection (a), an entity must—

''(A) be a public, nonprofit, or private entity or a university;

''(B) prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require, including a plan for the conduct of the evaluation under the grant;

''(C) provide assurances that any information collected while conducting evaluations under this section will be maintained in a confidential manner with respect to the identities of the individuals from which such information is obtained; and

''(D) meet any other requirements that the Secretary determines to be appropriate.

''(2) TYPES OF ENTITIES.—In making awards under subsection (a), the Secretary shall consider applications from entities proposing to conduct evaluations using community programs, managed care programs, State and county health departments, public education campaigns, school programs, and other appropriate programs. The Secretary shall ensure that not less than 25 percent of the amounts appropriated under section 2718 for a fiscal year are used for making such awards to entities that will use the amounts to conduct evaluations in the workplace.

''(c) USE OF FUNDS.—

''(1) EVALUATIONS.—An award under subsection (a) shall be used to—

''(A) conduct evaluations to determine the extent to which clinical preventive services, health promotion and unintentional injury prevention activities, and interpersonal and community violence prevention activities, achieve short-term and long-term health care cost reductions and health status improvement with respect to the Healthy People 2000 Objectives; and

''(B) evaluate other areas determined appropriate by the Secretary.

''(2) INCLUSION OF CERTAIN POPULATION GROUPS.—In carrying out this section, the Secretary shall ensure that data concerning women, children, minorities, older individuals with different income levels, retirees, and individuals from diverse geographical backgrounds, are obtained.

''(3) MINIMUM SERVICES.—The evaluations that the Secretary may provide for under this section include (but are not limited to) evaluations of programs that provide one or more of the following services:

''(A) Blood pressure screening and control (to detect and control hypertension and coronary health disease).

''(B) Early cancer screening.

''(C) Blood cholesterol screening and control.

''(D) Smoking cessation programs.

''(E) Substance abuse programs.

''(F) Dietary and nutrition counseling, including nutrition.

''(G) Physical fitness counseling.

''(H) Stress management.

''(I) Diabetes education and screening.

''(J) Intraocular pressure screening.

''(K) Monitoring of prescription drug use.

''(L) Violence and injury prevention programs.

''(M) Health education.

''(N) Immunization rates.

''(4) ENVIRONMENTAL DATA.—Evaluations conducted under this section may consider the health effects and cost-effectiveness of certain environmental programs, including fluoridation programs, traffic safety programs, pollution control programs, accident prevention programs, and antismoking programs.

''(5) PUBLIC POLICIES.—Evaluations conducted under this section may consider the effects of prevention-oriented social and economic policies on improvement of health status and their long-term cost effectiveness.

''(6) USE OF EXISTING DATA.—In conducting evaluations under this section, entities shall use existing data and health promotion and screening programs where practicable.

''(7) COOPERATION.—In providing for an evaluation under this section, the Secretary shall encourage the recipient of the award and public and private entities with relevant expertise (including State and local agencies) to collaborate for purposes of conducting the evaluation.

''(d) SITES.—Recipients of awards under subsection (a) shall select evaluation sites under the award that present the greatest potential for new and relevant knowledge. Such recipients, in selecting such sites, shall ensure that—

''(1) the sites provide evidence of pilot testing, process evaluation, formative evaluation, availability assessment strategies and results;

''(2) the sites provide evidence of a clear definition of the program and protocols for the implementation of the evaluation; and

''(3) the sites provide evidence of valid, appropriate and feasible assessment methods and tools and a willingness to use common data items and instruments across such sites.

''(e) REPORTING REQUIREMENTS.—Not later than 1 year after an entity first receives an award under subsection (a), and not less than once during each 1-year period thereafter for which such an award is made to the entity, the entity shall prepare and submit to the Secretary a report containing a description of the activities under this section conducted during the period for which the report is prepared, and the findings derived as a result of such activities.

''(f) TERM OF EVALUATIONS.—Evaluations conducted under this section shall be for a period of not less than 3 years and may continue as necessary to permit the grantee to adequately measure the full benefit of the evaluations.

''(g) DISSEMINATION AND GUIDELINES.—

''(1) CONSULTATION.—The Secretary shall carry out this subsection acting through the Director of the Centers for Disease Control and Prevention and the Administrator for Health Care Policy and Research.

''(2) GUIDELINES.—The Secretary shall, where feasible and practical, develop and issue practice guidelines that are based on the results of evaluations conducted under this section. The practice guidelines shall be developed by the Secretary utilizing expert practitioners to assist in the development and implementation of these guidelines.

''(3) DATA.—

''(A) IN GENERAL.—The Secretary shall collect, store, analyze, and make available data related to the formulation of the guidelines that is provided to the Centers for Disease Control and Prevention by entities conducting evaluations under this section.

''(B) USE OF DATA.—The Secretary shall—

''(i) identify activities that prevent disease, illness, injury and disability, and promote good health practices; ascertain their cost-effectiveness; and identify their potential to overall health status with respect to Healthy People 2000 Objectives;

''(ii) disseminate practice guidelines to State and county health departments, State insurance departments, insurance companies, employers, professional medical organizations, and others determined appropriate by the Secretary; and

''(iii) provide information with respect to recidivism rates of participation in the evaluations.

''(4) DISSEMINATION.—The Secretary may disseminate information collected from evaluations under this section.

''(h) LIMITATION.—Amounts appropriated for carrying out this section shall not be utilized to provide services.

''Subtitle B—Opportunities for Education and Training in Public Health

''PART 1—SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS REGARDING SERVICE IN PUBLIC HEALTH POSITIONS

''SEC. 2721. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

''For the purpose of carrying out this part, there are authorized to be appropriated from the Fund, $50,000,000 for each of the fiscal years 1996 through 2000.

''SEC. 2722. SCHOLARSHIP PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the Centers for Disease Control and Prevention, shall carry out a program under which the Secretary awards scholarships to individuals described in subsection (b) for the purpose of assisting the individuals with the costs of attending public and nonprofit private schools of public health (or other public or nonprofit private institutions providing graduate or specialized training in public health).

''(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any individual meeting the following conditions:

''(1) The individual is enrolled (or accepted for enrollment) at a school or other institution referred to in subsection (a) as a full-time or part-time student in a program providing training in a health profession in a field of public health (including the fields of epidemiology, biostatistics, environmental health, health administration and planning, behavioral sciences, maternal and child health, occupational safety, public health nursing, nutrition, and toxicology).

''(2) The individual enters into the contract required pursuant to subsection (d) as a condition of receiving the scholarship (relating to an agreement to provide services in approved public health positions, as defined in section 2724).

''(c) ELIGIBLE SCHOOLS.—For fiscal year 1996 and subsequent fiscal years, the Secretary may make an award of a scholarship under subsection (a) only if the Secretary determines that—

''(1) the school or other institution with respect to which the award is to be provided has coordinated the activities of the school or institution with relevant activities of the Health Resources and Services Administration and the Centers for Disease Control and Prevention; and

''(2) not fewer than 60 percent of the graduates of the school or institution are in public health positions determined by the Secretary to be consistent with the needs of the United States regarding such professionals.

''(d) APPLICABILITY OF CERTAIN PROVISIONS.—Except as inconsistent with this section or section 2724, the provisions of subpart III of part D of title III (relating to the Scholarship and Loan Repayment Programs of the National Health Service Corps) apply to an award of a scholarship under subsection (a) to the same extent and in the same manner as such provisions apply to an award of a scholarship under section 338A.

''SEC. 2723. LOAN REPAYMENT PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the Centers for Disease Control and Prevention, shall carry out a program under which the Federal Government enters into agreements to repay all or part of the educational loans of individuals meeting the following conditions:

''(1) The individual involved is a graduate of a school or other institution described in section 2722(a).

''(2) The individual meets the applicable legal requirements to provide services as a public health professional (including a professional in any of the fields specified in section 2722(b)(1)).

''(3) The individual enters into the contract required pursuant to subsection (b) as a condition of the Federal Government repaying such loans (relating to an agreement to provide services in approved public health positions, as defined in section 2724).

''(b) APPLICABILITY OF CERTAIN PROVISIONS.—Except as inconsistent with this section or section 2724, the provisions of subpart III of part D of title III (relating to the Scholarship and Loan Repayment Programs of the National Health Service Corps) apply to an agreement regarding repayment under subsection (a) to the same extent and in the same manner as such provisions apply to an agreement regarding repayment under section 338B.

''(c) AMOUNT OF REPAYMENTS.—For each year for which an individual contracts to serve in an approved public health position pursuant to subsection (b), the Secretary may repay not more than $20,000 of the principal and interest of the educational loans of the individual.

''SEC. 2724. APPROVED PUBLIC HEALTH POSITIONS.

''(a) POSITION REGARDING POPULATIONS WITH SIGNIFICANT NEED FOR SERVICES.—

''(1) IN GENERAL.—With respect to the programs under this part, the obligated service of a program participant pursuant to sections 2722(d) and 2723(b) shall be provided through an assignment, to an entity described in subsection (b), for a position in which the participant provides services as a public health professional to a population determined by the Secretary to have a significant unmet need for the services of such a professional.

''(2) PERIOD OF SERVICE.—For purposes of sections 2722(d) and 2723(d), the period of obligated service is the following, as applicable to the program participant involved:

''(A) In the case of scholarships under section 2722 for full-time students, the greater of—

''(i) 1 year for each year for which such a scholarship is provided; or

''(ii) 2 years.

''(B) In the case of scholarships under section 2722 for part-time students, a period determined by the Secretary on the basis of the number of hours of education or training received under the scholarship, considering the percentage constituted by the ratio of such number to the number of hours for a full-time student in the program involved.

''(C) In the case of the loan repayments under section 2723, such period as the Secretary and the participant may agree, except that the period may not be less than 2 years.

''(b) APPROVAL OF ENTITIES FOR ASSIGNMENT OF PROGRAM PARTICIPANTS.—The entities referred to in subsection (a) are public and nonprofit private entities approved by the Secretary as meeting such requirements for the assignment of a program participant as the Secretary may establish. The entities that the Secretary may so approve include State and local departments of health, public hospitals, community and neighborhood health clinics, migrant health clinics, community-based health-related organizations, certified regional poison control centers, purchasing cooperatives regarding health insurance, and any other public or nonprofit private entity.

''(c) DEFINITIONS.—For purposes of this part:

''(1) The term 'approved public health position', with respect to a program participant, means a position to which the participant is assigned pursuant to subsection (a).

''(2) The term 'program participant' means an individual who enters into a contract pursuant to section 2722(b)(2) or 2723(a)(3).

''SEC. 2725. ALLOCATION OF FUNDS; SPECIAL CONSIDERATIONS.

''(a) ALLOCATIONS REGARDING NEW PARTICIPANTS IN SCHOLARSHIP PROGRAM.—Of the amounts appropriated under section 2721 for a fiscal year, the Secretary shall obligate not less than 30 percent for the purpose of providing awards for scholarships under section 2722 to individuals who have not previously received such scholarships.

''(b) SPECIAL CONSIDERATION FOR CERTAIN INDIVIDUALS.—In making awards of scholarships under section 2722 and making repayments under section 2723, the Secretary shall give special consideration to individuals who are in the armed forces of the United States or who are veterans of the armed forces.

''PART 2—EDUCATIONAL INSTITUTIONS REGARDING PUBLIC HEALTH

''SEC. 2731. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

''For the purpose of carrying out this part from the Fund, there are authorized to be appropriated from the Fund, $100,000,000 for each of the fiscal years 1996 through 2000.

''SEC. 2732. GRANTS FOR EXPANDING CAPACITY OF INSTITUTIONS.

''(a) IN GENERAL.—The Secretary may make grants to institutions described in subsection (b) for the purpose of expanding the educational capacities of the institutions through recruiting and retaining faculty, curriculum development, and coordinating the activities of the institutions regarding education, training, and field placements.

''(b) RELEVANT INSTITUTIONS.—The institutions referred to in subsection (a) are public and nonprofit private—

''(1) schools of public health;

''(2) departments of community and preventive medicine that—

''(A) are within schools of medicine and schools of osteopathic medicine; and

''(B) have established formal arrangements with schools of public health in order to award joint degrees in public health and another health profession; and

''(3) schools of nursing or dentistry that have established formal arrangements with schools of public health in order to carry out educational programs in public health at the schools of nursing or dentistry, respectively.

''(c) REQUIREMENTS REGARDING CURRICULUM DEVELOPMENT.—A funding agreement for a grant under subsection (a) for an institution is that, to the extent determined to be appropriate by the Secretary, the curriculum of institution will include the following:

''(1) Subject to subsection (d)(1), part-time nondegree programs for public health professionals who need further training in fields of public health.

''(2) With respect to the program of community health advisors established in part 5 of subtitle E, a program to train individuals to serve as supervisors under such part (including training and evaluating the community health advisors), which program is carried out in collaboration with local public health departments and health education and training centers.

''(d) ADDITIONAL REQUIREMENTS.—Funding agreements for a grant under subsection (a) for an institution are as follows:

''(1) In developing the curriculum under the grant, the institution will consult with the health departments in the State involved, and will follow the relevant priorities of such departments.

''(2) The institution will, as appropriate in the determination of the Secretary, coordinate the activities of the institution under the grant with relevant activities of the Health Resources and Services Administration and the Centers for Disease Control and Prevention.

"SEC. 2733. COORDINATION OF GRANT ACTIVITIES WITH NATIONAL PRIORITIES.

''The Secretary shall—

''(1) determine the needs of the United States regarding the education and geographic distribution of public health professionals;

''(2) determine priorities among such needs; and

''(3) in making grants under section 2732, ensure that the curricula developed under such section, and the expertise of the faculty recruited and retained under such section, are consistent with such priorities.

"SEC. 2734. CERTAIN REQUIREMENTS FOR GRANTS.

''For fiscal year 1997 and subsequent fiscal years, the Secretary may make a grant under section 2732 only if the institution involved is in compliance with the following:

''(1) The institution has coordinated the activities of the school or institution with relevant activities of the Health Resources and Services Administration and the Centers for Disease Control and Prevention.

''(2) A significant number of the faculty of the institution has served as practitioners in public health.

''(3) The institution has consulted with public health departments and public hospital systems in the State involved in order to develop a curriculum that reflects the needs and priorities of the State regarding the public health.

''(4) The institution has coordinated the activities of the institution with the activities of the health departments and of community groups.

''(5) The institution carries out a program for part-time students to receive training in fields of public health.

''(6) Not less than 60 percent of the graduates of the school or institution are in public health positions determined by the Secretary to be consistent with the needs of the United States regarding such professionals.

"PART 3—EXPANSION OF COMPETENCY IN PUBLIC HEALTH

"SEC. 2736. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

''For the purpose of carrying out this section, there is authorized to be appropriated from the Fund, $60,000,000 for each of the fiscal years 1996 through 2000.

"SEC. 2737. GRANTS TO STATES.

''(a) STATES LACKING ADEQUATE TRAINING PROGRAMS.—

''(1) IN GENERAL.—The Secretary may make grants to States in which there is one or no program of training in a field of public health but in which there are 1 or more schools of medicine, osteopathic medicine, nursing, dentistry, social work, pharmacy, or health administration. A funding agreement for such a grant is that the purpose of the grant is for the State involved to assist 1 or more of such schools in developing and integrating public health curricula for the schools.

''(2) SPECIAL CONSIDERATIONS IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give special consideration to States that agree to consult with 1 or more schools of public health in carrying out the purpose described in such subsection.

''(b) STATES WITH NONACCREDITED SCHOOLS.—The Secretary may make grants to States in which there are 1 or more nonaccredited schools of public health. A funding agreement for such a grant is that the purpose of the grant is for the State involved to assist 1 or more of such schools in improving the schools.

''(c) AMOUNT OF GRANT; LIMITATION REGARDING INDIVIDUAL EDUCATIONAL ENTITIES.—

''(1) AMOUNT.—The amount of a grant under this section to a State may not exceed $6,000,000.

''(2) LIMITATION.—A funding agreement for a grant under this section for a State is that, with respect to the school involved, the State will not provide more than 2 years of assistance to the school from grants under this section.

"PART 4—AREA HEALTH EDUCATION CENTERS

"SEC. 2738. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

''(a) ADDITIONAL FUNDING.—For the purpose of carrying out programs under section 746, there are authorized to be appropriated from the Fund, $35,000,000 for each of the fiscal years 1996 through 2000.

''(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

"PART 5—HEALTH EDUCATION TRAINING CENTER

"SEC. 2739. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

''(a) ADDITIONAL FUNDING.—For the purpose of carrying out Health Education Training Center programs, there are authorized to be appropriated from the Fund, $20,000,000 for each of the fiscal years 1996 through 2000.

''(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

"Subtitle C—Regional Poison Control Centers

"SEC. 2741. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

''For the purpose of carrying out this subtitle, there is authorized to be appropriated from the Fund, $50,000,000 for each of the fiscal years 1996 through 2000.

"SEC. 2742. GRANTS FOR REGIONAL CENTERS.

''(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for centers to carry out activities regarding—

''(1) the prevention and treatment of poisoning; and

''(2) such other activities regarding the control of poisons as the Secretary determines to be appropriate.

''(b) REGIONAL CONSIDERATIONS.—In making grants under subsection (a), the Secretary shall determine the need in each of the principal geographic regions of the United States for a center under such subsection, and shall make the grants according to priorities established by the Secretary on the basis of the extent of such need in each of the regions. In carrying out the preceding sentence, the Secretary shall ensure that no two centers receive grants for the same geographic service area.

''(c) MATCHING FUNDS.—

''(1) IN GENERAL.—With respect to the costs of an entity in providing for centers under subsection (a), the Secretary may make a grant under such subsection only if the State in which the center is to operate, or other public entities in the State, agree to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount determined by the Secretary.

''(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"SEC. 2743. REQUIREMENTS REGARDING CERTIFICATION.

''(a) IN GENERAL.—Subject to subsection (b), the Secretary may make a grant under section 2742 only if the center involved has been certified by a professional organization in the field of poison control, and the Secretary has approved the organization as having in effect standards for certification that reasonably provide for the protection of the public health with respect to poisoning. In carrying out the preceding sentence, the Secretary shall consider the standards established by the American Association of Poison Control Centers.

''(b) TEMPORARY WAIVER.—The Secretary may waive the requirement of subsection (a) for a center for a period not exceeding 1 year.

"SEC. 2744. GENERAL PROVISIONS.

''(a) DURATION OF GRANT.—The period during which payments are made under a grant under section 2742 may not exceed 3 years. The provision of such payments is subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. The preceding sentence may not be construed as establishing a limitation on the number of such grants that may be made to an entity.

''(b) STUDY REGARDING NEED FOR CENTERS.—

''(1) IN GENERAL.—The Secretary shall conduct a study of each of the centers for which a grant under section 2742 has been provided.

The purpose of the study shall be to determine the effectiveness of the centers in carrying out the activities described in such section and the extent to which the activities have been carried out in a cost-effective manner.

''(2) ALTERNATIVES TO CENTERS.—In carrying out the study under paragraph (1), the Secretary shall determine the extent to which the activities described in section 2742 can be effectively carried out through means other than centers under such section. The alternative means considered by the Secretary under the preceding sentence shall include the alternative of requiring public and private health plans to carry out such activities.

''(3) DATE CERTAIN FOR COMPLETION.—Not later than November 1, 1996, the Secretary shall submit to the Congress a report describing the findings made in the study under paragraph (1).

''(4) NOTICE TO CENTERS.—Not later than February 1, 1997, the Secretary shall notify each grantee under section 2742 whether the Secretary considers the continued operation of the center involved to be necessary in meeting the needs of the geographic region involved for the activities described in such section.

''Subtitle D—School-Related Health Services

''SEC. 2746. AUTHORIZATION OF APPROPRIATIONS FROM FUND.

''(a) FUNDING FOR SCHOOL-RELATED HEALTH SERVICES.—For the purpose of carrying out this subtitle, there are authorized to be appropriated from the Fund, $100,000,000 for fiscal year 1996, $200,000,000 for fiscal year 1997, $300,000,000 for fiscal year 1998, $400,000,000 for fiscal year 1999, and $500,000,000 for fiscal year 2000.

''(b) FUNDING FOR PLANNING AND DEVELOPMENT GRANTS.—Of amounts made available under this section, not to exceed $10,000,000 for each of fiscal years 1996 and 1997 may be utilized to carry out section 2749.

''SEC. 2747. ELIGIBILITY FOR GRANTS.

''(a) IN GENERAL.—

''(1) PLANNING AND DEVELOPMENT GRANTS.—Entities eligible to apply for and receive grants under section 2749 are—

''(A) State health agencies that apply on behalf of local community partnerships; or

''(B) local community partnerships in States in which health agencies have not successfully applied.

''(2) OPERATIONAL GRANTS.—Entities eligible to apply for and receive grants under section 2750 are—

''(A) a qualified State as designated under subsection (c) that apply on behalf of local community partnerships; or

''(B) local community partnerships in States that are not designated under subparagraph (A).

''(b) LOCAL COMMUNITY PARTNERSHIPS.—

''(1) IN GENERAL.—A local community partnership under subsection (a)(1)(B) and (a)(2)(B) is an entity that, at a minimum includes—

''(A) a local health care provider, which may be a local public health department, with experience in delivering services to children and youth or medically underserved populations;

''(B) local educational agency on behalf of one or more public schools; and

''(C) one community based organization located in the community to be served that has a history of providing services to at-risk children and youth.

''(2) RURAL COMMUNITIES.—In rural communities, local partnerships should seek to include, to the fullest extent practicable, providers and community based organizations with experience in serving the target population.

''(3) PARENT AND COMMUNITY PARTICIPATION.—An applicant described in subsection (a) shall, to the maximum extent feasible, involve broad-based community participation (including parents of the youth to be served).

''(c) QUALIFIED STATE.—A qualified State under subsection (a)(2)(A) is a State that, at a minimum—

''(1) demonstrates an organizational commitment (including a strategic plan) to providing a broad range of health, health education and support services to at-risk youth; and

''(2) has a memorandum of understanding or cooperative agreement jointly entered into by the State agencies responsible for health and education regarding the planned delivery of health and support services in school-based or school-linked centers.

''SEC. 2748. PREFERENCES.

''In making grants under sections 2749 and 2750, the Secretary shall give priority to applicants whose-communities to be served show the most substantial level of need for health services among children and youth.

''SEC. 2749. PLANNING AND DEVELOPMENT GRANTS.

''(a) IN GENERAL.—The Secretary may make grants during fiscal years 1996 and 1997 to entities eligible under section 2747 to develop school-based or school-linked health service sites.

''(b) USE OF FUNDS.—Amounts provided under a grant under this section may be used for the following:

''(1) Planning for the provision of school health services, including—

''(A) an assessment of the need for health services among youth in the communities to be served;

''(B) the health services to be provided and how new services will be integrated with existing services;

''(C) assessing and planning for the modernization and expansion of existing facilities and equipment to accommodate such services; and

''(D) an affiliation with relevant health plans.

''(2) Recruitment and training of staff for the administration and delivery of school health services.

''(3) The establishment of local community partnerships as described in section 2747(b).

''(4) In the case of States, the development of memorandums of understanding or cooperative agreements for the coordinated delivery of health and support services through school health service sites.

''(5) Other activities necessary to assume operational status.

''(c) APPLICATION FOR GRANTS.—To be eligible to receive a grant under this section an entity described in section 2747(a) shall submit an application in a form and manner prescribed by the Secretary.

''(d) NUMBER OF GRANTS.—Not more than one planning grant may be made to a single applicant. A planning grant may not exceed 2 years in duration.

''(e) AMOUNT AVAILABLE FOR DEVELOPMENT GRANT.—The Secretary may award not to exceed—

''(1) $150,000 to entities under section 2747(a)(1)(A) and to localities planning for a citywide or countywide school health services delivery system; and

''(2) $50,000 to entities under section 2747(a)(1)(B).

''SEC. 2759. GRANTS FOR OPERATION OF SCHOOL HEALTH SERVICES.

''(a) IN GENERAL.—The Secretary may make grants to eligible entities described in section 2747(a)(2) that submit applications consistent with the requirements of this section, to pay the cost of operating school-based or school-linked health service sites.

''(b) USE OF GRANT.—Amounts provided under a grant under this section may be used for the following—

''(1) health services, including diagnosis and treatment of simple illnesses and minor injuries;

''(2) preventive health services, including health screenings follow-up health care, mental health, and preventive health education;

''(3) enabling services and other necessary support services;

''(4) training, recruitment, and compensation of health professionals and other staff necessary for the administration and delivery of school health services; and

''(5) referral services, including the linkage of individuals to health plans, and community-based health and social service providers.

''(c) APPLICATION FOR GRANT.—To be eligible to receive a grant under this section an entity described in section 2747(a)(2) shall submit an application in a form and manner prescribed by the Secretary. In order to receive a grant under this section, an applicant must include in the application the following information—

''(1) a description of the services to be furnished by the applicant;

''(2) the amounts and sources of funding that the applicant will expend, including estimates of the amount of payments the applicant will receive from health plans and other sources;

''(3) a description of local community partnerships, including parent and community participation;

''(4) a description of the linkages with other health and social service providers; and

''(5) such other information as the Secretary determines to be appropriate.

''(d) ASSURANCES.—In order to receive a grant under this section, an applicant must meet the following conditions—

''(1) school health service sites will, directly or indirectly, provide a broad range of health services, in accordance with the determinations of the local community partnership, that may include—

''(A) diagnosis and treatment of simple illnesses and minor injuries;

''(B) preventive health services, including health screenings and follow-up health care, mental health and preventive health education;

''(C) enabling services; and

''(D) referrals (including referrals regarding mental health and substance abuse) with follow-up to ensure that needed services are received;

''(2) the applicant provides services recommended by the health provider, in consultation with the local community partnership, and with the approval of the local education agency;

''(3) the applicant provides the services under this subsection to adolescents, and other school age children and their families as deemed appropriate by the local partnership;

''(4) the applicant maintains agreements with community-based health care providers with a history of providing services to such populations for the provision of health care services not otherwise provided directly or during the hours when school health services are unavailable;

''(5) the applicant establishes an affiliation with relevant health plans and will establish reimbursement procedures and will make every reasonable effort to collect appropriate reimbursement for services provided;

''(6) the applicant agrees to supplement and not supplant the level of State or local funds under the direct control of the applying State or participating local education or

health authority expended for school health services as defined by this Act;

''(7) services funded under this Act will be coordinated with existing school health services provided at a participating school; and

''(8) for applicants in rural areas, the assurances required under paragraph (4) shall be fulfilled to the maximum extent possible.

''(e) STATE LAWS.—Notwithstanding any other provision in this subtitle, no school based health clinic may provide services, to any minor, when to do so is a violation of State laws or regulations pertaining to informed consent for medical services to minors.

''(f) LIMITATION ON ADMINISTRATIVE FUNDS.—In the case of a State applying on behalf of local educational partnerships, the applicant may retain not more than 5 percent of grants awarded under this subpart for administrative costs.

''(g) DURATION OF GRANT.—A grant under this section shall be for a period determined appropriate by the Secretary.

''(h) AMOUNT OF GRANT.—The annual amount of a grant awarded under this section shall not be more than $200,000 per school-based or school-linked health service site.

''(i) FEDERAL SHARE.—

''(1) IN GENERAL.—Subject to paragraph (3), a grant for services awarded under this section may not exceed—

''(A) 90 percent of the non-reimbursed cost of the activities to be funded under the program for the first 2 fiscal years for which the program receives assistance under this section; and

''(B) 75 percent of the non-reimbursed cost of such activities for subsequent years for which the program receives assistance under this section.

The remainder of such costs shall be made available as provided in paragraph (2).

''(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share required by paragraph (1) may be in cash or in-kind, fairly evaluated, including facilities, equipment, personnel, or services, but may not include amounts provided by the Federal Government. In-kind contributions may include space within school facilities, school personnel, program use of school transportation systems, outposted health personnel, and extension of health provider medical liability insurance.

''(3) WAIVER.—The Secretary may waive the requirements of paragraph (1) for any year in accordance with criteria established by regulation. Such criteria shall include a documented need for the services provided under this section and an inability of the grantee to meet the requirements of paragraph (1) despite a good faith effort.

''(j) TRAINING AND TECHNICAL ASSISTANCE.—Entities that receive assistance under this section may use not to exceed 10 percent of the amount of such assistance to provide staff training and to secure necessary technical assistance. To the maximum extent feasible, technical assistance should be sought through local community-based entities. The limitation contained in this subsection shall apply to individuals employed to assist in obtaining funds under this subtitle. Staff training should include the training of teachers and other school personnel necessary to ensure appropriate referral and utilization of services, and appropriate linkages between class-room activities and services offered.

''(k) REPORT AND MONITORING.—The Secretary will submit to the Committee on Labor and Human Resources in the Senate and the Committee on Commerce in the House of Representatives a biennial report on the activities funded under this Act, consistent with the ongoing monitoring activities of the Department. Such reports are intended to advise the relevant Committees of the availability and utilization of services, and other relevant information about program activities.

"Subtitle E—Expansion of Rural and Underserved Areas Access to Health Services

"PART 1—COMMUNITY AND MIGRANT HEALTH CENTERS

"SEC. 2756. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

''(a) IN GENERAL.—For the purpose of carrying out this part, there is authorized to be appropriated from the Fund, $100,000,000 for each of the fiscal years 1996 through 2000.

''(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) for the purpose described in such subsection are in addition to any other authorizations of appropriations that are available for such purpose.

"SEC. 2757. GRANTS TO COMMUNITY AND MIGRANT HEALTH CENTERS.

''(a) IN GENERAL.—The Secretary shall make grants in accordance with this section to migrant health centers and community health centers.

''(b) USE OF FUNDS.—

''(1) DEVELOPMENT, OPERATION, AND OTHER PURPOSES REGARDING CENTERS.—Subject to paragraph (2), grants under subsection (a) to migrant health centers and community health centers may be made only in accordance with the conditions upon which grants are made under sections 329 and 330, respectively.

''(2) REQUIRED FINANCIAL RESERVES.—The Secretary may authorize migrant health centers and community health centers to expend a grant under subsection (a) to establish and maintain financial reserves required for purposes of health plans.

''(c) DEFINITIONS.—For purposes of this subtitle, the terms 'migrant health center' and 'community health center' have the meanings given such terms in sections 329(a)(1) and 330(a), respectively.

"PART 2—NATIONAL HEALTH SERVICE CORPS

"SEC. 2781. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

''(a) ADDITIONAL FUNDING; GENERAL CORPS PROGRAM; ALLOCATIONS REGARDING NURSES.—For the purpose of carrying out subpart II of part D of title III, and for the purpose of carrying out subsection (c), there are authorized to be appropriated from the Fund, $100,000,000 for each of the fiscal years 1996 through 2000.

''(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

''(c) ALLOCATION FOR PARTICIPATION OF NURSES IN SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.—Of the amounts appropriated under subsection (a), the Secretary shall reserve such amounts as may be necessary to ensure that, of the aggregate number of individuals who are participants in the Scholarship Program under section 338A, or in the Loan Repayment Program under section 338B, the total number who are being educated as nurses or are serving as nurses, respectively, is increased to 30 percent.

''(d) AVAILABILITY OF FUNDS.—An appropriation under this section for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under subsection (a) for another fiscal year; but no funds may be made available from any appropriation under this section for obligation under sections 331 through 335, section 336A, and section 337 before the fiscal year involved.

"PART 3—SATELLITE CLINICS REGARDING PRIMARY HEALTH CARE

"SEC. 2783. AUTHORIZATION OF APPROPRIATIONS FROM FUND.

''For the purpose of carrying out this part, there is authorized to be appropriated from the Fund, $50,000,000 for each of the fiscal years 1996 through 2000.

"SEC. 2783A. GRANTS TO STATES FOR DEVELOPMENT AND OPERATION OF SATELLITE CLINICS.

''(a) IN GENERAL.—With respect to outpatient health centers that are providers of comprehensive health services, the Secretary may make grants to States for the purpose of assisting such centers in developing or operating facilities that—

''(1) provide clinical preventive services, treatment of minor illnesses and injuries, family planning services, and referrals for health services, mental health services, and health-related social services; and

''(2) are located at a distance from the center sufficient to increase the extent to which individuals in the geographic area involved have access to the services specified in paragraph (1).

''(b) CERTAIN REQUIREMENTS.—The Secretary may make a grant under subsection (a) only if the State agrees that the health facility for which the grant is made, once in operation, will meet the following conditions:

''(1) The clinical preventive services provided by the facility will include routine preventive services, including family planning services, for pregnant and postpartum women and for children, including health screenings and immunizations.

''(2) The principal providers of health services at the facility, and the principal managers of the facility, will be nurse practitioners, physician assistants, or nurse clinicians, subject to applicable law.

''(3) The outpatient health center operating the facility will serve as a referral center for physician services and will provide for the ongoing monitoring of the activities of the facility.

''(c) MATCHING FUNDS.—The Secretary may make a grant under subsection (a) only if the State involved agrees to make non-Federal contributions toward the costs of developing and operating the health facilities involved.

''(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

''(e) LIMITATION ON AMOUNT OF ASSISTANCE PER FACILITY.—With respect to a health facility for which one or more grants under subsection (a) are made, the Secretary may not provide more than an aggregate $250,000 for the development and operation of the facility.

"PART 4—COMMUNITY HEALTH ADVISORS

"SEC. 2784. AUTHORIZATION OF APPROPRIATIONS FROM FUND.

''For the purpose of carrying out this part, there is authorized to be appropriated from the Fund, $100,000,000 for each of the fiscal years 1996 through 2000.

"SEC. 2785. FORMULA GRANTS REGARDING COMMUNITY HEALTH ADVISOR PROGRAMS.

''(a) FORMULA GRANTS.—

''(1) IN GENERAL.—In the case of each State (or entity designated by a State under subsection (b)) that submits to the Secretary an application in accordance with section 2788 for a fiscal year, the Secretary of Health and

Human Services, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the heads of the agencies specified in paragraph (2), shall make an award of financial assistance to the State or entity for the development and operation of community health advisor programs under section 2786(b). The award shall consist of the allotment determined under section 2789 with respect to the State, subject to section 2794.

''(2) COORDINATION WITH OTHER AGENCIES.—The agencies referred to in paragraph (1) regarding coordination are the Health Resources and Services Administration, the National Institutes of Health, the Substance Abuse and Mental Health Services Administration, and the Health Education and Training Center.

''(b) DESIGNATED ENTITIES.—With respect to the State involved, an entity other than the State may receive an award under subsection (a) only if the entity—

''(1) is a public or nonprofit private academic organization (or other public or nonprofit private entity); and

''(2) has been designated by the State to carry out the purpose described in such subsection in the State and to receive amounts under such subsection in lieu of the State.

''(c) ROLE OF STATE AGENCY FOR PUBLIC HEALTH.—A funding agreement for an award under subsection (a) is that—

''(1) if the applicant is a State, the award will be administered by the State agency with the principal responsibility for carrying out public health programs; and

''(2) if the applicant is an entity designated under subsection (b), the award will be administered in consultation with such State agency.

''(d) STATEWIDE RESPONSIBILITIES; LIMITATION ON EXPENDITURES.—

''(1) STATEWIDE RESPONSIBILITIES.—A funding agreement for an award under subsection (a) is that the applicant involved will—

''(A) operate a clearinghouse to maintain and disseminate information on community health advisor programs (and similar programs) in the State, including information on developing and operating such programs, on training individuals to participate in the programs, and on evaluation of the programs;

''(B) collaborate with schools of public health to provide to community health advisor programs in the State technical assistance in training and supervising community health advisors under section 2787(g)(1); and

''(C) coordinate the activities carried out in the State under the award, including coordination between the various community health advisor programs and coordination between such programs and related activities of the State and of other public or private entities.

''(2) LIMITATION.—A funding agreement for an award under subsection (a) is that the applicant involved will not expend more than 15 percent of the award in the aggregate for carrying out paragraph (1) and for the expenses of administering the award with respect to the State involved, including the process of receiving payments from the Secretary under the award, allocating the payments among the entities that are to develop and operate the community health advisor programs involved, and monitoring compliance with the funding agreements made under this subtitle by the applicant.

''SEC. 2786. REQUIREMENTS REGARDING COMMUNITY HEALTH ADVISOR PROGRAMS.

''(a) PURPOSE OF AWARD; HEALTHY PEOPLE 2000 OBJECTIVES.—

''(1) IN GENERAL.—Subject to paragraph (2), a funding agreement for an award under section 2785 for an applicant is that the purpose of the award is, through community health advisor programs under subsection (b), to assist the State involved in attaining the Healthy People 2000 Objectives.

''(2) AUTHORITY REGARDING SELECTION OF PRIORITY OBJECTIVES.—With respect to compliance with the agreement made under paragraph (1), an applicant receiving an award under section 2785 may, from among the various Healthy People 2000 Objectives, select one or more Objectives to be given priority in the operation of a community health advisor program of the applicant, subject to the applicant selecting such priorities in consultation with the entity that is to carry out the program and the local health department involved.

''(b) REQUIREMENTS FOR PROGRAMS.—

''(1) IN GENERAL.—A funding agreement for an award under section 2785 for an applicant is that, in expending the award, the purpose described in subsection (a)(1) will be carried out in accordance with the following:

''(A) For each community for which the purpose is to be carried out, the applicant will establish a program in accordance with this subsection.

''(B) The program will be carried out in a community only if the applicant has, under section 2787(a), identified the community as having a significant need for the program.

''(C) The program will be operated by a public or nonprofit private entity with experience in providing health or health-related social services to individuals who are underserved with respect to such services.

''(D) The services of the program, as specified in paragraph (2), will be provided principally by community health advisors (as defined in subsection (d)).

''(2) AUTHORIZED PROGRAM SERVICES.—For purposes of paragraph (1)(D), the services specified in this paragraph for a program are as follows:

''(A) The program will collaborate with health care providers and related entities in order to facilitate the provision of health services and health-related social services (including collaborating with local health departments, community health centers, public hospital systems, migrant health centers, rural health clinics, hospitals, physicians and nurses, providers of health education, pre-school facilities for children, elementary and secondary schools, and providers of social services).

''(B) The program will provide public education on health promotion and on the prevention of diseases, illnesses, injuries, and disabilities, and will facilitate the appropriate use of available health services and health-related social services.

''(C) The program will provide health-related counseling.

''(D) The program will provide referrals for available health services and health-related social services.

''(E) For the purpose of increasing the capacity of individuals to utilize health services and health-related social services under Federal, State, and local programs, the following conditions will be met:

''(i) The program will assist individuals in establishing eligibility under the programs and in receiving the services or other benefits of the programs.

''(ii) The program will provide such other services as the Secretary determines to be appropriate, which services may include (but are not limited to) transportation and translation services.

''(F) The program will provide outreach services to inform the community of the availability of the services of the program.

''(c) PRIORITY FOR MEDICALLY UNDERSERVED COMMUNITIES.—A funding agreement for an award under section 2785 is that the applicant involved will give priority to developing and operating community health advisor programs for medically underserved communities.

''(d) DEFINITION OF COMMUNITY HEALTH ADVISOR.—For purposes of this part, the term 'community health advisor' means an individual—

''(1) who has demonstrated the capacity to carry out one or more of the authorized program services;

''(2) who, for not less than 1 year, has been a resident of the community in which the community health advisor program involved is to be operated; and

''(3) is a member of a socioeconomic group to be served by the program.

''SEC. 2787. ADDITIONAL AGREEMENTS.

''(a) IDENTIFICATION OF COMMUNITY NEEDS.—A funding agreement for an award under section 2785 is that the applicant involved will—

''(1) identify the needs of the community involved for the authorized program services, including the identifying the resources of the community that are available for carrying out the program;

''(2) in identifying such needs, consult with members of the community, with individuals and programs that provide health services in the community, and with individuals and programs that provide health-related social services in the community; and

''(3) consider such needs in carrying out a community health advisor program for the community.

''(b) MATCHING FUNDS.—

''(1) IN GENERAL.—With respect to the cost of carrying out a community health advisor program, a funding agreement for an award under section 2785 is that the applicant involved will make available (directly or through donations from public or private entities) non-Federal contributions toward such cost in an amount that is not less than 25 percent of such cost.

''(2) DETERMINATION OF AMOUNT CONTRIBUTED.—

''(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

''(B) With respect to the State in which the community health advisor program involved is to be carried out, amounts provided by the State in compliance with subsection (c) shall be included in determining the amount of non-Federal contributions under paragraph (1).

''(c) MAINTENANCE OF EFFORT.—With respect to the purposes for which an award under section 2785 is authorized in this subtitle to be expended, the Secretary may make such an award only if the State involved agrees to maintain expenditures of non-Federal amounts for such purposes at a level that is not less than the level of such expenditures maintained by the State for the fiscal year preceding the first fiscal year for which such an award is made with respect to the State.

''(d) CULTURAL CONTEXT OF SERVICES.—A funding agreement for an award under section 2785 for an applicant is that the services of the community health advisor program involved will be provided in the language and cultural context most appropriate for the individuals served by the program, and that for such purpose the community health advisors of the program will include an appropriate number of advisors who are fluent in both English and not less than one of the other relevant languages.

''(e) NUMBER OF PROGRAMS PER AWARD; PROGRAMS FOR URBAN AND RURAL AREAS.—A

funding agreement for an award under section 2785 for an applicant is that the number of community health advisor programs operated in the State with the award will be determined by the Secretary, except that (subject to section 2786(b)(1)(B)) such a program will be carried out in not less than one urban area of the State, and in not less than one rural area of the State.

''(f) ONGOING SUPERVISION OF ADVISORS.—A funding agreement for an award under section 2785 is that the applicant involved will ensure that each community health advisor program operated with the award provides for the ongoing supervision of the community health advisors of the program, and that the individuals serving as supervisors in the program will include 1 or more public health nurses with field experience and managerial experience.

''(g) CERTAIN EXPENDITURES.—

''(1) TRAINING; CONTINUING EDUCATION.—Funding agreements for an award under section 2785 include the following:

''(A) The applicant involved will ensure that, for each community health advisor program operated with the award, a program is carried out to train community health advisors to provide the authorized program services, including practical experiences in providing services for health promotion and disease prevention.

''(B) The program of training will provide for the continuing education of the community health advisors.

''(C) Not more than 15 percent of the award will be expended for the program of training.

''(2) COMPENSATION.—With respect to compliance with the agreements made under this subtitle, the purposes for which an award under section 2785 may be expended include providing compensation for the services of community health advisors.

''(h) REPORTS TO SECRETARY; ASSESSMENT OF EFFECTIVENESS.—Funding agreements for an award under section 2785 for an applicant include the following:

''(1) The applicant will ensure that, for each fiscal year for which a community health advisor program receives amounts from the award, the program will prepare a report describing the activities of the program for such year, including—

''(A) a specification of the number of individuals served by the program;

''(B) a specification of the entities with which the program has collaborated in carrying out the purpose described in section 2786(a)(1); and

''(C) an assessment of the extent of the effectiveness of the program in carrying out such purpose.

''(2) Such reports will include such additional information regarding the applicant and the programs as the Secretary may require.

''(3) The applicant will prepare the reports as a single document and will submit the document to the Secretary not later than February 1 of the fiscal year following the fiscal year for which the reports were prepared.

''SEC. 2788. APPLICATION FOR ASSISTANCE; STATE PLAN.

''For purposes of section 2785, an application is in accordance with this section if—

''(1) the application is submitted not later than the date specified by the Secretary;

''(2) the application contains each funding agreement described in this subtitle;

''(3) the application contains a State plan describing the purposes for which the award is to be expended in the State, including a description of the manner in which the applicant will comply with each such funding agreement; and

''(4) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subtitle.

''SEC. 2789. DETERMINATION OF AMOUNT OF ALLOTMENT.

''(a) IN GENERAL.—For purposes of section 2785, the allotment under this section with respect to a State for a fiscal year is the sum of the respective amounts determined for the State under subsection (b) and subsection (c).

''(b) AMOUNT RELATING TO POPULATION.—For purposes of subsection (a), the amount determined under this subsection is the product of—

''(1) an amount equal to 50 percent of the amount appropriated under section 2784 for the fiscal year and available for awards under section 2785; and

''(2) the percentage constituted by the ratio of—

''(A) the number of individuals residing in the State involved; to

''(B) the sum of the respective amounts determined for each State under subparagraph (A).

''(c) AMOUNT RELATING TO POVERTY LEVEL.—For purposes of subsection (a), the amount determined under this subsection is the product of—

''(1) the amount determined under subsection (b)(1); and

''(2) the percentage constituted by the ratio of—

''(A) the number of individuals residing in the State whose income is at or below an amount equal to 200 percent of the official poverty line; to

''(B) the sum of the respective amounts determined for each State under subparagraph (A).

''SEC. 2790. QUALITY ASSURANCE; COST-EFFECTIVENESS.

''The Secretary shall establish guidelines for assuring the quality of community health advisor programs (including quality in the training of community health advisors) and for assuring the cost-effectiveness of the programs. A funding agreement for an award under section 2785 is that the applicant involved will carry out such programs in accordance with the guidelines.

''SEC. 2791. EVALUATIONS; TECHNICAL ASSISTANCE.

''(a) EVALUATIONS.—The Secretary shall conduct evaluations of community health advisor programs and disseminate information developed as result of the evaluations to the States. In conducting such evaluations, the Secretary shall determine whether the programs are in compliance with the guidelines established under section 2790.

''(b) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to recipients of awards under section 2785 with respect to the planning, development, and operation of community health advisor programs.

''(c) GRANTS AND CONTRACTS.—The Secretary may carry out this section directly or through grants, cooperative agreements, or contracts.

''(d) LIMITATION ON EXPENDITURES.—Of the amounts appropriated under section 2784 for a fiscal year, the Secretary may reserve not more than 10 percent for carrying out this section.

''SEC. 2792. RULE OF CONSTRUCTION REGARDING PROGRAMS OF INDIAN HEALTH SERVICE.

''This subtitle may not be construed as requiring the Secretary to modify or terminate the program carried out by the Director of the Indian Health Service and designated by such Director as the Community Health Representative Program. The Secretary shall ensure that support for such Program is not supplanted by awards under section 2785. In communities in which both such Program and a community health advisor program are being carried out, the Secretary shall ensure that the community health advisor program works in cooperation with, and as a complement to, the Community Health Representative Program.

''SEC. 2793. DEFINITIONS.

''For purposes of this subtitle:

''(1) The term 'authorized program services', with respect to a community health advisor program, means the services specified in section 2786(b)(2).

''(2) The term 'community health advisor' has the meaning given such term in section 2786(d).

''(3) The term 'community health advisor program' means a program carried out under section 2786(b).

''(4) The term 'financial assistance', with respect to an award under section 2785, means a grant, cooperative agreement, or a contract.

''(5) The term 'funding agreement' means an agreement required as a condition of receiving an award under section 2785.

''(6) The term 'official poverty line' means the official poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981, which poverty line is applicable the size of the family involved.

''(7) The term 'State involved', with respect to an applicant for an award under section 2785, means the State in which the applicant is to carry out a community health advisor program.

''SEC. 2794. EFFECT OF INSUFFICIENT APPROPRIATIONS FOR MINIMUM ALLOTMENTS.

''(a) IN GENERAL.—If the amounts made available under section 2784 for a fiscal year are insufficient for providing each State (or entity designated by the State pursuant to section 2785, as the case may be) with an award under section 2785 in an amount equal to or greater than the amount specified in section 2789(a)(2), the Secretary shall, from such amounts as are made available under subsection (a), make such awards on a discretionary basis.

''(b) RULE OF CONSTRUCTION.—For purposes of subsection (a), awards under section 2785 are made on a discretionary basis if the Secretary determines which States (or entities designated by States pursuant to such section, as the case may be) are to receive such awards, subject to meeting the requirements of this subtitle for such an award, and the Secretary determines the amount of such awards.

''Subtitle F—General Provisions

''SEC. 2798. REQUIREMENT REGARDING ACCREDITATION OF SCHOOLS, DEPARTMENTS, AND PROGRAMS.

''Except as indicated otherwise in this title:

''(1) A reference in this title to a school of public health, a school of nursing, or any other entity providing education or training in a health profession (whether a school, department, program, or other entity) is a reference to the entity as defined under section 799 or 853.

''(2) If an entity is not defined in either of such sections, the reference in this title to the entity has the meaning provided by the Secretary, except that the Secretary shall require for purposes of this title that the entity be accredited for the provision of the education or training involved.

"SEC. 2799. RELATION TO OTHER FUNDS.

''Notwithstanding any other provision of law, the authorizations of appropriations established in this title are in addition to any other authorizations of appropriations that are available for the purposes described with respect to such appropriations in this title.

"SEC. 2799A. DEFINITIONS.

''(a) IN GENERAL.—For purposes of this title:

''(1) The term 'Healthy People 2000 Objectives' means the objectives established by the Secretary toward the goals of increasing the span of healthy life, reducing health disparities among various populations, and providing access to preventive services, which objectives apply to the health status of the population of the United States for the year 2000.

''(2) The term 'medically underserved community' means—

''(A) a community that has a substantial number of individuals who are members of a medically underserved population, as defined in section 330; or

''(B) a community a significant portion of which is a health professional shortage area designated under section 332.''.

TITLE IV—MEDICAL AND HEALTH RESEARCH

SEC. 4001. SHORT TITLE.

This title may be cited as the ''Medical and Health Research Act of 1995''.

SEC. 4002. FINDINGS.

The Congress finds the following:

(1) Nearly 4 of 5 peer reviewed research projects deemed worthy of funding by the National Institutes of Health are not funded.

(2) Less than 2 percent of the nearly one trillion dollars our Nation spends on health care is devoted to health research, while the defense industry spends 15 percent of its budget on research.

(3) Public opinion surveys have shown that Americans want more Federal resources put into health research and support by having a portion of their health insurance premiums set aside for this purpose.

(4) Ample evidence exists to demonstrate that health research has improved the quality of health care in the United States. Advances such as the development of vaccines, the cure of many childhood cancers, drugs that effectively treat a host of diseases and disorders, a process to protect our Nation's blood supply from the HIV virus, progress against cardiovasculor disease including heart attack and stroke, and new strategies for the early detection and treatment of diseases such as colon, breast, and prostate cancer clearly demonstrates the benefits of health research.

(5) Among the most effective methods to control health care costs are prevention and cure of disease and disability, thus, health research which holds the promise of cure and prevention of disease and disability is a critical component of any comprehensive health care reform plan.

(6) The state of our Nation's research facilities at the National Institutes of Health and at universities is deteriorating significantly. Renovation and repair of these facilities are badly needed to maintain and improve the quality of research.

(7) Because the Omnibus Budget Reconciliation Act of 1993 freezes discretionary spending for the next 5 years, the Nation's investment in health research through the National Institutes of Health is likely to decline in real terms unless corrective legislative action is taken.

(8) A health research fund is needed to maintain our Nation's commitment to health research and to increase the percentage of approved projects which receive funding at the National Institutes of Health to at least 33 percent.

SEC. 4003. NATIONAL FUND FOR HEALTH RESEARCH.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States an account, to be known as the ''National Fund for Health Research'' (hereafter referred to in this section as the ''Fund''), consisting of such amounts as are transferred to the Fund under subsection (b) and any interest earned on investment of amounts in the Fund.

(b) TRANSFERS TO FUND.—

(1) IN GENERAL.—With respect to each of the 5 full calendar years beginning after the date of enactment of this Act, the Secretary of the Treasury shall transfer to the Fund an amount equal to the applicable amount under paragraph (2).

(2) APPLICABLE AMOUNT.—The applicable amount under this paragraph is—

(A) with respect to amounts in the Health Care Reform Trust Fund established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986, $1,200,000,000 for each calendar year described in paragraph (1); and

(B) with respect to amounts received in the Treasury under section 6097 of the Internal Revenue Code of 1986, 100 percent of the amounts received under such section in each calendar year described in paragraph (1).

(3) DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS.—

(A) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR THE NATIONAL FUND FOR HEALTH RESEARCH

''Sec. 6097. Amounts for the National Fund for Health Research.

"SEC. 6097. AMOUNTS FOR THE NATIONAL FUND FOR HEALTH RESEARCH.

''(a) IN GENERAL.—Every individual (other than a nonresident alien) may designate that—

''(1) a portion (not less than $1) of any overpayment of the tax imposed by chapter 1 for the taxable year, and

''(2) a cash contribution (not less than $1),

be paid over to the National Fund for Health Research established under section 4003 of the Health Partnership Act of 1995. In the case of a joint return of a husband and wife, each spouse may designate one-half of any such overpayment of tax (not less than $2).

''(b) MANNER AND TIME OF DESIGNATION.—Any designation under subsection (a) may be made with respect to any taxable year only at the time of filing the original return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made either on the 1st page of the return or on the page bearing the taxpayer's signature.

''(c) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this section, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last day prescribed for filing the return of tax imposed by chapter 1 (determined with regard to extensions) or, if later, the date the return is filed.

''(d) DESIGNATED AMOUNTS NOT DEDUCTIBLE.—No amount designated pursuant to subsection (a) shall be allowed as a deduction under section 170 or any other section for any taxable year.

''(e) TERMINATION.—This section shall not apply to taxable years beginning in a calendar year after a determination by the Secretary that the sum of all designations under subsection (a) for taxable years beginning in the second and third calendar years preceding the calendar year is less than $5,000,000.''.

(B) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 61 of such Code is amended by adding at the end the following new item:

''Part IX. Designation of overpayments and contributions for the National Fund for Health Research.''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1995.

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall pay annually, within 30 days after the President signs an appropriations Act for the Departments of Labor, Health and Human Services, and Education and related agencies, or by the end of the first quarter of the fiscal year, to the Secretary of Health and Human Services on behalf of the National Institutes of Health, an amount equal to the amount in the National Fund for Health Research at the time of such payment, to enable the Secretary to carry out the purpose of section 404F of the Public Health Service Act, less any administrative expenses which may be paid under paragraph (3).

(2) PURPOSES FOR EXPENDITURES FROM FUND.—Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following new section:

"SEC. 404F. EXPENDITURES FROM THE NATIONAL FUND FOR HEALTH RESEARCH.

''(a) IN GENERAL.—From amounts received for any fiscal year from the National Fund for Health Research, the Secretary of Health and Human Services shall distribute—

''(1) 2 percent of such amounts during any fiscal year to the Office of the Director of the National Institutes of Health to be allocated at the Director's discretion for the following activities:

''(A) for carrying out the responsibilities of the Office of the Director, National Institutes of Health, including the Office of Research on Women's Health and the Office of Research on Minority Health, the Office of the Alternative Medicine and the Office of Rare Diseases Research; and

''(B) for construction and acquisition of equipment for or facilities of or used by the National Institutes of Health;

''(2) 2 percent of such amounts for transfer to the National Center for Research Resources to carry out section 1502 of the National Institutes of Health Revitalization Act of 1993 concerning Biomedical and Behavioral Research Facilities;

''(3) 1 percent of such amounts during any fiscal year for carrying out section 301 and part D of title IV with respect to health information communications; and

''(4) the remainder of such amounts during any fiscal year to member institutes of the National Institutes of Health and centers in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and center for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and centers of the National Institutes of Health for the fiscal year.

''(b) PLANS OF ALLOCATION.—The amounts transferred under subsection (a) shall be allocated by the Director of NIH or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors.''.

(3) ADMINISTRATIVE EXPENSES.—Amounts in the National Fund for Health Research shall

be available to pay the administrative expenses of the Department of the Treasury directly allocable to—

(A) modifying the individual income tax return forms to carry out section 6097 of the Internal Revenue Code of 1986;

(B) carrying out this section with respect to such Fund; and

(C) processing amounts received under this section and transferring such amounts to such Fund.

(4) TRIGGER AND RELEASE OF FUND MONIES.—No expenditures shall be made pursuant to section 4003(c) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

(d) BUDGET ENFORCEMENT.—Amounts contained in the National Fund for Health Research shall be excluded from, and shall not be taken into account for purposes of, any budget enforcement procedures under the Congressional Budget Act of 1974 or the Balanced Budget Emergency Deficit Control Act of 1985.

TITLE V—FRAUD AND ABUSE

SEC. 5001. SHORT TITLE.

This Act may be cited as the ''Health Fraud and Abuse Reduction Act of 1995''.

Subtitle A—All-Payer Fraud and Abuse Control Program

SEC. 5101. ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 1996, the Secretary of Health and Human Services (in this subtitle referred to as the ''Secretary''), acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States, and

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act and other statutes applicable to health care fraud and abuse.

(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

(3) REGULATIONS.—

(A) IN GENERAL.—The Secretary and the Attorney General shall by regulation establish standards to carry out the program under paragraph (1).

(B) INFORMATION STANDARDS.—

(i) IN GENERAL.—Such standards shall include standards relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

(ii) CONFIDENTIALITY.—Such standards shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

(C) DISCLOSURE OF OWNERSHIP INFORMATION.—

(i) IN GENERAL.—Such standards shall include standards relating to the disclosure of ownership information described in clause (ii) by any entity providing health care services and items.

(ii) OWNERSHIP INFORMATION DESCRIBED.—The ownership information described in this clause includes—

(I) a description of such items and services provided by such entity;

(II) the names and unique physician identification numbers of all physicians with a financial relationship (as defined in section 1877(a)(2) of the Social Security Act) with such entity;

(III) the names of all other individuals with such an ownership or investment interest in such entity; and

(IV) any other ownership and related information required to be disclosed by such entity under section 1124 or section 1124A of the Social Security Act, except that the Secretary shall establish procedures under which the information required to be submitted under this subclause will be reduced with respect to health care provider entities that the Secretary determines will be unduly burdened if such entities are required to comply fully with this subclause.

(4) AUTHORIZATION OF APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.—In addition to any other amounts authorized to be appropriated to the Secretary, the Attorney General, the Director of the Federal Bureau of Investigation, and the Inspectors General of the Departments of Defense, Labor, and Veterans Affairs and of the Office of Personnel Management, for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated additional amounts, from the Health Care Fraud and Abuse Account described in subsection (b) of this section, as may be necessary to enable the Secretary, the Attorney General, and such Inspectors General to conduct investigations and audits of allegations of health care fraud and abuse and otherwise carry out the program established under paragraph (1) in a fiscal year.

(5) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise the authority described in paragraphs (4) and (5) of section 6 of the Inspector General Act of 1978 (relating to subpoenas and administration of oaths) with respect to the activities under the all-payer fraud and abuse control program established under this subsection to the same extent as such Inspector General may exercise such authorities to perform the functions assigned by such Act.

(6) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this title shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978.

(7) HEALTH PLAN DEFINED.—For the purposes of this subsection, the term ''health plan'' shall have the meaning given such term in section 1128(i) of the Social Security Act.

(b) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is hereby established an account to be known as the ''Health Care Fraud and Abuse Control Account'' (in this section referred to as the ''Anti-Fraud Account''). The Anti-Fraud Account shall consist of—

(i) such gifts and bequests as may be made as provided in subparagraph (B);

(ii) such amounts as may be deposited in the Anti-Fraud Account as provided in subsection (a)(4), sections 5441(b) and 5442(b), and title XI of the Social Security Act; and

(iii) such amounts as are transferred to the Anti-Fraud Account under subparagraph (C).

(B) AUTHORIZATION TO ACCEPT GIFTS.—The Anti-Fraud Account is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Anti-Fraud Account, for the benefit of the Anti-Fraud Account or any activity financed through the Anti-Fraud Account.

(C) TRANSFER OF AMOUNTS.—

(i) IN GENERAL.—The Secretary of the Treasury shall transfer to the Anti-Fraud Account an amount equal to the sum of the following:

(I) Criminal fines imposed in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

(ii) Administrative penalties and assessments imposed under titles XI, XVIII, and XIX of the Social Security Act (except as otherwise provided by law).

(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(iv) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution).

(2) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available to carry out the health care fraud and abuse control program established under subsection (a) (including the administration of the program), and may be used to cover costs incurred in operating the program, including costs (including equipment, salaries and benefits, and travel and training) of—

(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

(ii) investigations;

(iii) financial and performance audits of health care programs and operations;

(iv) inspections and other evaluations; and

(v) provider and consumer education regarding compliance with the provisions of this subtitle.

(B) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Anti-Fraud Account to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(3) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed by the Anti-Fraud Account in each fiscal year.

(4) USE OF FUNDS BY INSPECTOR GENERAL.—

(A) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General is authorized to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payer, or otherwise.

(B) CREDITING.—Funds received by the Inspector General or the Inspectors General of the Departments of Defense, Labor, and Veterans Affairs and of the Office of Personnel Management, as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of their deposit.

SEC. 5102. APPLICATION OF CERTAIN FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST ANY HEALTH PLAN.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended as follows:

(A) In the heading, by adding at the end the following: ''OR HEALTH PLANS''.

(B) In subsection (a)(1)—

(i) by striking ''title XVIII or'' and inserting ''title XVIII,'', and

(ii) by adding at the end the following: ''or a health plan (as defined in section 1128(i)),''.

(C) In subsection (a)(5), by striking ''title XVIII or a State health care program'' and inserting ''title XVIII, a State health care program, or a health plan''.

(D) In the second sentence of subsection (a)—

(i) by inserting after ''title XIX'' the following: ''or a health plan'', and

(ii) by inserting after ''the State'' the following: ''or the plan''.

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

''(f) The Secretary may—

''(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

''(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.''.

(b) HEALTH PLAN DEFINED.—Section 1128 of the Social Security Act (42 U.S.C. 1320a–7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) HEALTH PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health plan' means a plan that provides health benefits, whether through directly, through insurance, or otherwise, and includes a policy of health insurance, a contract of a service benefit organization, or a membership agreement with a health maintenance organization or other prepaid health plan, and also includes an employee welfare benefit plan or a multiple employer welfare plan (as such terms are defined in section 3 of the Employee Retirement Income Security Act of 1974).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 5201. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

''(3) FELONY CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud Prevention Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.''.

(2) CONFORMING AMENDMENT.—Section 1128(b)(1) of such Act (42 U.S.C. 1320a–7(b)(1)) is amended—

(A) in the heading, by striking ''CONVICTION'' and inserting ''MISDEMEANOR CONVICTION''; and

(B) by striking ''criminal offense'' and inserting ''criminal offense consisting of a misdemeanor''.

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud Prevention Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.''.

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) of such Act (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking ''CONVICTION'' and inserting ''MISDEMEANOR CONVICTION''; and

(B) by striking ''criminal offense'' and inserting ''criminal offense consisting of a misdemeanor''.

SEC. 5202. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

''(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

''(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

''(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.''.

SEC. 5203. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) of the Social Security Act (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

''(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity—

''(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

''(B) against which a civil monetary penalty has been assessed under section 1128A; or

''(C) that has been excluded from participation under a program under title XVIII or under a State health care program.''.

SEC. 5204. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c–5(b)(1)) is amended by striking ''may prescribe)'' and inserting ''may prescribe, except that such period may not be less than 1 year)''.

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) of such Act (42 U.S.C. 1320c–5(b)(2)) is amended by striking ''shall remain'' and inserting ''shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain''.

(b) REPEAL OF ''UNWILLING OR UNABLE'' CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking ''and determines'' and all that follows through ''such obligations,''; and

(2) by striking the third sentence.

SEC. 5205. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking ''the Secretary may terminate'' and all that follows and inserting the following: ''in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

''(A) has failed substantially to carry out the contract;

''(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section; or

''(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).''.

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

''(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

''(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

''(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

''(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.''.

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) of such Act (42 U.S.C.

1395mm(i)) is amended by adding at the end the following new paragraph:

''(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

''(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

''(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

''(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

''(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.''.

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) of such Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—

(1) REQUIREMENT FOR WRITTEN AGREEMENT.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking ''an agreement'' and inserting ''a written agreement''.

(2) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1996, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under section 1876 of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1876(i)(7)(A) of such Act.

(3) REPORT BY GAO.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of such Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(B) REPORT TO CONGRESS.—Not later than July 1, 1998, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under subparagraph (A).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 5206. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect January 1, 1996.

Subtitle C—Civil Monetary Penalties

SEC. 5301. CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended as follows:

(1) In subsection (a)(1), by inserting ''or of any health plan (as defined in section 1128(i)),'' after ''subsection (i)(1)),''.

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraphs:

''(3) With respect to amounts recovered arising out of a claim under a health plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Care Fraud Prevention Act of 1995 (as estimated by the Secretary) shall be deposited into the Health Care Fraud and Abuse Control Account established under section 101(b) of such Act.''.

(3) In subsection (i)—

(A) in paragraph (2), by inserting ''or under a health plan'' before the period at the end, and

(B) in paragraph (5), by inserting ''or under a health plan'' after ''or XX''.

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking ''or'' at the end of paragraph (1)(D);

(2) by striking '', or'' at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting ''; or''; and

(4) by inserting after paragraph (3) the following new paragraph:

''(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;''.

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking ''$2,000'' and inserting ''$10,000'';

(2) by inserting ''; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs'' after ''false or misleading information was given''; and

(3) by striking ''twice the amount'' and inserting ''3 times the amount''.

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking ''claimed,'' and inserting the following: ''claimed, including any person who repeatedly presents or causes to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,'';

(2) in subparagraph (C), by striking ''or'' at the end;

(3) in subparagraph (D), by striking ''; or'' and inserting '', or''; and

(4) by inserting after subparagraph (D) the following new subparagraph:

''(E) is for a medical or other item or service that a person repeatedly knows or should know is not medically necessary; or''.

(e) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended by adding the following new paragraph:

''(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).''.

(f) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) of the Social Security Act (42 U.S.C. 1320c–5(b)(3)) is amended by striking ''the actual or estimated cost'' and inserting the following: ''up to $10,000 for each instance''.

(g) PROCEDURAL PROVISIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

''(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).''.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

(i) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking ''or'' at the end of paragraph (1)(D);

(B) by striking '', or'' at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting ''; or''; and

(D) by inserting after paragraph (3) the following new paragraph:

''(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;''.

(2) REMUNERATION DEFINED.—Section 1128A(i) of such Act (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

''(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

''(A) the waiver of coinsurance and deductible amounts by a person, if—

''(i) the waiver is not offered as part of any advertisement or solicitation;

''(ii) the person does not routinely waive coinsurance or deductible amounts; and

''(iii) the person—

''(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

''(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

''(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

''(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; or

''(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations.''.

Subtitle D—Payments for State Health Care Fraud Control Units

SEC. 5401. ESTABLISHMENT OF STATE FRAUD UNITS.

(a) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL UNIT.—The Governor of each State shall, consistent with State law, establish and maintain in accordance with subsection (b) a State agency to act as a Health Care Fraud and Abuse Control Unit for purposes of this subtitle.

(b) DEFINITION.—In this section, a ''State Fraud Unit'' means a Health Care Fraud and Abuse Control Unit designated under subsection (a) that the Secretary certifies meets the requirements of this subtitle.

SEC. 5402. REQUIREMENTS FOR STATE FRAUD UNITS.

(a) IN GENERAL.—The State Fraud Unit must—

(1) be a single identifiable entity of the State government;

(2) be separate and distinct from any State agency with principal responsibility for the administration of any Federally-funded or mandated health care program;

(3) meet the other requirements of this section.

(b) SPECIFIC REQUIREMENTS DESCRIBED.—The State Fraud Unit shall—

(1) be a Unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

(2) if it is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, (A) assure its referral of suspected criminal violations to the appropriate authority or authorities in the State for prosecution, and (B) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

(3) have a formal working relationship with the office of the State Attorney General or the appropriate authority or authorities for prosecution and have formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the Fraud Unit and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to any Federally-funded or mandated health care programs.

(c) STAFFING REQUIREMENTS.—The State Fraud Unit shall—

(1) employ attorneys, auditors, investigators and other necessary personnel; and

(2) be organized in such a manner and provide sufficient resources as is necessary to promote the effective and efficient conduct of State Fraud Unit activities.

(d) COOPERATIVE AGREEMENTS; MEMORANDA OF UNDERSTANDING.—The State Fraud Unit shall have cooperative agreements with—

(1) Federally-funded or mandated health care programs;

(2) similar Fraud Units in other States, as exemplified through membership and participation in the National Association of Medicaid Fraud Control Units or its successor; and

(3) the Secretary.

(e) REPORTS.—The State Fraud Unit shall submit to the Secretary an application and an annual report containing such information as the Secretary determines to be necessary to determine whether the State Fraud Unit meets the requirements of this section.

(f) FUNDING SOURCE; PARTICIPATION IN ALL-PAYER PROGRAM.—In addition to those sums expended by a State under section 5404(a) for purposes of determining the amount of the Secretary's payments, a State Fraud Unit may receive funding for its activities from other sources, the identity of which shall be reported to the Secretary in its application or annual report. The State Fraud Unit shall participate in the all-payer fraud and abuse control program established under section 5101.

SEC. 5403. SCOPE AND PURPOSE.

The State Fraud Unit shall carry out the following activities:

(1) The State Fraud Unit shall conduct a statewide program for the investigation and prosecution (or referring for prosecution) of violations of all applicable state laws regarding any and all aspects of fraud in connection with any aspect of the administration and provision of health care services and activities of providers of such services under any Federally-funded or mandated health care programs;

(2) The State Fraud Unit shall have procedures for reviewing complaints of the abuse or neglect of patients of facilities (including patients in residential facilities and home health care programs) that receive payments under any Federally-funded or mandated health care programs, and, where appropriate, to investigate and prosecute such complaints under the criminal laws of the State or for referring the complaints to other State agencies for action.

(3) The State Fraud Unit shall provide for the collection, or referral for collection to the appropriate agency, of overpayments that are made under any Federally-funded or mandated health care program and that are discovered by the State Fraud Unit in carrying out its activities.

SEC. 5404. PAYMENTS TO STATES.

(a) MATCHING PAYMENTS TO STATES.—Subject to subsection (c), for each year for which a State has a State Fraud Unit approved under section 5402(b) in operation the Secretary shall provide for a payment to the State for each quarter in a fiscal year in an amount equal to the applicable percentage of the sums expended during the quarter by the State Fraud Unit.

(b) APPLICABLE PERCENTAGE DEFINED.—

(1) IN GENERAL.—In subsection (a), the ''applicable percentage'' with respect to a State for a fiscal year is—

(A) 90 percent, for quarters occurring during the first 3 years for which the State Fraud Unit is in operation; or

(B) 75 percent, for any other quarters.

(2) TREATMENT OF STATES WITH MEDICAID FRAUD CONTROL UNITS.—In the case of a State with a State medicaid fraud control in operation prior to or as of the date of the enactment of this Act, in determining the number of years for which the State Fraud Unit under this subtitle has been in operation, there shall be included the number of years for which such State medicaid fraud control unit was in operation.

(c) LIMIT ON PAYMENT.—Notwithstanding subsection (a), the total amount of payments made to a State under this section for a fiscal year may not exceed the amounts as authorized pursuant to section 1903(b)(3) of the Social Security Act.

TITLE VI—REVENUE PROVISIONS

SEC. 6000. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Financing Provisions

PART I—INCREASE IN TAX ON TOBACCO PRODUCTS

SEC. 6001. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking ''$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)'' in paragraph (1) and inserting ''$62 per thousand'', and

(2) by striking ''$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)'' in paragraph (2) and inserting ''$130.20 per thousand''.

(b) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking ''$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)'' in paragraph (1) and inserting ''$51.13 per thousand'', and

(2) by striking ''equal to'' and all that follows in paragraph (2) and inserting ''equal to 66 percent of the price for which sold but not more than $155 per thousand.''

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking ''0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)'' and inserting ''3.88 cents''.

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking ''1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)'' and inserting ''7.76 cents''.

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking ''36 cents (30 cents on snuff removed during 1991 or 1992)'' in paragraph (1) and inserting ''$13.69'', and

(2) by striking ''12 cents (10 cents on chewing tobacco removed during 1991 or 1992)'' in paragraph (2) and inserting ''$5.45''.

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking ''67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)'' and inserting ''$17.35''.

(g) APPLICATION OF TAX INCREASE TO PUERTO RICO.—Section 5701 is amended by adding at the end the following new subsection:

''(h) APPLICATION TO TAXES TO PUERTO RICO.—Notwithstanding subsections (b) and (c) of section 7653 and any other provision of law—

''(1) IN GENERAL.—On tobacco products and cigarette papers and tubes, manufactured or imported into the Commonwealth of Puerto Rico, there is hereby imposed a tax at the rate equal to the excess of—

''(A) the rate of tax applicable under this section to like articles manufactured in the United States, over

''(B) the rate referred to in subparagraph (A) as in effect on the day before the date of the enactment of the Health Partnership Act of 1995.

''(2) SHIPMENTS TO PUERTO RICO FROM THE UNITED STATES.—Only the rates of tax in effect on the day before the date of the enactment of this subsection shall be taken into account in determining the amount of any

exemption from, or credit or drawback of, any tax imposed by this section on any article shipped to the Commonwealth of Puerto Rico from the United States.

''(3) SHIPMENTS FROM PUERTO RICO TO THE UNITED STATES.—The rates of tax taken into account under section 7652(a) with respect to tobacco products and cigarette papers and tubes coming into the United States from the Commonwealth of Puerto Rico shall be the rates of tax in effect on the day before the date of the enactment of the Health Partnership Act of 1995.

''(4) DISPOSITION OF REVENUES.—The provisions of section 7652(a)(3) shall not apply to any tax imposed by reason of this subsection.''

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after December 31, 1995.

(i) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products and cigarette papers and tubes manufactured in or imported into the United States or the Commonwealth of Puerto Rico which are removed before any tax-increase date, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 or 7652 of such Code on such article.

(2) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the $500 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on each tax-increase date for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 3 months after the tax-increase date.

(5) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on any tax-increase date shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(6) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section, as amended by this Act.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(C) TAX-INCREASE DATE.—The term ''tax-increase date'' means January 1, 1996, and July 1, 1997.

(7) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

SEC. 6002. MODIFICATIONS OF CERTAIN TOBACCO TAX PROVISIONS.

(a) EXEMPTION FOR EXPORTED TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES TO APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

(1) Subsection (b) of section 5704 is amended by adding at the end the following new sentence: ''Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe.''

(2) Section 5761 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

''(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES FOR EXPORT.—Except as provided in subsections (b) and (d) of section 5704—

''(1) every person who sells, relands, or receives within the jurisdiction of the United States any tobacco products or cigarette papers or tubes which have been labeled or shipped for exportation under this chapter,

''(2) every person who sells or receives such relanded tobacco products or cigarette papers or tubes, and

''(3) every person who aids or abets in such selling, relanding, or receiving,

shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty equal to the greater of $1,000 or 5 times the amount of the tax imposed by this chapter. All tobacco products and cigarette papers and tubes relanded within the jurisdiction of the United States, and all vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States.''.

(3) Subsection (a) of section 5761 is amended by striking ''subsection (b)'' and inserting ''subsection (b) or (c)''.

(4) Subsection (d) of section 5761, as redesignated by paragraph (2), is amended by striking ''The penalty imposed by subsection (b)'' and inserting ''The penalties imposed by subsections (b) and (c)''.

(5)(A) Subpart F of chapter 52 is amended by adding at the end the following new section:

''SEC. 5754. RESTRICTION ON IMPORTATION OF PREVIOUSLY EXPORTED TOBACCO PRODUCTS.

''(a) IN GENERAL.—Tobacco products and cigarette papers and tubes previously exported from the United States may be imported or brought into the United States only as provided in section 5704(d). For purposes of this section, section 5704(d), section 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

''(b) CROSS REFERENCE.—

''For penalty for the sale of tobacco products and cigarette papers and tubes in the United States which are labeled for export, see section 5761(c).''.

(B) The table of sections for subpart F of chapter 52 is amended by adding at the end the following new item:

''Sec. 5754. Restriction on importation of previously exported tobacco products.''.

(b) IMPORTERS REQUIRED TO BE QUALIFIED.—

(1) Sections 5712, 5713(a), 5721, 5722, 5762(a)(1), and 5763(b) and (c) are each amended by inserting ''or importer'' after ''manufacturer''.

(2) The heading of subsection (b) of section 5763 is amended by inserting ''QUALIFIED IMPORTERS,'' after ''MANUFACTURERS,''.

(3) The heading for subchapter B of chapter 52 is amended by inserting ''**and Importers**'' after ''**Manufacturers**''.

(4) The item relating to subchapter B in the table of subchapters for chapter 52 is amended by inserting ''and importers'' after ''manufacturers''.

(c) REPEAL OF TAX-EXEMPT SALES TO EMPLOYEES OF CIGARETTE MANUFACTURERS.—

(1) Subsection (a) of section 5704 is amended—

(A) by striking ''EMPLOYEE USE OR'' in the heading, and

(B) by striking ''for use or consumption by employees or'' in the text.

(2) Subsection (e) of section 5723 is amended by striking ''for use or consumption by their employees, or for experimental purposes'' and inserting ''for experimental purposes''.

(d) REPEAL OF TAX-EXEMPT SALES TO UNITED STATES.—Subsection (b) of section 5704 is amended by striking ''and manufacturers may similarly remove such articles for use of the United States;''.

(e) BOOKS OF 25 OR FEWER CIGARETTE PAPERS SUBJECT TO TAX.—Subsection (c) of section 5701 is amended by striking ''On each book or set of cigarette papers containing more than 25 papers,'' and inserting ''On cigarette papers,''.

(f) STORAGE OF TOBACCO PRODUCTS.—Subsection (k) of section 5702 is amended by inserting ''under section 5704'' after ''internal revenue bond''.

(g) AUTHORITY TO PRESCRIBE MINIMUM MANUFACTURING ACTIVITY REQUIREMENTS.—Section 5712 is amended by striking ''or'' at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe, or''.

(h) SPECIAL RULES RELATING TO PUERTO RICO AND THE VIRGIN ISLANDS.—Section 7652 is amended by adding at the end the following new subsection:

''(h) LIMITATION ON COVER OVER OF TAX ON TOBACCO PRODUCTS.—For purposes of this section, with respect to taxes imposed under section 5701 or this section on any tobacco product or cigarette paper or tube, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the rate of tax under section 5701 in effect on the article on the day before the date of the enactment of the Health Partnership Act of 1995.''.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after December 31, 1995.

SEC. 6003. IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.

(a) IN GENERAL.—Section 5701 (relating to rate of tax), as amended by section 701, is amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting after subsection (f) the following new subsection:

''(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $17.35 per pound (and a proportionate tax at the like rate on all fractional parts of a pound).''.

(b) ROLL-YOUR-OWN TOBACCO.—Section 5702 (relating to definitions) is amended by adding at the end the following new subsection:

''(p) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.''.

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 5702 is amended by striking ''and pipe tobacco'' and inserting ''pipe tobacco, and roll-your-own tobacco''.

(2) Subsection (d) of section 5702 is amended—

(A) in the material preceding paragraph (1), by striking ''or pipe tobacco'' and inserting ''pipe tobacco, or roll-your-own tobacco'', and

(B) by striking paragraph (1) and inserting the following new paragraph:

''(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and''.

(3) The chapter heading for chapter 52 is amended to read as follows:

''CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES''.

(4) The table of chapters for subtitle E is amended by striking the item relating to chapter 52 and inserting the following new item:

''CHAPTER 52. Tobacco products and cigarette papers and tubes.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to roll-your-own tobacco removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after December 31, 1995.

(2) TRANSITIONAL RULE.—Any person who—

(A) on the date of the enactment of this Act is engaged in business as a manufacturer of roll-your-own tobacco or as an importer of tobacco products or cigarette papers and tubes, and

(B) before January 1, 1995, submits an application under subchapter B of chapter 52 of such Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

Subtitle B—Health Care Reform Trust Fund

SEC. 6101. ESTABLISHMENT OF HEALTH CARE REFORM TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding at the end the following new part:

''PART II—HEALTH CARE TRUST FUNDS

''Sec. 9551. Health Care Reform Trust Fund

''SEC. 9551. HEALTH CARE REFORM TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Health Care Reform Trust Fund', consisting of such amounts as may be appropriated or credited to the Health Care Reform Trust Fund as provided in this section.

''(b) TRANSFERS TO THE TRUST FUND.—There are hereby appropriated to the Health Care Reform Trust Fund amounts received in the Treasury under section 5701 (relating to taxes on tobacco products) to the extent attributable to the increases in such taxes as the result of the enactment of subtitle A of title VI of the Health Partnership Act of 1995.

''(c) EXPENDITURES.—Amounts in the Health Care Reform Trust Fund are appropriated as provided for in sections 2001 and 4003 of the Health Partnership Act of 1995, and title XXVII of the Public Health Service Act, and to the extent any such amount is not expended during any fiscal year, such amount shall be available for such purpose for subsequent fiscal years.

''(d) OTHER RULES.—

''(1) INSUFFICIENT FUNDS.—If, for any fiscal year, the sum of the amounts required to be allocated under subsection (c) exceeds the amounts received in the Health Care Reform Trust Fund, then each of such amounts required to be so allocated shall be reduced to an amount which bears the same ratio to such amount as the amounts received in the trust fund bear to the amounts required to be so allocated (without regard to this paragraph).

''(2) ALLOCATION OF EXCESS FUNDS AND INTEREST.—Amounts received in the Health Care Reform Trust Fund in excess of the amounts required to be allocated under subsection (c), for any fiscal year shall be allocated ratably on the basis of the amounts allocated for the fiscal year (without regard to this paragraph).''.

(b) CONFORMING AMENDMENT.—Subchapter A of chapter 98 is amended by inserting after the subchapter heading the following new items:

''Part I. General trust funds.

''Part II. Health care trust fund.

''PART I—GENERAL TRUST FUNDS''.

GRAHAM-HATFIELD HEALTH PARTNERSHIP ACT

Purpose: To proceed with health care reform that increases access, controls costs and improves the quality of health care in states through state innovation, public health, medical research, insurance reform and control of fraud and abuse.

States are making significant progress to reform their health care delivery systems. In light of the inability of Congress to enact comprehensive reform, this bill would provide the states with the flexibility to continue their reform efforts. It would also provide limited federal funding to assist states in this effort.

The bill includes the following provisions:

TITLE I—HEALTH INSURANCE REFORM

Establishment of National Minimum Standards.—Congress would direct the National Association of Insurance Commissioners (NAIC) to develop national minimum standards with respect to renewability, portability, guaranteed issue, community rating, solvency and stop-loss. The Secretary of Health and Human Services (HHS) would review the standards developed by NAIC. Upon approval, these national minimum standards would be established for the states, but they would be given authority to enact and implement more progressive reforms than those specified. This is modeled after the Baucus Amendment to OBRA–90 relating to the development of Medicare Supplemental Insurance Standards or Medigap.

Medicare Select.—The 1990 Medigap legislation created 10 standard Medicare supplemental benefit packages that could be offered nationwide. Managed care networks could offer these benefits to Medicare beneficiaries in 15 states. This program, Medicare Select, provides supplemental coverage to hundreds of thousands of Medicare beneficiaries, but the program will expire on June 30, 1995. This provision would reauthorize the program and extend it to all 50 states.

TITLE II—STATE INNOVATION

State Innovative Health Reform Projects.—States interested in enacting health reform proposals that achieve the goals of increased health coverage and access, control costs and maintain or improve the quality of health care could submit their projects to the Secretary for Medicaid, Maternal Child Health Block Grant, Social Services Block Grant and Public Health Service Act waivers and approval. An approved state innovative project that can demonstrate the ability to meet the goals of health reform would receive grant monies from the federal government to encourage and help states funds the projects. $50 billion will be made available to states over a five-year period.

Limited State Health Care Waivers.—States would also be allowed to pursue more limited state health care waivers that are likely to increase administrative efficiencies or provide guidance for the development of improved health delivery systems. The waiver application for both the comprehensive and limited waiver projects would be placed on an expedited approval process.

Evaluation, Monitoring and Compliance.—The Secretary and an established State Health Reform Advisory Board would be responsible for monitoring the waiver projects. Waiver projects could be terminated by the Secretary for good cause and states would not be allowed to supplant state funding with grants received under this program.

Lessons from the States/Report to Congress.—At the end of the five-year period, the Board would report to Congress on the progress made by states with respect to expanding health insurance coverage and cost containment. The Board would also make recommendations to Congress concerning any further action Congress should take concerning health care reform from the information and experiences drawn from the states.

Existing State Laws.—States that have existing Medicaid and Medicare waivers are continued and not preempted by this Act. Hawaii would be granted a continued exemption from ERISA preemption.

ERISA Review.—To allow states to move forward with meaningful comprehensive health care reform while fully recognizing the needs of employers in administering self-funded plans across state lines, an ERISA Review Commission is established to find common ground, clarify what is permissible under ERISA and ensure the interests of self-insured plans are addressed. The Commission will be composed of representatives from state and local government, business, labor and the federal government.

TITLE III—PUBLIC HEALTH, RURAL AND UNDERSERVED ACCESS IMPROVEMENT

Core Functions of Public Health.—Core functions are those activities and programs that emphasize population-based health

measures such as the investigation and control of threats to the health of communities such as communicable diseases (tuberculosis, HIV, measles, influenza), environmental hazards (air pollution, radon, radiation, waste and sewage disposal), toxic pollutants (lead-based paint, contaminated drinking water) and emerging patterns of acute and chronic disease and injury (food borne poisoning, cancer, heart disease).

Other Programs.—Funding is also made available for comprehensive evaluation of disease prevention and health promotion programs, Schools of Public Health, Area Health Education Centers, Health Education Training Centers, Regional Poison Control Centers, school-related health services, Community and Migrant Health Centers, the National Health Service Corps, satellite primary car clinics and community health advisors.

Funding.—This title is allocated $9 billion over a five-year period.

TITLE IV—MEDICAL RESEARCH

National Institute of Health (NIH) Funding.—$6 billion would be allocated over a five-year period under this title to expand our national commitment to health research. Monies are allocated to the NIH Institutes and Centers on the same basis as annual appropriations. Five percent of the monies will be directed to extramural construction and renovation of research facilities, the National Library of Medicine and the Office of the Director.

TITLE V—FRAUD AND ABUSE

Federal-State-Private Sector Coordination.—This title tracks much of the language from Senator Bill Cohen's ''Health Care Fraud Prevention Act of 1995''. An improved federal-state-private sector collaboration to combat fraud and abuse would be established. Moreover, certain existing criminal and civil penalties would be expanded to eliminate waste in the health care system.

TITLE VI—FINANCING PROVISIONS

Tobacco Tax.—The bill will be financed through a $1 tax on tobacco products. This tax is expected to raise $65 billion over five years.

NOT INCLUDED—MEDICAID AND MEDICARE CUTS

There are no Medicaid and Medicare cuts included in the Graham-Hatfield proposal.

THE HEALTH PARTNERSHIP ACT

Mr. HATFIELD. Mr. President, on the first day of the 104th Congress, I introduced a package of five bills—my legislative priorities for the coming session. At that time, I stated that one of my main priorities during the 104th Congress will be to look for ways to redefine Federal programs to enhance the efforts toward reform already underway in the States. The three bills I introduced on that first day are designed to decrease the burden of Federal compliance and oversight measures in key policy areas. In exchange for loosening the Federal regulatory straitjacket, we will transform accountability from paperwork requirements to performance-based results. I call this the flexibility factor in Government and it entails finding a path through every Federal agency where innovation at the State and local levels is nurtured and rewarded.

It is in that context today that I join my good friend and colleague from Florida, Mr. GRAHAM, in introducing the Health Partnership Act of 1995. This bill is very similar to the legislation we introduced at the end of the 103d Congress when it became apparent that efforts to pass comprehensive reform would fail. Rather than federalizing health care, this bill would encourage the States to innovate and help build the best approaches to addressing our health care problems—a return to the true essence of federalism.

To date, six States have enacted comprehensive health care reform proposals—Hawaii, Massachusetts, Oregon, Minnesota, Florida, and Washington. In addition, 44 States have enacted small group insurance reform; 44 have enacted data collection systems, and 41 have Medicaid managed care experiments underway.

Although many reforms are underway, States have often had to struggle with the Federal Government to move forward with their reform plans. Securing the necessary waivers from the Federal Government has become an increasingly burdensome process. For example, it took nearly 3 years and two administrations for Oregon to obtain the Medicaid waivers it needed to implement its Medicaid expansion. This expansion has provided health care for nearly 100,000 additional Oregonians since its implementation in February 1994. And although there have been problems that came with implementation, the overwhelming majority of Oregonians continue to support the Oregon health plan.

Mr. President, I am fortunate to come from a State which is willing to look at new and innovative approaches to reform in the public and private sectors. Recently, Oregon was granted a welfare waiver to implement their Jobs Plus Program. Oregon has also recently signed a memorandum of understanding with the administration to move forward with the Oregon Option, a partnership designed to deliver Government services in a better and more efficient manner. We are also hopeful that our State will be designed an ''ed-flex partnership State'' by Secretary Riley as soon as the Goals 2000 process is in place. This designation will allow our State to waive Federal law in certain areas in which the State has already demonstrated a commitment to change. Frankly, it seems like I am spending much of my time these days pursuing waivers of Federal law for my State—nearly all of the innovation that has come forth from my State in recent years has required a Federal waiver for implementation. Oregon is willing to persevere—but not all States are.

Due to the arduous process a State must go through to obtain Federal waivers to enact comprehensive health care reform, many States have held off in attempting comprehensive reform. In addition, one of the biggest barriers to State reform is the Employee Retirement Income Security Act [ERISA]. This Federal law is one of the broadest Federal laws on the books, and it has effectively prevented States from enacting reform that achieves universal coverage. ERISA waivers can only be granted by the Congress and have been few and far between—only Hawaii has one and it was granted 20 years ago.

The issue of ERISA reform is a sensitive one. On one hand, States feel that ERISA preemption is a major roadblock to their reform efforts. States argue that ERISA prevents them from reaching a significant percentage of the insurance market in order to fully implement reform proposals that increase access to health care and control costs. On the other hand, business, especially employers with businesses in many different States, argue that they need uniformity in the administration of their employee health benefit plans. They argue that their ability to manage their health care costs and assure that all employees are getting equal benefits will be undermined by State health care reform if the ERISA preemption is lifted.

Both sides raise compelling arguments, but where does that leave us? In the absence of comprehensive national reform, the status quo is not acceptable. Thus, in the bill we are introducing today, we have included a mechanism which will hopefully lead to a fair and equitable resolution of this problem. In order to allow States to move forward with meaningful comprehensive health care reform, while fully recognizing the needs of employers in administering self-funded plans across State lines, an ERISA Review Commission is established to find common ground, clarify what is permissible under ERISA and ensure the interest of self-insured plans are addressed. This limited duration Commission will be charged with making recommendations on ERISA reform to the Secretary of Labor, and will be composed of representatives from State and local government, business, labor, and the Federal Government.

We consider this piece of our bill as work in progress. We firmly believe that the dialog between the two sides must begin. And we look forward to finding ways to improve and expand upon the proposal we put forward in today's legislation.

I have long advocated that we look to the States to help develop the database we need to determine the appropriate Federal role in health care reform. In my opinion, this is the essence of the federalism on which our country was founded. With no consensus on comprehensive reform in Congress, we should turn to the States to lay the foundation for reform. All of the ideas that we debated last session—from insurance reform to universal coverage to malpractice reform—are being tested in our States. We should then distill the information and data obtained from these innovations and use it to reach consensus on national reform.

The bill that we are reintroducing today does that. It says to the States, we believe in you. Put together a plan to expand access to health care, control costs, to improve quality and health outcomes in your State and we will give you the waivers you need to implement your innovative ideas. We believe this should be a partnership and so we will even provide you with some Federal funds to help you achieve your goals. Then at the end of 5 years, we will evaluate what you have done. Has it been successful? Have you met your goals? How can we use this information to put together a plan that works for the rest of the Nation?

And if a State wants to develop a more limited plan, the bill will allow that State to apply for a limited project waiver. This will encourage more of the limited reforms that are already proceeding so successfully in many States, on a much more rapid basis.

In addition, the bill includes provisions to improve public health services and access to health care in rural and underserved areas. This will spur the development of our health care delivery infrastructure and will lead to better health outcomes.

This bill also includes a proposal I have long-championed with Senator HARKIN of Iowa—the National Fund for Health Research. While I intend to introduce this piece of the bill as free-standing legislation later in the year, I feel it is important to have at least one option on the table for increasing our commitment to medical research. Therefore, a minimum of $6 billion will be provided over 5 years to supplement the annual appropriations to the National Institutes of Health.

Medical research is the sole hope we can provide to millions of Americans who will face disease and disability either in their own lives or in their families. We can care for them in our hospitals and clinics but we cannot alleviate their pain or end their suffering without cures and preventative treatments. Cures are the direct result of our investment in medical research.

Mr. President, our Nation spends about $1 trillion each year on health care, but only 2 to 3 percent on medical research. I submit to the proponents of cost containment, that the cornerstone of cost containment is the cures and improved treatments arising from medical research.

I want to cite two examples of the tremendous strides taken in medical research that have totally reversed the prognostic indications for certain diseases. In 1960, we had a U.S. Senator, Richard L. Neuberger, die of testicular cancer. At that point in time, this diagnosis carried a death sentence. Today, because of the advances in medical research, 95 percent of testicular cancer is curable. That is but one example of the strides we have made in the eradication of disease. Research in other fields such as heart and lung disease, stroke, and juvenile leukemia have increased the quality of life and lifespans of many afflicted individuals.

The other day, I was amused by the current commercials on treatments for upset stomachs and more specifically, petic ulcers. A research study at the Michigan Research Center concluded that petic ulcers are not caused by stress or diet, but by simple bacteria. The causative bacteria is treatable with common antibiotics and, therefore, ulcers are curable. That one singular research project was responsible for altering our treatment of a common ailment, and alleviating the constant pain of its sufferers.

Additionally, I want to emphasize that medical research has a broad base of public support. One recent poll indicated that 77 percent of the American people supported a health care premium increase of $1 per week, if it were earmarked for medical research. Another 75 percent of the American people said they would accept a $1 increase per week on their income tax bill, if it were earmarked for medical research.

The American public realizes that there is a direct link between medical research and improved health care, cost containment, and discovery of disease cures. I cannot emphasize enough the necessity of undergirding the National Institutes of Health with better funding mechanisms than what exists in the annual appropriations process.

Finally, we have added a title to our bill to address the enormous problem of fraud and abuse in our health care system. The focus of this title is on Federal, State, and private sector coordination to combat fraud and abuse. Much of the language in the title tracks the legislation recently introduced by the Senator from Maine [Mr. COHEN] in the Health Care Fraud Prevention Act of 1995.

Beginning the process to reforming our health care system does not come without cost.

Currently, we are witnessing increasing doubts about the dependability of funding for our medical research initiatives. With the squeeze on discretionary nonmilitary funding, we are going to have even greater pressure put upon our ability to find innovative financial support.

Thus, our proposal will be fully funded by a $1 tax on tobacco products. The Congressional Budget Office has indicated that a $1 increase will result in $65 billion in revenues. As a long-time advocate of increased tobacco taxes, I believe this is an appropriate revenue source not only because of the revenue that is gained through the tax, but more importantly, because of the health benefits that result from such a tax. This tax will save lives and will have a great effect on the number of teens who smoke. As my colleagues know, the number of teenage smokers is rising significantly despite our efforts to educate teens about the health dangers of tobacco use. We must redouble our efforts to halt this increase in young smokers.

Mr. President, I strongly believe that the approach we are putting forward today is a positive first step toward the foundation of national reform. There will be those who argue that a State approach will lead to a fragmented health care system. I disagree. We will likely not achieve comprehensive national health care reform this year. Let us not make the mistake of missing an opportunity to gather data from the States that will help us in the years ahead. Ours should be a partnership with the States to facilitate the development of health care reform—we should invite them into the process as our partners, not fight their innovative efforts.

By Mr. BENNETT (for himself, Mr. BUMPERS, and Mr. JOHNSTON):

S. 309. A bill to reform the concession policies of the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

THE CONCESSION POLICY REFORM ACT OF 1995

Mr. BENNETT. Mr. President, I rise today to offer a piece of legislation which will be known, I hope, when it becomes law as the National Park Service Concessions Policy Reform Act of 1995.

This particular act is cosponsored by two of my friends on the Senate Energy and Natural Resources Committee, the former chairman of that committee, Chairman BENNETT JOHNSTON and Mr. BUMPERS, DALE BUMPERS, from Arkansas, who was the chairman of the subcommittee that handled this legislation in the previous Congress.

Mr. BUMPERS has been pursuing reform in the Park Service concession policy for, I think, his entire career in the Senate. I was delighted to join with him last year and bring about the passage of this bill in the committee and the Senate. It was reported out by the committee by a vote of 16 to 4, a majority of Republicans and a majority of Democrats both supporting it. And it was passed on this floor a year and a half ago by a vote of 90 to 9, demonstrating tremendous bipartisan support for this.

Unfortunately, our friends in the House did not act with the same dispatch that we did and, as a consequence, it got hung up there, tragically, for enough months to mean that when the conference report cam before this body, it ultimately got caught in the trap of the yearend logjam, traffic jam and, as a result, the conference report was not adopted.

So it is necessary for us to introduce it again this year. I think this year we will see it move rapidly through both the Senate and the House and become law.

The bill that I am introducing is very similar to the one that passed this body 90 to 9 last year, and the arguments in favor of it are the same as they were on that occasion. Very specifically, Mr. President, our national parks, like everything else in life, are

changing. That is, the number of visitors to the national parks is going up. As a consequence, the need for services is changing.

If I can refer to a national park in my own home State—and we in Utah are proud of the fact that we have as many national parks as any other State in the Union, it is a particularly gorgeous place in Utah—Zion National Park in the last 10 years has seen the number of visitors go from 1.4 million in 1983 to 2.9 million in 1993, doubling in a 10-year period. Obviously, in that kind of a circumstance, the sort of concession policy that you had 10 years ago needs to be examined in the light of this increase.

There, of course, are other reasons why this needs to be examined. The Park Service is itself running out of money. It is one of the tragedies that we have the crown jewels of the National Park System being starved for resources just as more and more Americans want to take advantage of the beauty of these parks. As a consequence, one of the places people are looking for money is to the royalty payments to come from the concessionaires.

Oh, say some, well, that means the Government is trying to beat up on the concessionaires, the Government is trying to punish the concessionaires for being successful. I do not think so. What we are trying to do in this legislation is open up the concessions for competitive bidding and let the marketplace determine what these concessions are worth.

I come from the business community. I have listened to the concessionaires as fellow business people when they come and say to me, Senator, you can't change the rules. Well, the rules change all the time as markets change. I knew that when I was in business. I reminded them of that in their business circumstance.

But the most important reason we need to change this is because we do need the power of competition to help set the rates. We do need the opportunity for new blood and new ideas to come in, even if the concessionaire does not change. I say to those who are saying, We're going to lose what we have now under the new policy you are proposing, Senator, we're going to lose the concession that we have, I say,

No you are not. If, indeed, you are as capable as you say you are, and I believe you are, if you have the expertise of 10, 15, 20 years experience as you say you have, you will be able to compete. But the mere fact that you will be forced to compete with an outside bidder will, indeed, make you sharper even if you are, indeed, the ones who hang on to the concession as it currently exists.

So, Mr. President, we are dealing with a piece of legislation here that really is relatively noncontroversial, given the vote that it had in the last Congress; something that I think is long overdue, given the changes that are occurring in the national parks; something that is sound financial policy, given the fact that the parks do not have the kind of money that I think they should have. It is good public policy.

I was pleased to be associated with it in the previous Congress, and I am happy to have the opportunity to offer it again in this Congress.

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

The PRESIDING OFFICER. The Senator from Utah has 8 minutes remaining.

Mr. BENNETT. Mr. President, now that the Senator from Arkansas has joined us in the Chamber, I do not intend to use the remainder of my time. I would like to comment now that he is here on his leadership on this issue.

I came to the Senate knowing nothing about it. I sat in the committee listening to the hearings where the issue was outlined and decided that the Senator from Arkansas was correct, that something needed to be done. I conferred with my then ranking member on the committee, the Senator from Wyoming, Mr. Wallop, who suggested that with my business background it might be appropriate that I get involved in this.

I must, for the accuracy of the RECORD, point out that Senator Wallop was not convinced and was one of the four in the committee and one of the nine in the Chamber who decided they could not support this particular approach. But I was very grateful to him for his overall support of my involvement and to the Senator from Arkansas for his leadership and tenacity on this issue. He was very instrumental in giving me the background and the education and the understanding of these issues. Had he not been willing to act as my tutor and mentor in this circumstance I undoubtedly would not have come to the point that I have here today.

So as I yield back the remainder of my time and end my statement, I do so with a comment of gratitude to the senior Senator from Arkansas for his leadership and his tutelage on this issue.

I also must add to that my gratitude to the senior Republicans on the energy committee who also helped me understand this issue and who supported this in committee: Senator HATFIELD, Senator DOMENICI, Senator NICKLES, and others who supported us in committee on the Republican side. As I said in my earlier comment, the bill was supported by a majority of both Republicans and Democrats, even though there were both Republicans and Democrats in committee who decided they could not support it.

So, Mr. President, I am delighted to turn the floor over to the senior Senator from Arkansas [Mr. BUMPERS] and thank him for his patience in helping this more junior Senator understand the nature of this issue and the importance of it. I am delighted to have him as an original cosponsor on this bill.

Mr. BUMPERS. Mr. President, I am pleased today to join Senator BENNETT in sponsoring the National Park Service Concession Policy Reform Act of 1995.

I first started trying to reform park concession policies in 1979. Over the past 16 years, we have held numerous legislative and oversight hearings, but until last year, had been unable to move the bill beyond the hearing stage. During last year's hearing, Senator BENNETT offered to work with me to find a compromise, and in large part because of his efforts, we reported a bill with bipartisan support from the Energy and Natural Resources Committee. That bill, S. 208, was overwhelmingly supported by the Senate, passing by a vote of 90 to 9. The bill enjoyed equally strong support in the House of Representatives, passing with relatively minor changes by a vote of 386 to 30. Despite such strong support in both Houses, the bill died last Congress because two Senators refused to allow the final compromise version to be brought up on the Senate floor during the final days of the 103d Congress.

The bill that Senator BENNETT and I are introducing this year is essentially the same as last year's Senate-passed bill. This bill will make much-needed changes in the current system and ensure that the American public receives a fair return for allowing private entities the privilege of doing business in units of the National Park System. As I have said many times, the Concessions Policy Act of 1965, the law under which the National Park Service authorizes concessions to provide visitor services inside units of the National Park System, is outdated and anticompetitive, and should be repealed.

Private visitor service facilities have been operating in our national parks for nearly 100 years. Prior to 1965, the National Park Service provided for in-park visitor services by administrative action under very general provisions in the 1916 National Park Service Organic Act. In 1965, Congress enacted the Concession Policy Act, making the National Park Service the only Federal land-managing agency with a specific concessions statute.

Current concession operations in parks vary in size from small, family-owned businesses providing services such as canoe rentals and guiding services, to major hotel and restaurant facilities operated by large corporations. Although the number fluctuates because of seasonal changes, there are currently about 650 concessioners operating inside units of the National Park System.

Concession permits are issued for most smaller or seasonal operations, while concession contracts are used for larger, more long-term operations. Total gross revenues generated by concessioners currently amount to more than $657 million annually. Significantly, about 50 concessioners—less than 8 percent—account for over 80 percent of these revenues.

Concession policy and the need for significant reform have been topics of intense interest for many years. In addition to the hearings we have conducted, this issue has been the subject of numerous studies, reports, and analyses prepared by the Congress, the General Accounting Office, the Department of the Interior's inspector general, the National Park Service, and a variety of private research organizations. All of these studies have identified problems with the current law which need to be addressed.

FRANCHISE FEES

One of the problems with the current system concerns franchise fees, the fees paid by concessions to the United States for the privilege of operating a business inside a national park. These fees are too low and should be increased. This is especially true for the larger concessioners who are operating under long-term concessions contracts entered into many years ago. At present, the U.S. Treasury receives approximately $18 million in franchise and related fees from concessioners who do in excess of $657 million worth of business in our national parks. In addition, another $7.8 million is retained within parks in special accounts. Combined, these franchise fees and special accounts average only 4 percent of the total gross revenues earned by concessioners. This low rate of return results in a giveaway of some of our Nation's most valuable resources.

I am pleased to note that some of the most recent contracts have provided for a better rate of return. For example, the new contract to provide visitor services at Yosemite National Park increased the rate of return to the Government from three-quarters of 1 percent to almost 20 percent. However, this change was the result of a very unique set of circumstances which permitted several companies to compete for the new contract; in general, the Concession Policy Act of 1965 continues to prevent serious competition for the awarding of any new contract. In addition, there is no assurance that a future administration would not reverse course and return to the abysmally low returns of the past.

Rather than arbitrarily establishing a minimum franchise fee in the legislation, my bill will ensure that these fees be set at more realistic levels by encouraging and facilitating increased competition for concession contracts.

In addition, under existing law, franchise fees are deposited as miscellaneous receipts in the U.S. Treasury. Since these funds do not directly benefit the parks or the people who use them, there is little incentive for the Park Service to aggressively pursue increased fees, or for concessioners to pay them. The Concession Policy Reform Act of 1995 would deposit these receipts into a special account in the Treasury to be used to benefit park operations, resource management maintenance, visitor services, et cetera. The bill also directs the Park Service, where practicable, to establish a park improvement fund in lieu of collecting all or a portion of the franchise fees.

While I believe it is important to try and ensure that the Federal Government achieves a higher return from these contracts, the operation of facilities in national parks should not be determined simply on the basis of the highest bid. This legislation explicitly states that consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park areas. In addition, the bill grants the Secretary the authority to reject any bid, regardless of the amount of franchise fee offered, if the Secretary determines that the bidder is not qualified, is likely to provide unsatisfactory service, or is not responsive to the objectives of protecting and preserving the park area. So that there is absolutely no doubt about the priority of concessions operations within national parks, the bill explicitly directs the Secretary to evaluate franchise fee proposals only from among those companies that the Secretary determines will be responsive to protecting and preserving park resources.

PREFERENTIAL RIGHT OF RENEWAL

Perhaps the most significant impediment to competition concerns the statutory preferential right to contract renewal which, as currently interpreted by the Park Service, gives an existing satisfactory concessioner the right to meet the terms of a better offer submitted by a competitor and to retain the contract if the existing concessioner's offer is substantially equal. In my view, in most cases, this is anticompetitive and should not be granted as a matter of law. While such a preference may have been warranted years ago to encourage certain developments in parks and ensure the continuity of concession operations, it can also limit both the Park Service's influence in dealing with concessioners and the ability of most Americans to compete for concession contracts. In many instances, the right to provide visitor services inside National Parks is a very desirable and very valuable privilege which can attract a host of extremely competent and qualified prospective concessioners. The Park Service ought to be able to choose from these qualified applicants without being constrained by a preferential right. This legislation will eliminate the preferential right of renewal in future concessions contracts, with the limited exception of outfitter and guide operations who currently operate in a largely competitive environment, and small contracts with gross annual revenues of $500,000 or less, which I will discuss in detail shortly.

NOTICE OF OPPORTUNITY TO BID ON NEW CONTRACTS

It is apparent that the Park Service does not adequately publicize new concession contracts or contract renewal opportunities, nor does it always provide interested parties with the specific financial and other submission requirements needed to submit competitive proposals. The Concession Policy Reform Act would establish a detailed competitive bidding procedure for the awarding of all concessions contracts. This process would require that advance notice of all concessions contracts be published, that specific minimum bid requirements be established and made public, and that the details of the previous contract for the park area and other important information be made available to prospective concessioners.

POSSESSORY INTEREST

The other most significant obstacle to competition for concession contracts involves a provision in the current law which allows the granting of a possessory interest to a concessioner. When a concessioner makes an improvement on land inside a National Park, that concessioner is entitled, with the approval of the Secretary, to a possessory interest in that improvement, which consists of all incidents of ownership except legal title. The method of valuation for this property interest as set forth the 1965 act is sound value. Sound value is defined as current reconstruction cost, less depreciation, not to exceed fair market value. This effectively gives concessioners a right of compensation for the appreciated value of their improvements. This current practice of routinely granting sound value can result in concessioners being entitled to millions of dollars in possessory interest, which can effectively make it impossible for the National Park Service to terminate a contract or award it to a new concessioner. This practice is not financially warranted in all circumstances, serves as a barrier to new and qualified concessioners, and limits the Park Service's flexibility in managing concessions facilities.

The Concession Policy Reform Act of 1995 will continue to recognize a current concessioner's possessory interest, if there is one. With respect to new concessions contracts, however, the bill provides that if a concessioner's contract is terminated, the concessioner shall be entitled to the actual cost of building or acquiring the structure, less depreciation. Last Congress, the legislation was modified to provide for the depreciation of the structure over its useful life, up to the depreciation period used for Federal income tax purposes, which is currently 39 years. As modified, I believe the bill allows for a more reasonable depreciation schedule, while at the same time, permitting a concessioner to be compensated for its nondepreciated interest in the structure, thus protecting the concessioner's investment.

In addition to these major changes, the legislation would adopt a number of other recommendations identified by the General Accounting Office, the Inspector General, and the Department's Concessions Task Force.

Over the past few years, the bill has been modified several times to incorporate many constructive suggestions and proposals. These changes include eliminating what some perceived to be excessive reporting and regulatory requirements, clarifying the criteria by which a contract is to be awarded, narrowing the uses for revenues generated from franchise fees, and other clarifying and conforming changes.

This year's bill retains the provision in last year's Senate passed bill to recognize a preferential right of renewal for outfitters, guides, and river runners, as well as for small operations with gross annual revenues of under $500,000. While I believe such a right is anticompetitive in general, I believe a limited exception is warranted in these cases. Unlike most concessioners, river runners and other companies providing outfitter and guide services operate in a competitive environment within a park, with several companies providing the same or similar services. In addition, guide and outfitter operations do not have a possessory interest in park structures, unlike many other concessioners. The legislation directs the Secretary to grant a preferential right of renewal for these outfitters, but only if the operator does not have a possessory interest in a structure, and only if the company has been evaluated as operating satisfactorily during the previous contract. I think this approach recognizes the needs of this class of concessioners, but is consistent with the overall thrust of this legislation.

The bill also provides a preferential right of renewal for small operations with gross annual revenues of less than $500,000. This encompasses almost 80 percent of all concession operations. I have always maintained that concession reform should not be a means to force small operations, especially family operations, who have in many instances provided service to a particular park for decades. At the same time, the bill ensures that the contracts with gross annual revenues exceeding $500,000, which account for over 90 percent of all concession revenues, are awarded based on a competitive basis.

I would also like to repeat an observation that I have made continuously during the past several years, one that I am sure Senator BENNETT would agree with. The purpose of this bill is not to eliminate concession operations from our national parks. I do not subscribe to the theory all visitor facilities in national parks are inappropriate. Many of the facilities and services provided by concessioners are entirely appropriate and benefit the park visitors. I only want to ensure that when concession contracts are awarded, the American people receive a fair return, and that there is an opportunity for competition for these desirable business opportunities.

Mr. President, this bill represents responsible reform of national park concession policy. As demonstrated last Congress, this issue has strong bipartisan support in both Houses of Congress. In addition, concession reform has been a high priority within the Department of the Interior. I urge my colleagues to continue their strong support for this much-needed reform, and I look forward to its swift enactment this year.

In summary, Mr. President, I again wish to pay tribute to my distinguished colleague and very good friend, the Senator from Utah, ROBERT BENNETT. I have to confess that after working 16 years to reform the concessions policy of this country in the national parks, I had annually hit a stone wall until BOB BENNETT came to the Senate.

I am not only grateful to him and to his values and his integrity, political, and every other way, but also because of his background in business and the recognition, once he delved into the issue, that this was a policy which was long, long ago outdated and needed dramatically to be reformed.

Let me further say that even my own efforts on this through the years have not been, as some concessionaires thought, punitive in nature. It is just one of those things that has been going on for 50 to 100 years in this country and nobody ever did anything about it.

Once I realized how badly it needed reform, I went to work on it. As I say, it was not until 1993 and 1994, after Senator BENNETT came and sat on the Energy Committee with me where the original jurisdiction on this issue lay—and I never will forget the morning that he made what I thought was one of the most sensible presentations in the committee I ever heard, and that was we believe in competition. We pride ourselves on being a capitalistic nation. We believe in free enterprise, and that entails competition. And there was, Mr. President, virtually no competition in this field.

In 1993, the concessions of this country took in $657 million, and the U.S. Treasury derived the princely sum of $18 million. The one contract that we have let under something similar to this bill was let in Yosemite, and this Yosemite contract pays up to 20 percent.

Now, we want to keep the rentals as low as we can because the lower they are, the lower the prices are and that is good for the American people who visit the park. But we also want the U.S. Government, which owns the parks and is responsible for them, to get a decent return based on competition.

So, Mr. President, I wish to say this is a very happy day for me. We passed this bill out of our committee last year, and one Senator killed the bill in the last 2 weeks of the session. As a matter of fact, that same Senator killed about 35 to 40 bills out of the National Parks Subcommittee of the Energy Committee and now we have to have hearings on those bills all over again this year at a staggering cost to the taxpayers, report the bills, go through the House, go through conference, go through everything we went through before in order to pass the bills again.

One other thing I would like to point out is that one of the things that occurred to me, which made this concessions policy absolutely necessary, was the policy of allowing concessionaires in the parks to build hotels and other structures and, of course, depreciate those things on their tax books but at the end of the lease, if they lost the lease, be entitled to what was called sound value, which was effectively market value.

If you had the concession at Yosemite and you decided to put $5 million into a hotel, at the end of your lease, say 15 years later, you are entitled to the market value of the hotel if you lost the lease, and that might be $20 million. The fair market value of the hotel might actually be more than it was when you paid for it, yet you had been able to depreciate that hotel on your tax books for tax purposes for 15 years. It gets a little more complicated than that, but I just want to say that was the thing that first caught my attention on these leases. The other was the extremely low rental that the Federal Government was getting.

What the Government will get in years to come is not going to balance the budget. It is not a large amount. But it does deal with what Congress ought to be alert to all the time, and that is the elemental principle of fairness.

Mr. JOHNSTON. Mr. President, today I am joining with Senator BENNETT and Senator BUMPERS in sponsoring the National Park Service Concession Policy Reform Act of 1995. The legislation that we are introducing today is very similar to a bill which passed both the Senate and House last year by overwhelming margins but failed to clear the Senate in the final days of the 103d Congress.

This legislation, which is supported by the Department of the Interior as well as a number of other conservation and park user groups, would correct the many deficiencies of the 1965 act which currently governs concession operations inside units of the National Park System. It would end the granting of a preferential right of renewal to an incumbent concessioner; it would end the granting of a preferential right of renewal to an incumbent concessioner; it would reformulate the method by which possessory interest is valued; it would establish a competitive bidding procedure to ensure competition and that the Government receives fair value for the privilege of doing business in our national parks; and it would provide that franchise fees and other revenues collected from concessioners are available for use in the parks rather than simply returned to the Federal Treasury.

In this regard, I am pleased that the bill we are introducing today includes language which I offered as an amendment during the committee's deliberations last year which would authorize

the Secretary to establish park improvement funds in the individual park units where franchise fees could be deposited by the concessioner and used at the direction of the Secretary of the Interior for badly needed projects in the parks. This practice is currently followed in several parks, most notably the recent Yosemite contract, and has proven very successful.

I look forward to working with Senators BENNETT, BUMPERS, and others who were supportive of our efforts last year, and hope we can enact this measure early in this Congress.

By Mr. WARNER (for himself and Mr. ROBB):

S. 310. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

THE SHENANDOAH NATIONAL PARK TRANSFER ACT OF 1995

Mr. WARNER. Mr. President, I rise today to once again introduce legislation for myself and Senator ROBB which would authorize the Secretary of Interior to transfer without reimbursement all right, title, and interest in certain lands in Shenandoah National Park to the Commonwealth of Virginia, town of Front Royal, and Warren County School Board.

In order to recognize the need for this legislation one must first understand the history of the creation of the Shenandoah National Park.

In 1923, Stephen Mather, Director of the National Park Service, persuaded Secretary of Interior Hubert Work to appoint a five-member committee to investigate the possibility of establishing a national park in the southern Appalachians. At that time there were no parks in the country east of the Mississippi River. In 1924, the committee was formed to find a site for such a park. Thus began a difficult 11-year effort to establish a park in the southern Appalachians.

On February 21, 1925, President Coolidge signed into law legislation which had been introduced by Senator Swanson of Virginia and Senator McKellar of Tennessee which called for the creation of a national park in the southern Appalachians and the Great Smokey Mountains.

In 1926, Congress authorized the park to be acquired by donation, without the expenditure of any Federal funds. This act did not officially create the parks but set forth the conditions of their establishment although in indefinite terms. The Secretary of Interior and the committee were given the difficult task of raising the necessary funds for land acquisition. Therefore, while there was strong support for the creation of the park, its realization remained highly conditional since no Federal funds would be made available to purchase the park lands.

Although private donations were being made, then-Governor Harry F. Byrd, realized the need to pursue other financing means if sufficient funds to acquire the acreage were to be obtained. In January 1928, Governor Byrd asked the general assembly for a $1 million appropriation to make possible the purchase of park lands. A few days later, the State legislature agreed and appropriated the funds. This $1 million appropriation, coupled with the $1.25 million raised from private sources, enabled Virgina to purchase the necessary acreage to establish the park.

With the financial means in hand, the Virginia General Assembly passed in 1928 the National Park Act which authorized the State Commission on Conservation and Development to acquire land for transfer to the Federal Government to establish the Shenandoah National Park. In that same year, Senator Swanson and Representative Temple—both of Virginia—introduced legislation in both Houses of Congress ''to establish a minimum area for the Shenandoah National Park, for administration, protection, and general development * * * '' This legislation passed both Houses of Congress and was signed into law by President Coolidge on February 16, 1928.

Due largely to the appropriation by the Commonwealth of Virginia and what historians called Virginia's ''heroic land acquisition efforts,'' the necessary acreage was acquired and the land titles were given to the Federal Government. On December 26, 1935, the Shenandoah National Park was officially established.

The Commonwealth's generous donation of lands to the Federal Government for the creation of this great park has now placed the Commonwealth in an unfortunate situation in which the State can no longer maintain the roads within the park. My legislation addresses this situation.

The transfer of land from the Commonwealth to the Federal Government specifically voided all rights of way for road purposes except for U.S. Highway 211 and 33. According to the deeds, the Commonwealth transferred ownership of all other roads and road rights of way on those lands to the Federal Government. Absolutely no reservations were retained by the Commonwealth for such roads.

Since 1935, the National Park Service at Shenandoah National Park has allowed the Commonwealth to maintain existing secondary roads on the fringes of the Park that it wished to maintain through documents called special use permits. The Department of Interior Solicitor General has reviewed the applicable statutes in 16 United States Code and has determined that continuation of these special use permits is not appropriate. Special use permits may be used only to grant a temporary use of lands in national parks. The Solicitor has ruled that the established roads are not a temporary use and require complete ownership and control of the lands by the user. These permits expired over 3 years ago and the Department of the Interior will not reissue them. VDOT has been maintaining the roads without the permits, although there is no guarantee this maintenance can continue. Furthermore, the NPS does not have the necessary equipment to maintain these roads at Shenandoah National Park and, therefore, future maintenance of these roads is in serious question.

Federal law does not allow the National Park Service to convey park land for secondary road purposes. The only legal means to grant the Commonwealth road rights of way is an equal value land exchange authorized under the Land and Water Conservation Fund Act.

Mr. President, facing this dilemma, the Virginia Department of Transportation has acquired land for this purpose, thereby placing the Commonwealth in the position of buying private land to give to the Federal Government to reacquire the right of way of land that the Commonwealth gave away when the park was established.

Due to the unique circumstances of the park's creation, this equal value land exchange requirement is strongly opposed by the local communities and elected officials. I, too, strongly join in this opposition. The Department's position has led to the Virginia General Assembly's passage of a resolution prohibiting the Virginia Department of Transportation from exchanging land for the road segments in the park.

Mr. President, I have introduced legislation to resolve this controversy. My bill would allow the Secretary of Interior to transfer to the Commonwealth, the town of Front Royal, and the Warren County School Board—without reimbursement—all right, title, and interest in and to the roads within the park specified in the legislation.

Due to the Commonwealth's generous donation of lands to the Federal Government for the creation of the park, the Commonwealth should not be required to give the Federal Government additional land in exchange for maintaining and improving roads within the Park.

Mr. President, I ask unanimous consent that the full text of this bill be printed in the RECORD.

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

S. 310

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

SECTION 1. TRANSFER TO THE COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior may convey, without consideration or reimbursement, all right, title, and interest of the United States in and to the roads specified in subsection (c) to the Commonwealth of Virginia, town of Front Royal or Warren County School Board.

(b) CONDITIONS OF CONVEYANCE.—

(1) EXISTING ROADS.—A conveyance pursuant to subsection (a) shall be limited to the roads described in subsection (c) as the roads exist on the date of enactment of this Act.

(2) REVERSION.—A conveyance pursuant to subsection (a) shall be made on the condition that if at any time any road conveyed pursuant to subsection (a) is no longer used as a public roadway, all right, title, and interest in the road shall revert to the United States.

(c) ROADS.—The roads referred to in subsection (a) are those portions of roads within the boundaries of Shenandoah National Park being 50 feet wide measured 25 feet on each side of the existing center line that, as of the date of enactment of this Act, constitute portions of—

(1) Madison County Route 600;
(2) Rockingham County Route 624;
(3) Rockingham County Route 625;
(4) Rockingham County Route 626;
(5) Warren County Route 604;
(6) Page County Route 759;
(7) Page County Route 759;
(8) Page County 682;
(9) Page County Route 662;
(10) Augusta County Route 611;
(11) Augusta County Route 619;
(12) Albermarle County Route 614;
(13) Augusta County Route 661;
(14) Rockingham County Route 663;
(15) Rockingham County Route 659;
(16) Page County Route 669;
(17) Rockingham County Route 661;
(18) Criser Road, (to town of Front Royal); and
(19) Government-owned parcel connecting Criser Road, (to Warren County School Board).

By Mr. MCCAIN (for himself, Mr. CAMPBELL, and Mr. THOMAS):

S. 311. A bill to elevate the position of Director of Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes; to the Committee on Indian Affairs.

INDIAN HEALTH SERVICE LEGISLATION

• Mr. MCCAIN Mr. President, today I am introducing legislation to redesignate the position of the Director of the Indian Health Service [IHS] to that of an Assistant Secretary for Indian Health within the Department of Health and Human Services. I am pleased that Senator BEN NIGHTHORSE CAMPBELL and Senator CRAIG THOMAS have joined me as original cosponsors of this important legislation. Last Congress, I introduced a similar measure which was overwhelmingly passed by the Senate. Unfortunately, the bill was not considered by the House prior to adjournment.

The Indian Health Service is an agency under the Public Health Service within the Department of Health and Human Services. Under the current structure the Indian Health Service Director's authority to set health policy for American Indians is extremely limited. For example, the Indian Health Service Director must report directly to the Assistant Secretary for Health, and yet the Director is responsible for administering the entire branch of the Indian Health Service health care delivery system.

The Indian Health Service consists of 143 service units composed of over 500 direct health care delivery facilities, including 49 hospitals, 176 health centers, 8 school centers, and 277 health stations and satellite clinics and Alaska village clinics. It provides services ranging from facility construction to pediatrics, and serves approximately 1.3 million American Indians and Alaska Native individuals each year. The IHS serves the most impoverished population in the United States. American Indian and Alaska Native populations are afflicted by diabetes at a rate that overwhelmingly exceeds other national populations. American Indian and Alaska Native populations continue to suffer from mortality rates that exceeds all other segments of our population for tuberculosis, alcoholism, accidents, homicide, pneumonia, influenza, and suicides. American Indians have also experienced a tremendous increase in the number of individuals contracting HIV and AIDS. Yet, today American Indians and Alaska Natives are among the least served and the most forgotten when it comes to improving America's health care delivery systems.

There are several critical reasons which lead me to believe that this legislation is necessary. First, designating the IHS Director as an Assistant Secretary of Indian Health would provide the various branches and programs of the IHS with better advocacy within the Department and better representation during the budget process. The IHS Director currently relies on the Assistant Secretary for Health to advocate for these programs.

Last Congress, the Principal Deputy to the Assistant Secretary for Health at the Department of Health and Human Services testified before the Senate Committee on Indian Affairs that a priority within the Department was to listen to the health care delivery concerns of Indian country. Obviously, this message was never received. At the same time that the Department was listening to Indian country, the funding request to meet Indian health care needs was dramatically cut at every level of the administration by the Public Health Service, the Department of Health and Human Services, and the Office of Management and Budget. As a result of this process, the President's budget for the IHS for fiscal year 1995 called for a $247 million reduction and the elimination of nearly 2,000 staff positions. Once all of the budget gimmicks were eliminated, such as the incredible assumption that the IHS would be able to increase third-party collections by 463 percent, the IHS budget cuts surpassed $300 million. At the same time, the Department was listening to the calls of Indian country for resources to meet the growing health problems in Indian country.

I am convinced that neither the Public Health Service, the Secretary for Health and Human Services, or the Office of Management and Budget have an adequate understanding of the day-to-day health care needs of American Indians. Therefore, I believe that the IHS is in dire need of a senior policy person who is both knowledgeable about the programs administered by the IHS and can strongly advocate for the health care needs of Indians and Alaska Natives.

Second, an Assistant Secretary for Indian Health would eliminate unnecessary bureaucracy that plagues the Indian Health Service system and permit timely decisions to be made regarding important Indian health care issues. For example, an Assistant Secretary for Indian Health would have the authority and ability to communicate directly with the other operating divisions within the HHS. Requesting the expertise and assistance of other HHS departments on problems of alcohol and substance abuse, HIV/AIDS, and child abuse for American Indians and Alaska Natives would be easier and have more far-reaching results. Currently, the IHS Director must forward such requests for assistance through the Assistant Secretary for Health.

Third, an Assistant Secretary for Indian Health would have the ability to call on private sector organizations that have not traditionally focused on Indian health care needs and concerns, but who have the expertise and resources that can enhance IHS' ability to deliver the highest quality of health care, by providing technical assistance to Indian tribes who choose to operate their own health care programs.

Finally, I would like to clarify a couple of points relating to section 2 of the bill. Section 2 of the bill provides for the organizational independence of the Indian Health Service within the Department of Health and Human Services. This section is necessary because the IHS is currently an agency of the Public Health Service which is headed by the Assistant Secretary for Health. Creating an Assistant Secretary for Indian Health will require relocating the IHS to the same organizational level as the Public Health Service.

Section 2 also clarifies that this bill is not intended to diminish the ability of the IHS to utilize the service of the U.S. Public Health Service Commissioned Corps. While I certainly hope that the HHS would not prohibit the IHS from being served by the Commissioned Corps personnel in the delivery of health care to the Indian people, in light of the prevoius budget and staff reductions recommended by the Clinton administration I am compelled to insert bill language to make clear the intent of the Congress on this particular matter.

Mr. President, the Senate passage of this legislation last Congress indicates that this legislation is long overdue. Redesignating the Director as an Assistant Secretary for Indian Health would not only reaffirm the special relationship that exists between Indian tribes and the Federal Government, it would send a powerful message to Indian country. At a time when the Nation focuses on health care reform, it is

critical that the health care needs of the American Indian are taken into consideration. For those in the administration and the Congress who would make a plea for a national health care system, passing this legislation would serve as an example of a commitment to improving this Nation's first health care system for Americans, the Indian Health Service.

Mr. President, I ask unanimous consent that the full text of the bill and section-by-section be printed in the RECORD.

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

S. 311

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

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH.

(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Office of the Assistant Secretary for Indian Health.

(b) ASSISTANT SECRETARY OF INDIAN HEALTH.—In addition to the functions performed on the date of enactment of this Act by the Director of the Indian Health Service, the Assistant Secretary for Indian Health shall perform such functions as the Secretary of Health and Human Services may designate.

(c) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Director of the Indian Health Service shall be deemed to refer to the Assistant Secretary for Indian Health.

(d) RATE OF PAY.—(1) Section 5315 of title 5, United States Code, is amended by striking the following:

''Assistant Secretaries of Health and Human Services (6).'';

and inserting the following:

''Assistant Secretaries of Health and Human Services (7).''.

(2) Section 5316 of such title is amended by striking the following:

''Director, Indian Health Service, Department of Health and Human Services.''.

(e) CONFORMING AMENDMENTS.—(1) Section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1661) is amended—

(A) in the second sentence of subsection (a), by striking ''a Director,'' and inserting ''the Assistant Secretary for Indian Health,'';

(B) in the fourth sentence of subsection (a), by striking ''the Director'' and inserting ''the Assistant Secretary for Indian Health'';

(C) by striking the fifth sentence of subsection (a); and

(D) by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''.

(2) The following provisions are each amended by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health'':

(A) Section 816(c)(1) of the Indian Health Care Improvement Act (25 U.S.C. 1680f(c)(1)).

(B) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 761b(a)(1)).

(C) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377 (b) and (e)).

(D) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2(d)(1)).

SEC. 2. ORGANIZATION OF INDIAN HEALTH SERVICE WITHIN DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) ORGANIZATION.—Section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1661), as amended by section 1(e)(1), is further amended—

(1) by striking ''within the Public Health Service of the Department of Health and Human Services'' each place it appears and inserting ''within the Department of Health and Human Services''; and

(2) in the third sentence of subsection (a), by striking ''report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services'' and inserting ''report to the Secretary''.

(b) CONFORMING AMENDMENT.—The section heading of such section is amended to read as follows:

''ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF DEPARTMENT OF HEALTH AND HUMAN SERVICES''.

(c) UTILIZATION OF PUBLIC HEALTH SERVICE PERSONNEL.—Nothing in this section may be interpreted as terminating or otherwise modifying any authority providing for the utilization by the Indian Health Service of officers or employees of the Public Health Service for the purposes of carrying out the responsibilities of the Indian Health Service. Any officers or employees so utilized shall be treated as officers or employees detailed to an executive department under section 214(a) of the Public Health Service (42 U.S.C. 215(a)).

SECTION-BY-SECTION ANALYSIS

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH

Subsection (a) establishes the Office of the Assistant Secretary for Indian Health within the Department of Health and Human Services.

Subsection (b) provides that the Assistant Secretary for Indian Health shall perform such functions as the Secretary of Health and Human Services may designate in addition to the functions performed by the Director of the Indian Health Service (IHS) on the date of the enactment of this Act.

Subsection (c) provides that references to the IHS Director in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document shall be deemed to refer to the Assistant Secretary for Indian Health.

Subsection (d) amends Title 5 section 5315 of the U.S.C. by striking ''Assistant Secretaries of Health and Human Services (6)'' and inserting ''Assistant Secretaries of Health and Human Services (7)''. Subsection (d) further amends section 5316 of title 5 by striking ''Director, Indian Health Service, Department of Health and Human Services''.

Subsection (e) provides for conforming amendments in the Indian Health Care Improvement Act. Subsection (e) further amends the Indian Health Care Improvement Act, the Rehabilitation Act of 1973, the Federal Water Pollution Control Act, and the Native American Programs Act of 1974 by striking ''Director of the Indian Health Service'' and inserting in lieu thereof ''the Assistant Secretary for Indian Health''.

SECTION 2. ORGANIZATION OF INDIAN HEALTH SERVICE WITHIN DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subsection (a) amends section 601 of the Indian Health Care Improvement Act by striking ''within the Public Health Service of the Department of Health and Human Services'' each place it appears and inserting ''within the Department of Health and Human Services, and striking ''report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services'' and inserting ''report to the Secretary''.

Subsection (b) amends the heading of section 601 of the Indian Health Care Improvement Act.

Subsection (c) provides that nothing in this section may be interpreted as terminating or otherwise modifying any authority providing for the IHS to use Public Health Service officers or employees to carrying out the purpose and responsibilities of the IHS.

Subseciton (c) further states that any officers or employees used by the IHS shall be treated as officers or employees detailed to an executive department under section 214(a) of the Public Health Service.●

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 312. A bill to provide for an Assistant Administrator for Indian Lands in the Environmental Protection Agency, and for other purposes; to the Committee on Indian Affairs.

THE ASSISTANT ADMINISTRATOR FOR INDIAN LANDS ACT FOR 1995

● Mr. MCCAIN. Mr. President, today I am introducing a bill to provide for an Assistant Administrator for Indian Lands in the Environmental Protection Agency [EPA]. I want to thank my friend, the distinguished Senator from Hawaii and the vice chairman of the Committee on Indian Affairs, Senator INOUYE, for joining with me as an original cosponsor of this bill.

The bill we are introducing today would establish the position of Assistant Administrator for Indian Lands at EPA. The President would appoint this individual, subject to confirmation by the Senate. The Assistant Administrator for Indian lands would be responsible for coordinating and implementing Federal environmental laws and all EPA activities with respect to Indian lands, including the 1984 Indian policy.

This bill is similar in concept to an amendment which I offered in the last Congress to provide for an Assistant Secretary for Indian lands in the proposed Department of the Environment. That amendment won the overwhelming bipartisan support of the Senate with 79 Senators voting in favor of it. As we all know, no final action was taken by the House of Representatives on the issue of cabinet status for EPA. Many Indian tribal governments supported the Senate's action in the 103d Congress, and I fully expect that there will be strong support for the bill we are introducing today.

I want to take a moment to express my gratitude to Administrator Browner for the actions she has taken in the past year to establish a Tribal Operations Committee and an American Indian Environmental Office within EPA which is under the leadership of a highly qualified native American, Mr. Terry Williams. Each of these actions reflects a sincere commitment on the part of the Administrator to try to ensure that EPA addresses environmental protection on Indian lands.

While I support the actions which have been taken by Administrator

Browner, I believe that much more needs to be done. Issues involving Indian land must be addressed at the highest policy levels of EPA on a consistent basis. This will only occur when the Indian tribes are assured a seat at the policy table. The bill we are introducing today will provide that assurance.

Indian lands comprise nearly 5 percent of all of the lands in the United States. This is an area equal to the size of New England and the States of Maryland, Delaware, and New Jersey combined. The Navajo Nation alone is equal to the size of the State of West Virginia.

Mr. President, the environmental problems on Indian lands in the United States are serious, widespread, and complex:

There are at least 600 solid waste landfills on Indian lands that do not meet Federal standards. Many of these sites are potentially hazardous.

Federal officials have testified before the Committee on Indian Affairs that of 108 sanitary landfills constructed by the Federal Government on Indian lands, no more than 2 are in compliance with EPA regulations.

The Pine Ridge Reservation in South Dakota has contaminated drinking water from uranium mining and numerous unsanitary landfills.

Landfills located on the Devil's Lake Sioux Reservation in North Dakota and the Oneida Reservation in Wisconsin have been described as being laced with arsenic, mercury, and other illegally dumped chemicals.

The Navajo Reservation in New Mexico, Arizona, and Utah has an estimated 1,000 sites polluted by old uranium mines or uranium waste. Navajo officials have testified that there are as many as 1,200 open solid waste dumps on the reservation, some of which were built and used by Federal agencies.

Mercury pollution on Seminole land in Florida threatens fishing and the gathering of food.

The worst spill of low-level radioactive waste in American history occurred 13 years ago at a uranium mine on the Navajo Reservation in New Mexico.

I want to remind my colleagues that these environmental maladies are afflicting the very poorest communities in the United States. Unemployment in Indian country averages 50 percent and on some reservations exceeds 90 percent. More than 15 percent of Indian homes lack basic sanitation facilities—rate eight times worse than the rest of the United States. On the Navajo Reservation alone, more than 11,000 homes lack running water and sewage disposal.

These disturbing facts have a definite cost in human lives. According to the Indian Health Service, over half of the infant deaths in Navajo country in 1989 occurred in homes without running water.

In monetary terms, the funds that are needed to address environmental problems on reservations are enormous, and far beyond the scarce resources of most Indian tribes. The Indian Health Service has estimated that the unmet needs of tribes for health related water systems, sewage treatment, and solid waste disposal are at least $700 million.

A 1989 EPA report found that since 1972, $48 billion in Federal funds had been awarded to the States to construct wastewater treatment facilities, but only $25 million had been made available to the Indian tribes by the States. The same EPA report estimated that the tribes will need at least $470 million to comply with the wastewater treatment provisions of the Clean Water Act.

Since 1986, the Congress has acted to ensure that Indian tribes are eligible for treatment as States under the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, and Superfund. We have enacted the Indian Environmental Regulatory Enhancement Act and the Indian Environmental General Assistance Act to authorize funding to assist Indian tribes in the development of environmental regulatory capacity. Funding from EPA to the tribes has steadily increased since the announcement in 1984 of EPA's Indian policy. All of these steps were important, but the record clearly demonstrates that much more must be done.

The bill we are introducing today constitutes another important step in the process of ensuring that Indian lands receive the full measure of environmental protection afforded to other areas of the United States. I urge my colleagues to support this bill.

I ask unanimous consent that the bill and a summary of it be printed in the RECORD.

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

S. 312

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

SECTION 1. ASSISTANT ADMINISTRATOR FOR INDIAN LANDS.

(a) IN GENERAL.—

(1) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint within the Environmental Protection Agency an Assistant Administrator for Indian Lands.

(2) COMPENSATION.—The Assistant Administrator for Indian Lands appointed under this subsection shall be compensated at a rate provided for in level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) DUTIES.—The Assistant Administrator for Indian Lands appointed under this section shall—

(1) coordinate the activities of the Environmental Protection Agency with respect to Indian lands and federally recognized Indian tribes; and

(2) implement the stated policy of the Environmental Protection Agency commonly referred to as the ''1984 Indian Policy''.

(c) CONFORMING AMENDMENT.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''Assistant Administrator for Indian Lands, Environmental Protection Agency.''.

SECTION-BY-SECTION SUMMARY

Section 1. Subsection (a) of this section provides that the President shall appoint an Assistant Administrator for Indian Lands in the Environmental Protection Agency (EPA). The appointee is subject to Senate confirmation and will be compensated as a level V Executive branch employee.

Subsection (b) provides that the Assistant Administrator for Indian Lands will coordinate all of the activities of EPA with respect to Indian lands and federally recognized Indian tribes, including the implementation of the 1984 Indian Policy.

Subsection (c) is a conforming amendment to section 5316 of title 5 of the United States Code.

● Mr. INOUYE. Mr. President, I am pleased to join Chairman JOHN MCCAIN of the Committee on Indian Affairs in introducing legislation which would provide for the creation of an assistant administrator for Indian Lands within the Environmental Protection Agency.

Mr. President, in 1984, the Environmental Protection Agency [EPA] adopted an Indian policy. In the ensuing 10 years, major environmental statutes have been amended to recognize the importance of tribal governments in the administration of environmental regulatory activities on Indian lands. Its record of action makes clear that the Environmental Protection Agency is committed to achieving the goals of its Indian policy.

Mr. President, I would like to take this opportunity to commend the head of the Environmental Protection Agency, Administrator Carol M. Browner, for initiating efforts to improve communications with Indian tribal governments through the recent establishment of the new Indian Environmental Office in EPA.

However, although we have accomplished a great deal working together, it is also clear that our work is not complete.

This legislation will be a key to the continued successful implementation on the Environmental Protection Agency's Indian policy by ensuring that the Agency develops a national infrastructure to protect and ensure equitable treatment for Indian tribal governments comparable to the treatment afforded the programs that are administered by the several States.

Mr. President, one of the obstacles to effective implementation of EPA's Indian policy has been the lack of involvement, including line authority, in decisionmaking processes. The solution is to authorize critical positions in the chain of command. The process of reviewing Agency actions for their consistency with EPA's Indian policy must be institutionalized; it must become second nature to all levels of the Environmental Protection Agency organizational structure.

Mr. President, I believe that the creation of an assistant administrator for

Indian lands would be an effective means of addressing this problem.

The assistant administrator would have responsibility for ensuring that the decisions and actions of the central or regional offices are consistent with EPA's Indian policy in areas ranging from major policy and legislative initiatives to the most basic programming decisions.

This legislation will continue to move the Environmental Protection Agency in a direction that will enhance environmental quality on reservation lands and help build strong tribal governmental capacity for the management of the environment in Indian country.

Mr. President, I urge my colleagues to give their careful consideration to this legislation.●

By Mr. EXON (for himself and Mr. GORTON):

S. 314. A bill to protect the public from the misuse of the telecommunications network and telecommunications devices and facilities; to the Committee on Commerce, Science, and Transportation.

THE COMMUNICATIONS DECENCY ACT

● Mr. EXON. Mr. President, I am pleased to introduce legislation to expand the decency provisions of the Communications Act of 1934 to clearly cover the new technologies which are increasingly part of the American way of life.

As a strong supporter of telecommunications reform, I am anxious to pass legislation which will free the private sector to create the information superhighway. This exciting technology will put unprecedented information power into the hands of every citizen. The opportunities for education, culture, and entertainment are limitless.

Sadly, there is a dark side to the bright flicker of the computer screen. The explosion of technology also threatens an explosion of misuse. The legislation I introduce today, known as the Communications Decency Act, establishes legal protections against that misuse.

It modernizes the current law against telecommunications misuse in the digital age.

This legislation will extend and strengthen the protections which exist against harassing, obscene, and indecent phone calls to cover all such uses of all telecommunications devices and increase the penalties for misuse of the public switched network.

This much-needed legislation increases the penalties for obscene cable and radio broadcasts. The bill also insures that adult pay-per-view programs are fully scrambled, so that homes which do not subscribe to such services are not invaded by unwanted audio or video. The legislation also prohibits the use of toll free 800 numbers from being used as a ruse to charge callers or telephone numbers for adult and other pay-per-call services.

In addition, the legislation modernizes the protections against unauthorized eavesdropping on conversations, electronic or digital communications.

In addition, this legislation includes provisions Senator GORTON and I crafted last year to give cable operators the power to refuse to transmit any public access or leased access program or portion of such program which includes obscenity, indecency, or nudity.

Mr. President, the information superhighway should not become a red light district. This legislation will keep that from happening and extend the standards of decency which have protected telephone users to new telecommunications devices.

Once passed, our children and families will be better protected from those who would electronically cruise the digital world to engage children in inappropriate communications and introductions. The Decency Act will also clearly protect citizens from electronic stalking and protect the sanctuary of the home from uninvited indecencies.

Mr. President, to illustrate the need for this legislation, I ask unanimous consent that a Washington Post article be included in the RECORD. The article warns parents about the dangers of pedophiles who use computers to lure children. It is a sad day in America when this type of warning is necessary.

Mr. President, I urge all my colleagues to carefully study this important legislation. It was approved last year by the Senate Commerce Committee as a part of the Communications Act of 1994.●

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

[From the Washington Post, Aug. 2, 1994]

MOLESTING CHILDREN BY COMPUTER

(By Sandy Rovner)

Those amazing computer games, bulletin boards and E-mail services that bedazzle children and bewilder many parents may not be as benign as they appear.

Some of them, in fact, may be prowled by real-life villains every bit as evil as those in the fantasy games the youngsters play online.

''You can become very close to people very quickly when you're on-line,'' says Dan Fisher, a Palm Bay, Fla., police investigator and a member of the Law Enforcement Electronic Technology Assistance Committee, part of a new effort to make police as familiar with the computer world of virtual reality as these savvy criminals. Law enforcement officials say that children, often not realizing the danger, sometimes give out their names, addresses and phone numbers to people they meet over the computer network. This makes them vulnerable targets for a number of illegal activities, including sexual abuse, officials say.

For people who have computers with modems that allow them to call outside the home and connect up with networks, there are a number of online services, such as Prodigy, America on Line and Compuserve, that offer a wide variety of options to users. Included in these services are forums called bulletin boards that allow users to talk electronically with other users by posting public notes. These boards are divided into special interests, such as arts, television, lifestyles, seniors, health or teens. These permit individuals to contact other computer users privately by sending electronic mail, known as E-mail, through the Internet, the vast network of computer connections throughout the world.

Although there are laws banning transmission of child porn by computer, the FBI does not monitor bulletin boards, and, in a special statement issued recently on computer bulletin boards, it notes that it does not keep statistics on the problem. Law enforcement efforts are complicated by the fact that E-mail transmissions are ''regarded as having the same privacy rights of surface mail,'' the FBI statement noted.

Frank Clark, a computer crime specialist in Fresno, Calif., who helps teach other police departments about electronic crimes, said there are about 25,000 private boards on the Internet in the country. Yet, ''we found that virtually no one was working those kinds of crimes at all,'' he said.

He travels throughout the United States and Canada giving courses to law enforcement agencies on computer crimes. He cites one episode at a meeting last month in Ottowa at which he had a group of investigators sign on to a major computer service with false identifications and pretend to be children. ''Then I had them post a couple of innocuous messages on teens' boards,'' he says. ''The next day we had solicitations for nude pictures, phone sex and offers to meet in person for sex.''

Myrna Blinn, an Idaho grandmother, has worked with child abuse groups for years and is among a number of volunteers who warn teenagers via computer bulletin boards not to give away too much personal information to overly friendly electronic mail pals.

She said she received an anguished E-mail letter from a 14-year-old girl who had been corresponding on-line with someone she thought was a teenage boy. She had given him her phone number, but the boy turned out to be a 51-year-old man and he began barraging her with indecent phone calls. She was afraid to tell her family. Blinn and two of her friends confronted the man electronically and turned over information about him to police officials, who are investigating the case. They have arranged for the girl to get counseling.

Clark believes the tide is beginning to turn as parents and law enforcement officials are recognizing the possibility of problems. Computer services are also beginning to monitor their bulletin boards and helping police stop any unlawful activities, he said.

Despite increasing concerns, parents are often stymied in their efforts to monitor their kids because ''the children are more computer-literate than the parents,'' Clark says. To counter that, Clark and his colleagues have developed a brochure they distribute at schools, churches and community meetings. It recommends:

If possible, keep the computer in a common area of the home. If a modem is being used, monitor times and numbers dialed.

Know the warning signs of ''computer addiction'' to make sure children aren't becoming obsessed with the computer service. One clue is the storage of computer files ending in GIF, JPG, BMP, TIF, PCX, DL and GL. ''These,'' the brochure notes, ''are video or graphic image files and parents should know what they illustrate.''

The brochure also offers ''Tips for Safe Computing'' for teens and parents.

Never give out personal information, especially full names, addresses or financial information, to anyone you meet on computer bulletin boards.

Never respond to anyone who leaves you ''obnoxious, sexual or menacing E-mail.''

Never set up face-to-face meetings with anyone you meet on a bulletin board.

The brochure also urges parents to notify police of ''all attempts by adults to set up meetings with your children. This is by far the most dangerous situation for children.''

By Mrs. KASSEBAUM (for herself and Mr. DOLE):

S. 322. A bill to amend the International Air Transportation Competition Act of 1979; to the Committee on Commerce, Science, and Transportation.

THE WRIGHT AMENDMENT REPEAL ACT OF 1995

Mrs. KASSEBAUM. Mr. President, the distinguished Republican leader, Senator DOLE, joins with me today in offering this bill to address an injustice that has developed out of current law. The bill would repeal a restriction in the International Air Transportation Competition Act of 1979 pertaining to air carrier service at Dallas' Love Field. There is now broad recognition of the anticompetitive situation that has developed because of this section of law, and it is our intent to resolve the unfairness of this situation.

The restriction which this bill seeks to repeal was originally passed to protect the then-relatively new Dallas-Fort Worth International Airport [DFW] and ensure that commercial air carriers moved from Love Field to the new airport. Today, DFW is the third busiest airport in the country. The gates at DFW are full, and planes wait in long lines for takeoff. It is clear that DFW has reached a point where it no longer needs to be protected from competition.

Under current law, commercial air carriers are prohibited from providing service between Dallas' Love Field and points located outside of Texas or its four surrounding States. This effectively limits travel into and out of this airfield to destinations only in Texas, Louisiana, Oklahoma, Arkansas, and New Mexico. Flights originating from any other State must fly into the Dallas-Fort Worth airport in order to have access to the highly traveled Dallas area. This limitation on flights into Love Field is arbitrary and, in many cases, forces passengers to pay artificial and unreasonably high air fares. Moreover, the restriction causes unnecessary delay and inconvenience for passengers attempting to fly into or out of Love Field from cities outside Texas and its four contiguous States.

The criteria the current law uses to restrict flights into Love Field—that a flight must originate in Texas or one of its contiguous States—are not based on any standard appropriate for the airline industry. It is not based on the number of miles flown. It is not based on the size of the city served. It is not based on the amount of noise generated by an aircraft. Instead, it is based on State boundaries that were in place long before the Wright brothers began flying airplanes.

Today, planes are allowed to fly directly from Love Field to El Paso which is 576 miles from Dallas. Yet, direct flights are prohibited between Love Field and many cities which are much closer to Dallas, such as St. Louis, Kansas City, Memphis, Birmingham, and Wichita. This makes no sense.

Mr. President, a great deal has been written recently about unwanted and unnecessary Government rules and regulations. People are frustrated by Government rules that are out of touch with reality, that lack common sense. I think the Wright amendment is a prime example of why so many people have lost confidence in their Government.

In addition to being a law based on policial concerns rather than practical realities, the Wright amendment has distorted the free market. For a number of Americans, the restrictions on Love Field have forced them to pay more to travel to Dallas than their neighbors. Again, this is regardless of the flight distance or the size of the city served by the flight. The reason for this absurd situation is that the one airline which serves Love Field is the low-cost carrier for the market, Southwest Airlines. In those cases where Southwest is allowed to compete with the major airlines for direct flights to Dallas, the cost of a ticket to Dallas is dramatically cheaper than when restrictions prevent Southwest from offering competitive flights.

Another effect of the Love Field restrictions is that they work a terrible inconvenience for those travelers located outside of Texas and the contiguous States who choose to take a nondirect flight to Dallas on Southwest Airlines. Passengers in this situation are not allowed to buy a round-trip ticket to Dallas on a flight which has a stop-over in a city that meets the Love Field restrictions. Instead, these passengers must buy two round-trip tickets. One round-trip ticket to a city in Texas or one of the contiguous States and another from that city to Dallas. This requires the travelers not only to change planes in the connecting city but to collect their baggage and recheck it to Dallas. The unnecessary inconvenience of having to collect and recheck baggage can be especially difficult for the elderly, the disabled, or those traveling with small children.

To allow this situation to continue would be to condone anticompetitive law and to encourage discrimination against many for the benefit of a few. I believe it is essential to encourage competition within the transportation community in order to protect the interests of the traveling public. The case with Love Field is no different than that of all the other small airfields across the country, none of which is restricted based on their location. Love Field has been subject to this unique statute for more than 15 years, and it big time to close this loophole.

Mr. DOLE. Mr. President, today I join my distinguished colleague from Kansas, Senator KASSEBAUM, to introduce legislation to repeal the so-called Wright amendment. Senator KASSEBAUM and I have been working to repeal this anti-competitive regulation which restricts commercial airline flights to and from Dallas Love Field. Make no doubt about it, the time to act is now.

Last year's U.S. Supreme Court decision which let the Wright amendment stand makes the legislation we are introducing all the more important. I stated at the time the decision was issued that I would continue to work to ground the Wright amendment and protect air travelers from getting gouged and now the only relief for the traveling public is through this legislation we are offering today.

The Wright amendment was originally introduced to protect the fledgling Dallas-Forth Worth [DWF] International airport. This airport is now one of the busiest airports in the Nation. Dallas is the top destination for passengers flying from Wichita, and there is no reason they should not have the option of flying into Love Field or Dallas-Forth Worth airports. This regulation not only places restrictions on passengers from Kansas, but from 44 States across the Nation. In my view, the DWF airport no longer needs protection, and it is time to lift the restrictions on Love Field.

The restrictions placed on flights from Love Field 15 years ago deny affordable air transportation to citizens of my State and States throughout a vast portion of our country which do not fall into the limitations of the Wright amendment. The restrictions make it impossible to fly directly into Love Field except for those flights originating within Texas and States neighboring Texas. Not only is it impossible to take a direct flight, but if you are flying into Love Field, a passenger is required to purchase separate tickets, reclaim baggage, and change planes in these neighboring States. Let's assume this passenger is traveling from Wichita. At Oklahoma City, the passenger, having used the first ticket must change aircraft. And not just that, the passenger must take physical possession of all checked baggage, haul the baggage back to the ticket counter and recheck the baggage for the flight into Love Field.

A 1992 U.S. Department of Transportation study reported that these restrictions cost air travelers $183 million a year in higher air fares. That's why Kansans have been demanding the repeal of the so-called Wright amendment—they're tired of higher air fares, reduced travel options, and a distinct second-class status for Kansas air travelers.

Not only are Kansans inconvenienced, but Texans as well. I have a letter from a Texan who has to fly to the connecting airport in another State to assist her mother in a wheelchair who must ''change planes, meet her there, transfer her luggage, and recheck her onto another flight.'' I would like to

enter her letter of concern in the RECORD.

The Wright amendment is a burden for Kansas consumers and a barrier to economic development. It's high time we grounded the Wright amendment.

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

NOVEMBER 29, 1994.

Re: Wright amendment—its repeal.

Hon. ROBERT DOLE.

U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I agree with you 100 percent—the Wright Amendment restricting the use of Love Field in Dallas, Texas, is wrong, wrong, wrong!

I believe the amendment needs to be challenged in terms of the Americans Disability Act. It is my understanding that the purpose of this act is to give better access to public places to people with a disability. I feel this right is being severely restricted by the Wright Amendment. It is almost impossible for a person with a walker, wheelchair, crutches, etc. to disembark from a Southwest flight, get to baggage claim, pick up their luggage, and get rechecked at another gate, without considerable inconvenience, pain, and discomfort. Have you ever tried to carry luggage and manipulate a wheelchair, crutches, or the like? This is certainly not granting better access.

My mother is 82 years old and was faced with that very problem. She is in a wheelchair and was unable to accomplish all of the above. The fares were prohibitive for her to fly with another airline. I had to fly to the airport where she had to change planes, meet her there, transfer her luggage, and recheck her onto another flight. It seems to me that the Wright Amendment unfairly discriminates against the elderly and people with a handicap.

I think on these grounds the Wright Amendment should be challenged and eliminated. I would be more than happy to work with you or any other group that is interested in pursuing this course of action. Repeal of the Wright Amendment is becoming a mission in my life.

Sincerely,

PAULETTE B. COOPER.

DALLAS, TX.

P.S. I noticed recently that Continental Airline is being given access to several gates at Love Field. Will the Wright Amendment affect them in the same ways that it affects Southwest Airlines? If not, why not?

By Mrs. KASSEBAUM.

S. 323. A bill to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes; to the Committee on Labor and Human Resources.

THE NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL REPEAL ACT OF 1995

• Mrs. Kassebaum. Mr. President, I introduce legislation to eliminate the National Education Standards and Improvement Council [NESIC]. NESIC was created by the Goals 2000: Education America Act signed into law last year for the purpose of reviewing and certifying voluntary national education standards.

The recent controversy over proposed standards in the field of history underscore the difficulties with any Federal involvement in the standard-setting process. No matter how much one might emphasize the voluntary nature of any standards, the perception remains that the Federal Government is prescribing a uniform curriculum for our Nation's students.

Writing recently about the history standards, University of Chicago history professor Hanna Holborn Gray observed:

> The trouble with the ''national standards'' is not that they are far-out, or radically revisionist, or aimed at brainwashing the impressionable young. * * * No, the real trouble with the national standards, is that they exist at all—or exist under that title and under quasi-official auspices and with some kind of ''certification'' in the offing.

As one who believes strongly that the strength of our education system lies in its local base and community commitment, I do not believe it is appropriate to expand Federal involvement into areas traditionally handled by States and localities. For this reason, I was troubled when we first started down the path of providing Federal funding for the development of national standards—an action which predated the enactment of the Goals 2000 legislation.

One reason I opposed the Goals 2000 legislation is that it took Federal activities in this area yet another step further by including an authorization for a national council—NESIC—to review and certify the national standards. The existence of such a council only serves to sow further confusion regarding whether the standards are truly voluntary.

As has been repeatedly emphasized in various congressional debates on this subject, there is no Federal law which requires that these standards be adopted or used by any State or school district. Although standards in various subject areas have been developed with the support of Federal funds, they have been designed by professionals in the field, not by Federal employees as some may think. However, there is still great confusion and serious concern by the public about the nature of the Government's involvement in this whole endeavor.

I believe it is time to clear up some of this public confusion and concern. My bill will help do that by getting the Federal Government out of the loop in an area which I believe is best handled by States and localities. Most of our States are already developing standards with the input of their own teachers and parents. Those States clearly do not need to have a Federal seal of approval to validate their efforts.

I urge my colleagues to join me in this effort. Mr. President, I ask unanimous consent that the text of my bill and a summary of its provisions be included in the RECORD.

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

S. 323

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

SECTION 1. ELIMINATION OF THE NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.

(a) AMENDMENT.—Part B of title II of the Goals 2000: Educate America Act (20 U.S.C. 5841 et seq.) is amended to read as follows:

''PART B—NATIONAL STANDARDS

''SEC. 211. PROHIBITION OF FEDERAL FUNDING FOR THE DEVELOPMENT OF NATIONAL STANDARDS.

''No Federal agency shall expend Federal funds for the development or dissemination of model or national content standards, national student performance standards, or national opportunity-to-learn standards.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on January 1, 1995.

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GOALS 2000: EDUCATE AMERICA ACT.—

(1) The table of contents for the Goals 2000: Educate America Act is amended, in the items relating to title II, by striking the items relating to part B of such title and inserting the following:

''PART B—NATIONAL STANDARDS

''Sec. 211. Prohibition of Federal funding for the development of national standards.''.

(2) Section 3(a)(7) of such Act (20 U.S.C. 5802(a)(7)) is amended by striking ''voluntary national content standards or''.

(3) Section 201 of such Act (20 U.S.C. 5821) is amended—

(A) in paragraph (1), by inserting ''and'' after the semicolon;

(B) in paragraph (2), by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3).

(4) Section 203(a) of such Act (20 U.S.C. 5823(a)) is amended—

(A) by striking paragraphs (3) and (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.

(5) Section 204(a) of such Act (20 U.S.C. 5824(a)) is amended—

(A) by striking all beginning with ''(a) HEARINGS.—'' through ''shall, for'' and inserting ''(a) HEARINGS.—The Goals Panel shall, for''; and

(B) by striking paragraph (2).

(6) Section 241 of such Act (20 U.S.C. 5871) is amended—

(A) in subsection (a), by striking ''(a) NATIONAL EDUCATION GOALS PANEL.—''; and

(B) by striking subsections (b) through (d).

(7) Section 304(a)(2) of such Act (20 U.S.C. 5884(a)(2)) is amended—

(A) in subparagraph (A), by adding ''and'' after the semicolon;

(B) in subparagraph (B), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (C).

(8) Section 308(b)(2)(A) of such Act (20 U.S.C. 5888(b)(2)(A)) is amended by striking ''including'' and all that follows through ''of title II;'' and inserting ''including through consortia of States;''.

(9) Section 312(b) (20 U.S.C. 5892(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(10) Section 314(a)(6) of such Act (20 U.S.C. 5894(a)(6)) is amended by striking '', if—'' and all that follows through ''populations''.

(11) Section 315 of such Act (20 U.S.C. 5895) is amended—

(A) in subsection (b)—

(i) by striking paragraph (2);

(ii) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(iii) in paragraph (1)(A), by striking ''paragraph (4) of this subsection'' and inserting ''paragraph (3)'';

(iv) in subparagraph (B) of paragraph (2) (as redesignated by clause (ii)), by striking ''and the voluntary national content'' and all that follows through ''differences'';

(v) in subparagraph (B) of paragraph (3) (as redesignated by clause (ii)), by striking ''paragraph (5),'' and inserting ''paragraph (4),''; and

(vi) in paragraph (4) (as redesignated by clause (ii)), by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (3)'';

(B) in the matter preceding subparagraph (A) of subsection (c)(2), by striking ''subsection (b)(4)'' and inserting ''subsection (b)(3)''; and

(C) in subsection (f), by striking ''subsection (b)(4)'' each place it appears and inserting ''subsection (b)(3)''.

(12) Section 316 of such Act (20 U.S.C. 5896) is repealed.

(13) Section 503 of such Act (20 U.S.C. 5933) is amended—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking ''28'' and inserting ''27'';

(II) by striking subparagraph (D); and

(III) by redesignating subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively;

(ii) in paragraphs (2), (3), and (5), by striking ''subparagraphs (E), (F), and (G)'' each place it appears and inserting ''subparagraphs (D), (E), and (F)'';

(iii) in paragraph (2), by striking ''subparagraph (G)'' and inserting ''subparagraph (F)'';

(iv) in paragraph (4), by striking ''(C), and (D)'' and inserting ''and (C)''; and

(v) in the matter preceding subparagraph (A) of paragraph (5), by striking ''subparagraph (E), (F), or (G)'' and inserting ''subparagraph (D), (E), or (F)''; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking ''subparagraph (E)'' and inserting ''subparagraph (D)''; and

(ii) in paragraph (2), by striking ''subparagraphs (E), (F), and (G)'' and inserting ''subparagraphs (D), (E), and (F)''.

(14) Section 504 of such Act (20 U.S.C. 5934) is amended—

(A) by striking subsection (f); and

(B) by redesignating subsection (g) as subsection (f).

(b) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) Section 2102(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6622(c) is amended—

(A) in paragraph (6), by striking ''including information on voluntary national content standards and voluntary national student performance standards''; and

(B) in paragraph (7)—

(i) by striking ''voluntary national content standards,''; and

(ii) by striking '', voluntary national student performance standards''.

(2) Section 2402(3)(A) of such Act (20 U.S.C. 6702(3)(A)) is amended by striking '', challenging State student performance'' and all that follows through the semicolon and inserting ''or challenging State student performance standards;''.

(3) Section 3151(b)(5)(H) of such Act (20 U.S.C. 6871(b)(5)(H)) is amended by striking ''the voluntary national content standards, the voluntary national student performance standards and''.

(4) Section 3206(b)(12) of such Act (20 U.S.C. 6896(b)(12) is amended—

(A) in subparagraph (H), by inserting ''and'' after the semicolon;

(B) by striking subparagraph (I); and

(C) by redesignating subparagraph (J) as subparagraph (I).

(5) Section 7136 of such Act (20 U.S.C. 7456) is amended by striking ''and which are consistent with voluntary national content standards and challenging State content standards''.

(6) Section 10963(b)(5)(B) of such Act (20 U.S.C. 8283(b)(5)(B)) is amended by striking ''or to bring teachers up to national voluntary standards''.

(7) Section 14701(b)(1)(B)(v) of such Act (20 U.S.C. 8941(b)(1)(B)(v)) is amended by striking ''the National Education Goals Panel,'' and all that follows through ''assessments)'' and inserting ''and the National Education Goals Panel''.

(c) GENERAL EDUCATION PROVISIONS ACT.—Section 428 of the General Education Provisions Act (20 U.S.C. 1228b), as amended by section 237 of the Improving America's Schools Act of 1994 (Public Law 103–382) is amended by striking ''the National Education Standards and Improvement Council,''.

(d) EDUCATION AMENDMENTS OF 1978.—

(1) Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001), as amended by section 381 of the Improving America's Schools Act of 1994 (Public Law 103–382) is amended—

(A) by striking subsection (b);

(B) by redesignating subsections (c) through (l) as subsections (b) through (k), respectively;

(C) in subsection (b) (as redesignated by subparagraph (B))—

(i) in paragraph (1), by striking ''and the findings of the studies and surveys described in subsection (b)''; and

(ii) in paragraph (2), by striking ''subsection (f)'' and inserting ''subsection (e)'';

(D) in subsection (c) (as redesignated by subparagraph (B)), by striking ''subsection (c)'' and inserting ''subsection (b)'';

(E) in subsection (d) (as redesignated by subparagraph (B)), by striking ''subsection (c) and (d)'' and inserting ''subsections (b) and (c)'';

(F) in paragraph (1) of subsection (e) (as redesignated by subparagraph (B)), by striking ''subsections (c) and (d)'' each place it appears and inserting ''subsections (b) and (c)''; and

(G) in subsection (f) (as redesignated by subparagraph (B)), by striking ''subsections (e) and (f)'' and inserting ''subsections (d) and (e)''.

(2) Section 1122(d)(1) of such Act (25 U.S.C. 2002(d)(1)) is amended—

(A) by striking ''section 1121(c)'' and inserting ''section 1121(b)''; and

(B) by striking ''section 1121(e)'' and inserting ''section 1121(d)''.

(3) Section 1130 of such Act (25 U.S.C. 2010) is amended—

(A) in subparagraph (B) of subsection (a)(4), by striking ''section 1121(h)'' and inserting ''section 1121(g)''; and

(B) in the matter preceding subparagraph (A) of subsection (f)(1), by striking ''section 1121(k)'' and inserting ''section 1121(j)''.

(4) Section 1137(a)(3) of such Act (25 U.S.C. 2017(a)(3)) is amended by striking ''sections 1121(g)'' and inserting ''sections 1121(f)''.

SUMMARY OF S. 323

The bill:

(1) Eliminates all of Part B of Title II of the Goals 2000: Educate America Act, which includes the authority for the establishment of the National Education Standards and Improvement Council (NESIC).

(2) Eliminates the National Education Goals Panel's federal authority to approve or endorse voluntary national standards.

(3) Prohibits the federal government from funding the development of model or national content, student performance, or opportunity-to-learn standards.

(4) Contains numerous conforming amendments to the Goals 2000: Educate America Act, the Elementary and Secondary Education Act of 1965, and the Education Amendments of 1978.●

By Mr. WARNER (for himself, Mr. COCHRAN, Mr. THOMAS, and Mr. SIMPSON):

S. 324. A bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes; to the Committee on Labor and Human Resources.

THE VOLUNTEER FIREFIGHTER AND RESCUE SQUAD WORKER ACT

● Mr. WARNER. Mr. President, I rise today to introduce legislation to amend the Fair Labor Standards Act of 1938. This is a companion measure to legislation, H.R. 94, introduced in the House of Representatives by Virginia Congressman HERB BATEMAN.

My bill may be referred to as the Volunteer Firefighter and Rescue Squad Worker Act of 1994.

The purpose of the Volunteer Firefighter and Rescue Squad Worker Act is to amend the Fair Labor Standards Act of 1938 to exclude from the definition of ''employee'' firefighters and rescue squad workers who perform volunteer services. In addition, it will prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and will allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services.

The need for this legislation stems from a 1993 U.S. Department of Labor ruling which found that a career firefighter cannot serve as a volunteer firefighter within the same county as they are employed. This ruling is commonly referred to as the Montgomery County, Maryland decision.

The Department of Labor's interpretation of the Fair Labor Standards Act in the Montgomery decision has promoted a great deal of concern from volunteer fire and rescue groups across the Nation, including Virginia. The decision was made to prevent counties—employers—from coercing career firefighters to work overtime without overtime compensation.

While protection from coercion is a worthy and necessary element of the Fair Labor Standards Act, the administrative decision offers a presumption of guilt on the part of law-abiding counties. In addition, it precludes men and women who wish to volunteer their services within their own community from doing so, if they reside in the same community as they are employed.

Finally, it represents yet another unfunded Federal mandate and an intrusion on the rights of citizens to decide for themselves what services local government should provide.

Historically, volunteer fire and rescue services have played an important role in our communities. These men and women are private citizens who selflessly answer the call to duty, day and night, to protect the lives and property of others.

In many parts of Virginia today, indeed in many parts of the Nation still, the difference between life and death in the ''golden hour'' is the initial emergency medical services provided by volunteer rescue workers. Many localities are a good 45 minutes to an hour away from the nearest hospital and the aid administered by volunteers is critical to the survival of victims.

The volunteer fire departments and rescue squads provide fire and emergency medical services [EMS] for 82 percent of all fire and EMS services in Virginia. Of the 602 fire departments in the Commonwealth of Virginia, 67 are combined career and volunteer departments and 535 are strictly volunteer departments. These statistics only begin to tell about the important role that the 20,000 volunteer firefighters in Virginia play in our daily lives.

Mr. President, the intent of my legislation is quite simply to help to preserve the spirit of volunteerism in our communities and to assist our volunteer fire and rescue workers in their mission to provide vital lifesaving and property protection services.

Many of our valiant career firefighters come from the ranks of the volunteers and received their initial training from those departments. In turn, many career firefighters have volunteered their service and expertise to the volunteer departments. I believe that my legislation will help to preserve this unique relationship.

For the benefit of my colleagues, I would briefly like to outline what my legislation would do.

Section one simply cites the legislation as the Volunteer Firefighter and Rescue Squad Worker Act.

Section two would exempt career firefighters and rescue squad workers who volunteer their off-duty services at locations—fire companies—where they are not employed during the course of normal duty hours from the Fair Labor Standards overtime provisions.

Section three would allow career firefighters and rescue squad workers to waive their claim to overtime compensation.

Section four would prohibit employers from directly or indirectly requiring firefighters or rescue squad workers to volunteer their services during any period in which they would otherwise be entitled to receive overtime compensation.

Mr. President, I urge my fellow Senators, particularly members of the Congressional Fire Caucus, to join me in support of this important measure.●

By Mr. THOMAS:

S. 325. A bill to make certain technical corrections in laws relating to native Americans, and for other purposes; to the Committee on Indian Affairs.

INDIAN STATUTE AMENDMENTS

Mr. THOMAS. Mr. President, I rise today as a member of the Committee on Indian Affairs—and a former ranking member of the House Subcommittee on Native American Affairs—to introduce legislation to make certain technical amendments to laws relating to native Americans.

Congress typically considers legislation like this once or twice a year. It affords us the opportunity to address a series of technical corrections or minor amendments to Indian bills in one fell swoop, without having to introduce several separate bills.

Sections 1 and 2 deal with two bills that were passed last year which extended Federal recognition to three Indian groups in Michigan: the Pokagon Band of Potawatomi, and the Little Traverse Bay Bands of Odawa Indians, and the Little River Band of Ottawa Indians. The bills, passed in September, failed to include a usual provision requiring the newly recognized groups to submit membership rolls to the Bureau of Indian Affairs. These rolls are important because they allow the BIA to know exactly who is a member of the band and thus entitled to Federal benefits available to members of recognized tribes.

To correct this oversight, in October—as part of another technical corrections bill—we amended both the September bills to include the membership roll requirements. Unfortunately, in the crush of legislation of the final days of the session, the two amendments were transposed. The Pokagon bill, which deals with only one band, was amended in the plural; concomitantly, the Odawa/Ottawa bill, which deals with several bands, had an amendment worded in the singular. This bill would simply retranspose the October amendments.

Section 3 of the bill repeals the Trading With the Indians Act. Enacted in the early 1800's, the act prohibits Federal employees from trading with Indians. At the time, the act was seen as a way to protect the unsophisticated tribes from unscrupulous War Department employees who might have used their positions over the tribes to enter into business deals with them on terms less than advantageous to the Indians.

Today, though, the act has become both an anachronism and a nuisance. Not only are the tribes no longer in need of the paternalistic protections the act affords; but it makes criminal such simple everyday acts as the sale of a used car by the wife of a BIA employee to an Indian neighbor. Both the Department of Justice and the Department of the Interior agree that the act is unnecessary, and should be repealed. My good friends Senators MCCAIN and KYL worked diligently on this issue in the last Congress, but time constraints prevented its passage by both Houses before adjournment sine die.

Mr. President, I look forward to working closely with my chairman, Senator MCCAIN, in securing swift passage of this legislation.

By Mr. HATFIELD (for himself, Mr. DORGAN, Mr. FEINGOLD, Mr. BUMPERS, and Mr. HARKIN):

S. 326. A bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the U.N. Registrar of Conventional Arms; to the Committee on Foreign Relations.

CODE OF CONDUCT ON ARMS TRANSFERS

● Mr. HATFIELD. Mr. President, a little more than a year ago I was approached by citizens who share my concern about conventional weapons transfers. They told me of an international effort to curb the arms trade by limiting transfers only to nations which adhere to principles of human rights, democracy, and peace. This initiative, called the Code of Conduct, appeared to be a common-sense approach to decisions regarding weapons transfers and I agreed to introduce it as legislation in the Senate.

Last year on this day Congresswoman CYNTHIA MCKINNEY and I held a press conference to announce our intent to push the Code of Conduct through Congress. Both of us have spent a great deal of time over these past months promoting the bill and contributing to the public's education about the glut of conventional weapons. It is with great pleasure that I reintroduce this bill today and that I am again joined by Representative MCKINNEY, who is introducing its companion in the House of Representatives.

The legislation alters U.S. arms transfer policy by significantly increasing the conditions upon which a nation may receive U.S.-built weapons. By stating as a basic requirement that U.S. arms should not go to nations which have poor human rights records, are undemocratic or are engaged in illegal acts of war, our policy allows arms transfers only to nations which are unlikely to emerge as security threats to their neighbors or to the United States themselves.

I have spoken to groups around the country about this bill and the response has been very strong. Americans agree that no arms should go to dictators. Many citizens are beginning to question why millions of their tax dollars are going to subsidize weapons manufacturers who seek to export fighter jets, tanks, and other armaments. And many individuals have shared with me their concern that we will have repeats of Panama, Somalia, Iraq, and Haiti, where United States

troops faced weapons either paid for or provided by our own Government.

Despite the fact that the safety of our troops has been threatened by arms exports, the administration seems intent upon broadening the justification for arms sales approval to also include considerations of U.S. economic interests. In other words, the administration wants to allow jobs to dictate whether or not lethal weaponry should go to nations, many of which have poor human rights records and are not democratic.

The escalating global arsenal must be reduced and nonproliferation must start with the United States. I believe that the only hope for fundamental change in policy is Congress and I will ask the Senate to vote on the Code of Conduct this year because I believe it is time for Congress to assume a greater responsibility for our arms export policies. I hope that my colleagues will take time to review this proposal, join me as a cosponsor and support this bill when it comes to the floor.●

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. EXON, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. JOHNSTON, and Mr. KERREY):

S. 327. A bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home; to the Committee on Finance.

HOME OFFICE DEDUCTION ACT

Mr. HATCH. Mr. President, today I am proud to introduce the Home Office Deduction Act of 1995. I am joined today by my friends and colleagues, Senators BAUCUS, EXON, LIEBERMAN, GRASSLEY, JOHNSTON, and Senator KERREY of Nebraska. This bill will clarify the definition of what a ''principal place of business'' is for purposes of section 280A of the Internal Revenue Code, which allows a deduction for an office in the home. An identical bill has been introduced by Representative BILL ARCHER in the House as part of H.R. 9.

Last year, we introduced similar legislation that had 15 bipartisan cosponsors in the Senate. Also, the companion bill in the House, introduced last year by Representative Peter Hoagland, had the bipartisan support of 88 cosponsors.

This bill is designed to reverse the 1993 Supreme Court decision in Commissioner versus Soliman. When this decision was handed down, it effectively closed the door to legitimate home-office deductions for hundreds of thousands of taxpayers. Moreover, the decision unfairly penalizes many small businesses simply because they operate from a home rather than from a store front, office building, or industrial park.

Mr. President, until the Soliman decision, small business owners and professionals who dedicate a space in their homes to use for business activities were generally allowed to deduct the expenses of the home office if they met the following conditions: First, the space in the home was used solely and exclusively on a regular basis as an office; and second, the deduction claimed was not greater than the income earned by the business. Through the Soliman case, the Supreme Court has narrowed significantly the availability of this deduction by requiring that the home office be the principal business location of the taxpayer. This requirement that the home office be the principal business location has proven to be impossible to meet for many taxpayers with legitimate home-office expenses.

For example, under the Soliman decision, a self-employed plumber who generates business income by performing services in the homes of his customers would be denied a deduction for a home office. This is because, under the rules, his home office is not considered his principal place of business because the business income is generated in the homes of the customers and not in his home office. This is the case even though the home office is where he receives telephone messages, keeps his business records, plans his advertising, stores his tools and supplies, and fills out Federal tax forms. In fact, having a full-time employee in the office who keeps the books and sets up appointments would still not result in a home-office deduction for the plumber. This is preposterous, Mr. President, and we need to correct it. My bill would rectify this result by allowing the home office to qualify as the principal place of business if the essential administrative or management activities of the business are performed there.

The truly ironic effect of the Supreme Court's decision is that a taxpayer who rents office space outside the home is allowed a full deduction, but one who tries to economize by working at home is penalized. This makes no sense to me.

The Home Office Deduction Act of 1995 is designed to restore the deduction for home-office expenses to pre-Soliman law. Rather than requiring taxpayers to meet the new criteria set out by the Court, the bill allows a home office to meet the definition of a ''principal place of business'' if it is the location where the essential administrative or management activities are conducted on a regular and systematic basis by the taxpayer. To avoid possible abuses, the bill requires that the taxpayer have no other location for the performance of these essential administrative or management activities.

Mr. President, today's job market is rapidly changing. New technologies have been developed and continually improved that allow instant communication around the once expansive globe. There is even talk of virtual offices, which are equipped only with a telephone and a hookup for a portable computer. These mobile communications have revolutionized the definition of the traditional office. No longer is there a need to establish a business downtown. Employees are telecommunicating by facsimile, modem, and telephone. Today, both a husband and wife could work without leaving their home and the attention of their children. In this new age, redefining the deduction for home-office expenses is vital. Our tax policy should not discriminate against home businesses simply because a taxpayer makes the choice, often based on economic or family considerations, to operate out of the home.

In most cases, startup businesses are very short on cash. Yet, for many, ultimate success depends on the ability to hold out for just a few more months. In these situations, even a relatively small tax deduction for the expenses of the home office can make a critical difference. It is important to note that some of America's fastest growing and most dynamic companies originated in the spare bedroom or the garage of the founder. Our tax policies should support those who dare to take risks. Many of tomorrow's jobs will come from entrepreneurs who are struggling to survive in a home-based business.

Mr. President, the home-office deduction is targeted at these small business men and women, entrepreneurs, and independent contractors who have no other place besides the home to perform the essential administrative or management activities of the business. The Soliman decision drastically reduced the effectiveness and fairness of this deduction and must be reversed.

This legislation can also have an important effect on rural areas, such as in my home State of Utah. Many small business owners and professionals in rural areas must spend a great deal of time on the road, meeting clients, customers, or patients. It is likely that many of my rural constituents will be unable to meet the requirements for the home-office deduction under the Soliman decision. Mr. President, we must help these taxpayers, not hurt them, in their efforts to contribute to the economy and support their families.

The Home Office Deduction Act of 1995 not only has strong bipartisan support in the Congress, but also has the support of the following organizations: The American Institute of Certified Public Accountants, the National Federation of Independent Businesses, the Family Research Council, the Small Business Legislative Council, the National Association of the Self-Employed, the National Association of the Remodeling Industry, the National Association of Small Business Investment Cos., the Direct Selling Association, the Promotional Products Association International, the Illinois Women's Economic Development Summit, the Alliance of Independent Store Owners and Professionals, the American Veterinary Medical Association, the Bureau of Wholesale Sales Representatives, the National Association of Home Builders, the International Home

Furnishings Representatives Association, the National Association of Women Business Owners, Communicating for Agriculture, and the National Society of Public Accountants.

I urge my colleagues in the Senate to join us as a cosponsor of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 327

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 ''Home Office Deduction Act of 1995''.

SEC. 2. CLARIFICATION OF DEFINITION OF PRINCIPAL PLACE OF BUSINESS.

Subsection (f) of section 280A of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) PRINCIPAL PLACE OF BUSINESS.—For purposes of subsection (c), a home office shall in any case qualify as the principal place of business if—

''(A) the office is the location where the taxpayer's essential administrative or management activities are conducted on a regular and systematic (and not incidental) basis by the taxpayer, and

''(B) the office is necessary because the taxpayer has no other location for the performance of the essential administrative or management activities of the business.''

SEC. 3. TREATMENT OF STORAGE OF PRODUCT SAMPLES.

Paragraph (2) of section 280A(c) of the Internal Revenue Code of 1986 is amended by striking ''inventory'' and inserting ''inventory or product samples''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1991.

● Mr. LIERBERMAN, Mr. President, I am delighted to join in the introduction of this important bill to restore the home-office deduction. As an original cosponsor of this bill in the last Congress, I hope that we will succeed in passing this bill in the 104th Congress.

After being turned down by two tax courts, the IRS succeeded in narrowing the definition of the home-office deduction by taking their case to the Supreme Court. In essence, the early 1993 decision narrowed the home-office deduction test to businesses where income is generated in the home and to businesses where customers come to the home.

These new tests are flawed. They disallow the deduction for a whole host of legitimate home businesses. Take plumbers or house painters. Both plumbers and painters may run virtually all aspects of their businesses from the home but in the end they must travel to the customer. A plumber simply cannot insist that a bathtub be brought to the office. There is a clear and compelling reason for a house painter to make house calls.

Mr. President, this issue is of particular importance to my home State of Connecticut where laid-off workers are using severance packages to start businesses out of their homes, where underemployed workers are making ends meet through part-time home businesses. There are people I think of as forced entrepreneurs. They are people who have struck out on their own in such numbers that they appear to be showing up in labor statistics in my region of the country. To quote an October 1993 report by the New England Economic Project:

> Households have been reporting more buoyant employment conditions than establishments have. The number of New Englanders now indicating they are working is 2 percent higher than a year earlier. This upturn appears to reflect a rise in self-employment and the emergence of small young businesses that are not yet tabulated in the establishment survey. In other words, people may be adjusting to shrinking job opportunities at the region's traditional employers by becoming entrepreneurs.

Mr. President, these rules take us in the wrong direction. They ignore the trend toward home-based businesses by those who have lost traditional office jobs, they ignore those who are working second jobs to make ends meet, and they ignore those parents who choose to stay at home with the children while still earning a much-needed income.

In the past, there have undoubtedly been abuses of this deduction. I believe there has been cause to tighten these rules. But the solution to these abuses has clearly not been found. To exclude whole sectors of legitimate home-office businesses is hardly the answer to the problem of abuse of this deduction. I should also point out that in this economy, the last thing we should be doing is hurting legitimate businesses.

I encourage my colleagues to join me as a sponsor of this legislation.●

By Mr. FEINGOLD:

S. 330. A bill to amend the Agricultural Act of 1949 to require producers of an agricultural commodity for which an acreage limitation program is in effect to pay certain costs as a conditions of agricultural loans, purchases, and payment, and for other purposes.

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

S. 329. A bill to direct the Secretary of the Interior to submit a plan to Congress to achieve full and fair payment for Bureau of Reclamation water used for agricultural purposes, and for other purposes; to the Committee on Energy and Natural Resources.

WATER SUBSIDY LEGISLATION

● Mr. FEINGOLD. Mr. President, yesterday all Senate offices received a copy of a new report entitled ''Green Scissors,'' written by Friends of the Earth and the National Taxpayers Union and supported by 23 other environmental and consumer groups. The premise of the report is that there are a number of subsidies and projects, totalling $33 billion in all, that could be cut to both reduce the deficit and benefit the environment. This report coalesces what I and many others in the Senate have long known, we must be diligent in eliminating practices that can no longer be justified in light of our enormous annual deficit and national debt.

I am pleased today to reintroduce two related pieces of legislation that I introduced in the 103d Congress aimed at reducing water subsidies that cost the Federal taxpayers millions of dollars each year. This legislation was profiled in the ''Green Scissors'' report, and the high cost of these subsidies was highlighted in yesterday's Washington Post, New York Times, and USA Today. These are part of a series of subsidy reducing measures that I will propose in the 104th Congress. The first bill, amends the Agricultural Act of 1949 to require agricultural producers that grow a crop for which an acreage limitation program is in effect to pay the full cost of water provided by the Federal Government. The second bill requires the Secretary of the Interior to submit a plan to Congress to continue these savings by highlighting ways to eliminate water subsidies for agricultural producers growing crops that do not fall under the commodity program.

Mr. President, the first bill eliminates multiple subsidies codified in our Federal law which provides dual payments to agricultural producers—one as a direct payment to limit production of certain surplus crops and the other as a discount, undercharging for federally subsidized water to produce these crops. Its premise is simple. If an agricultural producer is receiving Federal payments under a Federal acreage limitation program—payments designed to discourage production of a particular crop—that producer is not eligible to receive below-cost water from the Federal Government to produce the crop which the Federal Government is paying the producer not to grow. In other words, the Federal taxpayers should not be asked on the one hand to provide payments to discourage production of a crop while at the same time paying for the delivery of below-cost water for that same crop.

It has been estimated that the cost of providing below-cost water to agriculture producers in the acreage limitation program costs the Federal Government between $66 and $830 million each year. The Department of Agriculture pays farmers approximately $500 million not to grow these same crops. Mr. President, these double payments cannot continue. Elimination of western water subsidies, and a wide range of reclamation subsidies, should be pursued as legitimate deficit reduction opportunities. It is clear that the conflicting policies of the Federal Government in this area are examples of Federal waste and abuse.

The second bill, Mr. President, creates an institutional obligation to review agricultural water subsidy practices, and provides Congress with important information necessary to proceeding along a path of reducing burdens on the Federal budget. I am proud to be joined by my colleague from Wisconsin, Senator KOHL, introducing this measure. The Bureau of Reclamation will be required to develop a plan for charging accurate water prices no later than September 1995 and to report that plan to Congress. At that time I will ask my colleagues to think aggressively about new legislative changes that may be needed to bring market prices to irrigation water provided by the Federal Government.

In conclusion, Mr. President, I am pleased that these bills will be among the first of major efforts by this Senate to seek opportunities to reduce the deficit by reforming subsidy practices. I will continue to remain committed to that goal. I ask unanimous consent that the text of the bills be printed in the RECORD.

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

S. 329

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

SECTION 1. WATER RECLAMATION PROJECTS.

(a) IN GENERAL.—The Secretary of the Interior shall develop a plan for charging the recipient of water from a water reclamation project conducted by the Bureau of Reclamation the full and fair value of water received that is used for agricultural purposes.

(b) REPORT.—Not later than September 1, 1995, the Secretary of the Interior shall transmit the plan developed under subsection (a) to Congress.

S. 330

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 ''Agricultural Irrigation and Deficit Reduction Act of 1995''.

SEC. 2. PAYMENT OF CERTAIN COSTS UNDER ACREAGE LIMITATION PROGRAMS.

Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended by adding at the end the following new section:

''SEC. 116. PAYMENT OF CERTAIN COSTS UNDER ACREAGE LIMITATION PROGRAMS.

''(a) IN GENERAL.—If an acreage limitation program is announced for a crop of a commodity under this title, as a condition of eligibility for loans, purchases, and payments for the crop under this title, the producers on a farm shall pay to the Secretary of the Interior an amount that is equal to the full cost incurred by the Federal Government of the delivery to the farm of water that is used in the production of the crop, as determined by the Secretary of the Interior.

''(b) APPLICATION.—

''(1) IN GENERAL.—Subsection (a) shall not apply to the delivery of water pursuant to a contract that is entered into before January 1, 1996, under any provision of Federal reclamation law.

''(2) RENEWAL OR AMENDMENT.—If a contract described in paragraph (1) is renewed or amended on or after January 1, 1996, subsection (a) shall apply to the delivery of water beginning on the date of renewal or amendment.''.●

By Mr. KOHL:

S. 331. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

FAMILY FARM RETIREMENT EQUITY ACT

● Mr. KOHL. Mr. President, I rise today to introduce the Family Farm Retirement Equity Act of 1995, a bill to help improve the security of our Nation's retired farmers.

As we begin the 104th Congress, we can anticipate legislative action dealing with the tax treatment of retirement savings. President Clinton has laid out his proposals for changes in tax rules on savings, and the Republicans have made their proposed changes to the individual retirement account rules, as well; 1995 will also be the year that Congress reauthorizes the farm bill. This heightened attention to both retirement taxation issues and farm income issues affords this Congress the perfect opportunity to address an issue of great importance to rural America: farmer retirement.

Farming is a highly capital-intensive business. To the extent that the average farmer reaps any profits from his or her farming operation, much of that income is directly reinvested into the farm. Rarely are there opportunities for farmers to put money aside in individual retirement accounts. Instead, farmers tend to rely on the sale of their accumulated capital assets, such as real estate, livestock, and machinery, in order to provide the income to sustain them during retirement. All too often, farmers are finding that the lump-sum payments of capital gains taxes levied on those assets leave little for retirement. It is with that problem in mind that I am introducing the Family Farm Retirement Equity Act.

This legislation would provide retiring farmers the opportunity to rollover the proceeds from the sale of their farms into a tax-deferred retirement account. Instead of paying a large lump-sum capital gains tax at the point of sale, the income from the sale of a farm would be taxed only as it is withdrawn from the retirement account. Such a change in method of taxation would help prevent the financial distress that many farmers now face upon retirement.

Another concern that I have about rural America is the diminishing interest of our younger rural citizens in continuing in farming. Because this legislation will facilitate the transition of our older farmers into a successful retirement, the Family Farm Retirement Equity Act will also pave the way for a more graceful transition of our younger farmers toward farm ownership. While low prices and low profits in farming will continue to take their toll on our younger farmers, I believe that this will be one tool we can use to make farming more viable for the next generation.

This proposal is supported by farmers throughout the country, and I am proud to introduce this legislation.

I ask unanimous consent that the full text of the bill be included in the RECORD.

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

S. 331

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

SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Family Farm Retirement Equity Act of 1995''.

(b) REFERENCE TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

''SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

''(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

''(b) ASSET ROLLOVER ACCOUNT.—

''(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

''(c) CONTRIBUTION RULES.—

''(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

''(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

''(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

''(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

''(3) ANNUAL CONTRIBUTION LIMITATIONS.—

''(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed the lesser of—

''(i) the qualified net farm gain for the taxable year, or

''(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

''(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

''(4) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

''(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

''(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

''(A) the net capital gain of the taxpayer for the taxable year, or

''(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

''(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

''(3) QUALIFIED FARMER.—

''(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

''(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

''(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

''(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

''(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

''(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

''(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

''(1) IN GENERAL.—Any individual who—

''(A) makes a contribution to any asset rollover account for any taxable year, or

''(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

''(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

''(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).''.

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) of the Internal Revenue Code of 1986 (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.''.

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

''(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) of such Code is amended by striking ''or'' and inserting ''an asset rollover account (within the meaning of section 1034A), or''.

(B) The heading for section 4973 of such Code is amended by inserting ''**ASSET ROLLOVER ACCOUNTS**,'' after ''**CONTRACTS**''.

(C) The table of sections for chapter 43 of such Code is amended by inserting ''asset rollover accounts,'' after ''contracts'' in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) of the Internal Revenue Code of 1986 (defining individual retirement account) is amended by inserting ''or a qualified contribution under section 1034A,'' before ''no contribution''.

(2) Subparagraph (A) of section 408(d)(5) of such Code is amended by inserting ''or qualified contributions under section 1034A'' after ''rollover contributions''.

(3)(A) Subparagraph (A) of section 6693(b)(1) of such Code is amended by inserting ''or 1034A(f)(1)'' after ''408(o)(4)''.

(B) Section 6693(b)(2) of such Code is amended by inserting ''or 1034A(f)(1)'' after ''408(o)(4)''.

(4) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1034 the following new item:

''Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.●

ADDITIONAL COSPONSORS

S. 14

At the request of Mr. EXON, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 14, a bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed cancellations of budget items.

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 73

At the request of Mr. INOUYE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 73, a bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary stores and post and base exchanges.

S. 228

At the request of Mr. BRYAN, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 228, a bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress and congressional employees for retirement purposes.

S. 230

At the request of Mr. DOLE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 230, a bill to prohibit U.S. assistance to countries that prohibit or restrict the transport or delivery of U.S. humanitarian assistance.

S. 233

At the request of Mr. MCCAIN, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 233, a bill to provide for the termination of reporting requirements of certain executive reports submitted to the Congress, and for other purposes.

S. 240

At the request of Mr. DOMENICI, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

S. 245

At the request of Mr. COHEN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 245, a bill to provide for enhanced penalties for health care fraud, and for other purposes.

S. 270

At the request of Mr. SMITH, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 270, a bill to provide special procedures for the removal of alien terrorists.

S. 287

At the request of Mrs. HUTCHISON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 296

At the request of Mr. KENNEDY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 296, a bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes.

SENATE JOINT RESOLUTION 16

At the request of Mr. BROWN, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of Senate Joint Resolution 16, a joint resolution proposing an amendment to the Constitution of the United States to grant the President line-item veto authority.

SENATE JOINT RESOLUTION 17

At the request of Mr. KEMPTHORNE, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of Senate Joint Resolution 17, a joint resolution naming the CVN–76 aircraft carrier as the U.S.S. *Ronald Reagan*.

SENATE JOINT RESOLUTION 19

At the request of Mr. BROWN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Joint Resolution 19, a joint resolution proposing an amendment to the Constitution of the United States relative to limiting congressional terms.

SENATE JOINT RESOLUTION 25

At the request of Mr. KENNEDY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 25, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

SENATE RESOLUTION 37

At the request of Mr. DORGAN, his name was added as a cosponsor of Senate Resolution 37, a resolution designating February 2, 1995, and February 1, 1996, as ''National Women and Girls in Sports Day.''

SENATE RESOLUTION 75—TO DESIGNATE OCTOBER 1996 AS ''ROOSEVELT HISTORY MONTH''

Mr. MOYNIHAN (for himself, Mr. D'AMATO, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 75

Whereas January 30, 1995, is the 113th anniversary of the birth of President Franklin Delano Roosevelt in Hyde Park, New York;

Whereas almost a half-century after the death of President Roosevelt, his legacy remains central to the public life of the Nation;

Whereas before becoming President of the United States, Franklin Delano Roosevelt served in the New York State Senate and later was appointed Assistant Secretary of the Navy, and in 1928 became Governor of New York;

Whereas as President of the United States between 1933 and 1945, Franklin Delano Roosevelt guided the Nation through 2 of the greatest crises of the twentieth century, the Great Depression and the Second World War, and in so doing, changed the course of American politics;

Whereas a memorial in stone in the District of Columbia will soon be dedicated to his memory, as authorized by Congress in 1955; and

Whereas a month commemorating the history of Franklin Delano Roosevelt would complement the dedication of the memorial: Now, therefore, be it

Resolved, That October, 1996, should be designated ''Roosevelt History Month''. The President is requested to issue a proclamation calling on the people of the United States to observe the month with appropriate ceremonies and activities.

Mr. MOYNIHAN. Mr. President, I rise to submit a resolution designating October 1996 as ''Roosevelt History Month,'' to coincide with the dedication of the new Franklin Delano Roosevelt Memorial now being built in the District of Columbia. A national history month celebrating the achievements of Franklin and Eleanor Roosevelt is an appropriate and necessary complement to the new memorial.

Franklin Delano Roosevelt was born on January 30, 1882, in Hyde Park, NY, and entered politics in 1910 with his election to the New York State Senate. Later, he was appointed Assistant Secretary of the Navy and then sought and lost a bid for a seat in the U.S. Senate. Despite a debilitating attack of polio, he went on to become Governor of New York in 1928, establishing New York's first program of unemployment relief.

As President of the United States from 1933 to 1945, Franklin Delano Roosevelt guided this Nation through two of the gravest crises of the 20th century, the Great Depression and the Second World War. In so doing, he defined our national stature and secured his place as one of the greatest American Presidents of the 20th century.

It is therefore fitting that our country honor his efforts, and those of his wife, with a celebration of Roosevelt History Month. Citizens and organizations across the Nation may observe the month with appropriate ceremonies and activities to learn about a President and a generation who gave much to the Nation. Soon, a new granite memorial will be dedicated to President Roosevelt. I rise today and urge my colleagues to join me in dedicating a month to his legacy, a memorial of thought and history to complement the one of stone.

SENATE RESOLUTION 76—RELATIVE TO THE SELECT COMMITTEE ON ETHICS

Mr. HELMS submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 76

Resolved, That (a) subsection (a) of the first section of Senate Resolution 338, agreed to July 23, 1964 (88th Congress, 2d session), is amended to read as follows: ''(a)(1) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to in this resolution as the 'Select Committee') consisting of 6 members all of whom shall be private citizens. Three members of the Select Committee shall be selected by the Majority Leader and 3 shall be selected by the Minority Leader. Each member of the Select Committee shall serve 6 years except that the Majority Leader and the Minority Leader when making their initial appointments shall each designate 1 member to serve only 2 years and 1 member to serve only 4 years. At least 2 members of the Select Committee shall be retired Federal judges, and at least 2 members of the Select Committee shall be former members of the Senate. Members of the Select Committee may be reappointed.

''(2) The Select Committee shall select a chairman and a vice chairman from among its members.

''(3) Members of the Select Committee shall serve without compensation but shall be entitled to travel and per diem expenses in accordance with the rules and regulations of the Senate.''.

(b) Subsection (e) of the first section of Senate Resolution 338 (as referred to in subsection (a)) is repealed.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, February 1, 1995, at 9:30 a.m., in SR–332, to mark up S. 178, the Commodity Futures Trading Commission Reauthorization.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, February 1, 1995, at 10 a.m. for an organizational meeting and markup on S. 244, the Paperwork Reduction Act.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. HATCH. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold an organizational meeting for the 104th Congress. The meeting will be held on February 1, 1995, at 10 a.m., in room 418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution, Federalism, and Property Rights, of the Committee on the Judiciary, be authorized to hold a business meeting during the session of the Senate on Wednesday, February 1, 1995, to consider Senate Joint Resolution 19 and Senate Joint Resolution 21.

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

ADDITIONAL STATEMENTS

TRIBUTE TO IONE DUKE

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to an outstanding Kentuckian. Ms. Ione Duke of Morgantown, KY, gives fully and wholeheartedly of herself to her church

and community. She deserves to be recognized for her many contributions as she turns 90 years young.

Ms. Duke joined the Methodist Episcopal Church in 1915. For the past 79 years Ms. Duke has devoted much of her time to religious service throughout western Kentucky. Among her accomplishments are serving as the first president of the Local Missionary Society and Organization, her appointment by the Bowling Green district as the Rural Woman of Kentucky, and presiding as the church choir director and pianist from her youth until 1980.

Ms. Duke's musical talent allowed her to pursue a career in teaching public school music and directing high school choir in several schools throughout Butler County. Ms. Duke has also directed countywide cantatas that encompassed a group of singers from all denominations.

Ms. Duke has been actively involved in many civic organizations. She is a member of the Historical Society of both Butler and Ohio Counties. She was involved in the Women's Civic League. She has contributed her energy and talents to many other organizations and projects in which she volunteered tirelessly.

Mr. President, Ms. Duke's church and community should be very pleased to have such an outstanding member. Her community owes her a debt of gratitude and I feel that she deserves much recognition for her accomplishments and contributions. It is impossible to list everything Ms. Duke has done to make western Kentucky a better place, but she is truly an outstanding person and I extend to her my congratulations on her many accomplishments.●

SOCIAL SECURITY AMENDMENTS

● Mr. ROCKEFELLER. Mr. President, I believe that many senior citizens will be confused by the floor debates and amendments on Social Security offered last week during debates on the unfunded mandates legislation, and in the future in regard to the balanced budget amendment. Such confusion is understandable. Both sides tend to claim to be protecting Social Security.

Last week, I voted for Senator HARKIN's amendment to the S. 1, the Unfunded Mandate Reform Act of 1995, instead of Senator KEMPTHORNE's amendment, because I believed that the language of the Harkin amendment was much stronger language to protect Social Security trust funds if a constitutional amendment to balance the budget is adopted.

Personally, I oppose a balanced budget amendment, and I hope that over the course, of time people will understand how such an amendment will affect programs that are vital to the citizens in their States and that such a balanced budget amendment will not be added to the Constitution.

But because the fate of a constitutional amendment to balance the budget remains unclear, the Harkin amendment is a very important symbol of the intention of the Senate not to jeopardize or play games with Social Security or use the Social Security trust fund in calculations to balance the budget.

I voted last week for Senator HARKIN's amendment which says that Social Security should be exempt in any calculations required by a balanced budget. I did it to protect the Social Security trust funds and to reassure senior citizens who rely on Social Security benefits. My record in fighting to protect Social Security and senior citizens is clear.●

HITTERS HALL OF FAME

● Mr. MACK. Mr. President, last year I had the privilege of speaking before the Senate on the occasion of the dedication of the Ted Williams Retrospective Museum and Library. I rise to speak today because on February 8 and 9 the Ted Williams Museum is opening the Hitters Hall of Fame and an 85-seat theater. Ted has specifically chosen the 20 greatest hitters of baseball to be inducted in the inaugural class. Each subsequent year, two more hitting greats will be inducted into the Hitters Hall of Fame. The inaugural class of inductees includes:

Babe Ruth, New York Yankees.
Lou Gehrig, New York Yankees.
Jimmie Foxx, Boston Red Sox.
Rogers Hornsby, Saint Louis Cardinals.
Joe DiMaggio, New York Yankees.
Ty Cobb, Detroit Tigers.
Stan Musial, Saint Louis Cardinals.
Joe Jackson, Chicago White Sox.
Hank Aaron, Milwaukee-Atlanta Braves.
Willie Mays, New York Giants.
Hank Greenberg, Detroit Tigers.
Mickey Mantle, New York Yankees.
Tris Speaker, Cleveland Indians.
Al Simmons, Philadelphia Athletics.
Johnny Mize, New York Giants.
Mel Ott, New York Giants.
Harry Heilmann, Detroit Tigers.
Frank Robinson, Baltimore Orioles.
Mike Schmidt, Philadelphia Phillies.
Ralph Kiner, Pittsburgh Pirates.

In addition to the annual induction of two new members, the Hitters Hall of Fame will recognize four active players, two from the National League and two from the American League, for their hitting prowess. This year the Hall would like to recognize Tony Gwynn, San Diego Padres, Jeff Bagwell, Houston Astros, from the National League; and Frank Thomas, Chicago White Sox, and Ken Griffey, Jr., Seattle Mariners, of the American League.

As you know, Mr. President, my family has a long history of association with major league baseball. It is a great honor for me to be able recognize these heroes of America's national pastime, and I am proud that their memories will live on in the Ted Williams Museum in Hernando, FL.●

EVERETT MCKINLEY DIRKSEN: PRAGMATIC CONSERVATIVE

● Mr. SIMON. Mr. President, Everett McKinley Dirksen of Pekin, IL, who served this body so well as the Republican leader of the U.S. Senate, was one of the most capable political figures of his time and of the modern era.

Historians generally acknowledge, for instance, that without Everett Dirksen's backing, such landmark legislation as the 1964 Civil Rights Act almost certainly would not have passed.

Thomas McArdle, offers an insightful profile of Everett Dirksen in a recent article published by Investor's Business Daily.

Mr. President, I call the attention of my colleagues to this article and ask that it be printed in the RECORD.

The article follows:

SEN. EVERETT DIRKSEN: HE EPITOMIZED THE NOTION OF ''PRAGMATIC CONSERVATISM''

(By Thomas McArdle)

Today, the country's most influential Republican leader, Speaker of the House Newt Gingrich, R–Ga., proclaims that he will cooperate with President Clinton, but is unwilling to compromise.

What a contrast to the late Senate Republican Leader Everett McKinley Dirksen, who was fond of replying to detractors who accused him of not standing for very much, ''If there were no compromise, there might not have been a Constitution of the United States.''

Dirksen is remembered as a honeytoned orator who could endear himself even to a hostile audience. His baggyclothes and unkept hair were legendary, but it was a rumpled, folksy image he deliberately cultivated.

Moreover, he was far from being just the colorful, lovable clown political cartoonists loved to peg him as. He may have been the senator who delivered an annual speech in praise of the marigold, but there was substance underneath of idiosyncracies.

Dirksen was both in 1896 in Pekin, Ill., part of Rep. Abraham Lincoln's congressional district in the 1840s. As a boy, Dirksen knew some old-timers in the town who actually knew Lincoln personally. His sentimentality towards Lincoln would pervade his speeches and statements all of Dirksen's career.

His parents were immigrants from Ostfriesland in northern Germany. His father, like many of his fellow German-immigrant and native-born neighbors in Pekin, had an unquestioning loyalty to the Republican Party unheard of today. Dirksen's middle name came from then-Ohio Governor William McKinley, soon to become the next Republican president. His twin brother was named after the sitting GOP speaker of the House and his older brother after the last Republic president, Benjamin Harrison.

When he was five, Dirksen's father suffered a debilitating stroke and the young sons were forced to work hard on the family's small farm. Rising before dawn each workday was a habit Dirksen would maintain all his life.

He displayed extraordinary political acumen early on, gaining his first term in the House of Representatives by beating a multimillionaire, five-term GOP incumbent in the party primary. He then handily defeated the Democratic challenger—in 1932, the year voters were so mad at Republicans for the Great Depression that Franklin Roosevelt won the presidency in a landslide and a national realignment in favor of the Democratic Party began. Dirksen won the district by almost as great a margin as Roosevelt.

Republican leaders were wary of him even this early. He had run a campaign aimed at garnering the votes of those who would be supporting FDR, and even praised Democratic candidates for other offices.

It was a pragmatism that would characterize Dirksen throughout his career. On his death in 1969, conservative columnist William F. Buckley, Jr., then much more a firebrand than today, would assess the senator in an otherwise glowing obituary as ''so much the pragmatist that you couldn't really count on him in a pinch.''

The Chicago Sun-Times once estimated that in his 17 years in the House of Representatives, Dirksen changed his mind 62 times on foreign policy, 31 times on military affairs, and 70 times on agriculture issues. Then, in the Senate he outdid that record.

His most famous about-faces were on the nuclear test-ban treaty and the Civil Rights Act. In the summer of 1963 he opposed the enactment of federal guarantees of the right of blacks to use any hotel, restaurant or other public accommodation on property rights grounds, the core of the proposal by President Kennedy, though he supported its other provisions.

The next year, with Johnson having replaced the assassinated JFK, some savvy maneuvering by Democrats for Republican support in the House forced Dirksen in the Senate to soften. He ended up becoming instrumental in passage of the Civil Rights Act, using his party to provide the margin of victory.

Sen. Richard Russell, D–Ga., ''says the Attorney General (Bobby Kennedy) has nailed my skin to the barn door to dry,'' Dirksen told a reporter in typical Dirksenesque language. ''Well, nobody has hung up my conscience and my sense of history to dry. Pardon me for the sermon.''

Dirksen also immediately opposed upon hearing about it the administration's treaty with the Soviet Union to ban nuclear tests in the atmosphere. But by September Dirksen realized that public support for the treaty was very strong. He ended up turning 180 degrees, supporting the test ban entirely, but only after he persuaded Kennedy to write a letter assuring that the U.S. nuclear weapons program would not be slowed down.

''They called him the Wizard of Ooze,'' recalled former National Review Publisher William A. Rusher, author of ''The Rise of the Right,'' a chronicle of conservatism's struggle to power in the GOP. But Dirksen's smoothness never seemed to leave him alienated from conservatives the way many of today's Republican ''pragmatists'' are. Much of that undoubtedly stemmed from his support of isolationist Sen. Robert Taft's R-Ohio, failed run for the party presidential nomination in 1952 and Dirksen's opposition to the Senate's censuring of Sen. Joseph McCarthy, R-Wis., in 1954 (though he severed relations with McCarthy very soon after that).

''Certainly, speaking as a conservative, I regarded Everett Dirksen as a friend and I think he would be delighted to see all that's happened,'' Rusher added.

Lee Edwards, president of the Center for International Relations and author of a soon-to-be-released biography of Barry Goldwater, noted that Dirksen had a strong role early on the Goldwater's rise to power.

On a trip to speak to the Arizona GOP, Dirksen personally took Goldwater aside and advised him to run for the U.S. Senate when the Arizonan was only a city councilman.

''Goldwater has admitted on more than one occasion that it did make a difference in his decision to run,'' according to Edwards.

His heavy smoking and drinking eventually caught up with Dirksen and he died of complications from lung cancer surgery in 1969. One of the three Senate office buildings across the street from the U.S. Capitol bears his name, the two others named after Democratic senators. He lay in state under the dome of the Capitol on the same black catafalque as Lincoln, then only the third senator so honored.●

TRIBUTE TO KATHERINE M. LIDDLE

● Mr. MCCONNELL. Mr. President, I want to pay tribute to Katherine M. Liddle who died in Reston, VA, on December 1, 1994. Mrs. Liddle was a longtime resident of Pineville, KY, and will be remembered and missed by many.

Mrs. Liddle was born in Oaks, KY. She was a graduate of Pineville High School and Union College in Barbourville, KY. Mrs. Liddle began teaching within the county system in a one-room school with six grades. In 1973 she began teaching the sixth grade at the Pineville Independent School where she finished her teaching career 20 years later.

Mrs. Liddle was the wife of the late James J. Liddle. She had one son, Jack, who now resides in Reston, VA. She was a long-time member of the First Baptist Church in Pineville, KY.

Mr. President, I ask that my colleagues join me in sending the Chamber's sincere condolences to the family of Katherine M. Liddle. I am confident that her strength of character will remain a standard of excellence for generations to come.●

HUMAN RIGHTS REPORT ON TIBET

● Mr. MOYNIHAN. Mr. President, today the Department of State has taken an important step toward recognizing the reality of the status of Tibet. The annual ''Country Reports on Human Rights Practices'' was released today and for the first time there is a separate section on Tibet.

For years there has been a fundamental difference in the way Congress and the executive branch have viewed Tibet. While the executive branch has attempted to obscure the fact that at one time we did support Tibet, Congress has stated its determination that Tibet is an occupied country. By separating the Tibet section from the China section on the human rights report, there is finally an acknowledgement that the administration recognizes Tibet as distinct from China.

This new Tibet section fulfills one aspect of a provision which I introduced and was later signed into law as part of the State Department authorization act for fiscal year 1994–95. While I do not agree with certain portions of the report on Tibet, it is not without merit, and its authors deserve respect as able diplomats.

This will send a clear signal to those in Beijing as well as those in Dharmsala, India where the Dalai Lama lives in exile, that the United States recognizes the special situation the Tibetans face. Those in Dharmsala have long known Congress supports them; now they can more clearly gauge the sentiments of the administration. This has been confusing. As the eminent journalist A.M. Rosenthal, who visited the Tibetans in exile in 1988, wrote:

> People in Dharmsala are understandably hazy about the intricacies of American government. They cannot quite get it straight how the Congress can be so warm to Tibet and the State Department and the White House make it clear that they intend to disregard Congress and continue the sellout of Tibet.

Perhaps this marks a new chapter in United States foreign policy in which support for the people of Tibet will no longer be hazy.●

LAWSUIT REFORM ACT

● Mr. MCCONNELL. Mr. President, I ask that the text of S. 300 be printed in the RECORD.

The bill follows:

S. 300

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 ''Lawsuit Reform Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Authority.
Sec. 5. Equity in legal fees.
Sec. 6. Early offer and recovery mechanisms.
Sec. 7. Reform of joint and several liability.
Sec. 8. Single recovery.
Sec. 9. Limitation on punitive damages.
Sec. 10. Alternative dispute resolution.
Sec. 11. Reliability of expert evidence.
Sec. 12. Express authorization for private right of action.
Sec. 13. Applicability.
Sec. 14. Severability.
Sec. 15. Effective date.

SEC. 3. FINDINGS.

The Congress finds that—

(1) the United States civil justice system is inefficient, unpredictable, costly, and impedes competitiveness in the world marketplace for business and employees;

(2) the defects in the civil justice system have a direct and undesirable effect on interstate commerce by decreasing the availability of goods and services in commerce;

(3) reform efforts should respect the role of the States in the development of civil justice rules, but recognize the national Government's role in removing barriers to interstate commerce;

(4) the spiralling cost of litigation has continued unabated for the past 30 years; and

(5) there is a need to restore rationality, certainty, and fairness to the legal system, to promote honesty and integrity within the legal profession, and to encourage alternative means to the contentious litigation system in resolving disputes.

SEC. 4. AUTHORITY.

This Act is enacted pursuant to Congress' powers under Article I, section 8, clauses 3, 9, and 18, of the United States Constitution.

SEC. 5. EQUITY IN LEGAL FEES.

(a) DISCLOSURE OF ATTORNEY'S FEES INFORMATION.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) the term ''attorney'' means any natural person, professional law association, corporation, or partnership authorized under applicable State law to practice law;

(B) the term ''attorney's services'' means the professional advice or counseling of or representation by an attorney, but such term shall not include other assistance incurred, directly or indirectly, in connection with an attorney's services, such as administrative or secretarial assistance, overhead, travel expenses, witness fees, or preparation by a person other than the attorney of any study, analysis, report, or test;

(C) the term ''claimant'' means any natural person who files a civil action arising under any Federal law or in any diversity action in Federal court and—

(i) if such a claim is filed on behalf of the claimant's estate, the term shall include the claimant's personal representative; or

(ii) if such a claim is brought on behalf of a minor or incompetent, the term shall include the claimant's parent, guardian, or personal representative;

(D) the term ''contingent fee'' means the cost or price of an attorney's services determined by applying a specified percentage, which may be a firm fixed percentage, a graduated or sliding percentage, or any combination thereof, to the amount of the settlement or judgment obtained;

(E) the term ''hourly fee'' means the cost or price per hour of an attorney's services;

(F) the term ''initial meeting'' means the first conference or discussion between the claimant and the attorney, whether by telephone or in person, concerning the details, facts, or basis of the claim;

(G) the term ''natural person'' means any individual, and does not include an artificial organization or legal entity, such as a firm, corporation, association, company, partnership, society, joint venture, or governmental body; and

(H) the term ''retain'' means the act of a claimant in engaging an attorney's services, whether by express or implied agreement, by seeking and obtaining the attorney's services.

(2) DECISION ON COMPENSATION.—A claimant who retains an attorney may elect whether to compensate the attorney's services in connection with the claim on an hourly basis or a contingent fee basis.

(3) DISCLOSURE AT INITIAL MEETING.—An attorney retained by a claimant shall, at the initial meeting, disclose to the claimant the claimant's right to elect the method of compensating the attorney's services and the claimant's right to receive a written statement of the information described under paragraph (5).

(4) RIGHT OF ATTORNEY.—If, within 30 days after receiving the information described under paragraph (5), a claimant has failed to elect the method of compensating the attorney's services, the attorney may select the method of compensation and shall notify the claimant of the selection.

(5) INFORMATION AFTER INITIAL MEETING.—Within 30 days after the initial meeting, an attorney retained by a claimant shall provide a written statement to the claimant containing—

(A) the estimated number of hours of the attorney's services that will be spent—

(i) settling or attempting to settle the claim or action; and

(ii) handling the claim through trial;

(B) the attorney's hourly fee for services in the claim or action and any conditions, limitations, restrictions, or other qualifications on the fee the attorney determines are appropriate; and

(C) the attorney's contingent fee for services in the claim or action and any conditions, limitations, restrictions, or other qualifications on the fee the attorney determines are appropriate.

(6) INFORMATION AFTER SETTLEMENT.—An attorney retained by a claimant shall, within a reasonable time not later than 30 days after the date on which the claim or action is finally settled or adjudicated, provide a written statement to the claimant containing—

(A) the actual number of hours of the attorney's services in connection with the claim;

(B) the total amount of the hourly fees or total contingent fee for the attorney's services in connection with the claim; and

(C) the actual fee per hour of the attorney's services in connection with the claim, determined by dividing the total amount of the hourly fees or the total contingent fee by the actual number of hours of attorney's services.

(7) FAILURE TO DISCLOSE.—A claimant to whom an attorney fails to disclose information required by this section may withhold 10 percent of the fee and file a civil action for damages in the court in which the claim or action was filed or could have been filed.

(8) OTHER REMEDIES.—This section shall supplement and not supplant any other available remedies or penalties.

(b) LIMITATION ON ATTORNEY CONTINGENT FEES.—

(1) DEFINITIONS.—For purposes of this subsection, the term—

(A) ''allegedly liable party'' means a person, partnership, corporation, and the insurers thereof, or any other individual or entity alleged by the claimant to be liable for at least some portion of the damages alleged by the claimant;

(B) ''claimant'' means an individual who, in his or her own right, or vicariously, is seeking compensation for tortious physical or mental injury, property damage, or economic loss;

(C) ''contingent fee'' means the fee negotiated in a contingent fee agreement which is only payable from the proceeds of any recovery on behalf of a claimant;

(D) ''contingent fee agreement'' means a fee agreement between an attorney and a claimant wherein the attorney agrees to bear the risk of no or inadequate compensation in exchange for a proportionate share of part of or all of any recovery by settlement or verdict obtained for the claimant;

(E) ''contingent fee attorney'' means an attorney who agrees to represent a claimant in exchange for a contingent fee;

(F) ''fixed fee'' means an agreement between an attorney and a claimant whereby the attorney agrees to perform a specific legal task in exchange for a specific sum to be paid by a claimant;

(G) ''hourly rate fee''—

(i) means the fee generated by an agreement or otherwise by operation of law between an attorney and a claimant stating that the claimant pay the attorney a fee determined by multiplying the hourly rate negotiated, or otherwise set by law, between the attorney and the claimant, by the number of hours that the attorney has worked on behalf of the claimant in furtherance of the claimant's interest; and

(ii) may also be a contingent fee to the extent it is only payable from the proceeds of any recovery on behalf of the claimant;

(H) ''pre-retention offer'' means an offer to settle a claim for compensation for damages arising out of a civil action made to a claimant not represented by an attorney at the time of the offer;

(I) ''post-retention offer'' means an offer in response to a demand for compensation made within the time constraints, and conforming to the provisions of this subsection, to settle a claim for damages arising out of a civil action made to a claimant who is represented by a contingent fee attorney;

(J) ''response'' means a written communication by a claimant or an allegedly responsible party or the attorney for either, deposited into the United States Mail and sent by certified mail; and

(K) ''settlement offer'' means a written offer of settlement stated in a response filed within the time limits described in this subsection.

(2) APPLICABILITY.—(A) This subsection shall apply with respect to any civil action filed against any person in any Federal or State court based upon any cause of action (including, but not limited to negligence, strict or product liability, breach of implied warranty or professional malpractice) in which damages are sought for tortious physical or mental injury, property damage, or economic loss, except a civil action arising under a Federal law that authorizes an award of attorney fees to a prevailing party.

(B)(i) Nothing in this section shall apply to any agreement between a claimant and an attorney to—

(I) retain the attorney on an hourly rate fee or fixed fee basis solely to evaluate a pre-retention offer; and

(II) retain the attorney to collect overdue amounts from an accepted pre-retention or post-retention settlement offer.

(ii) This subsection shall not apply to contingent fee agreements in civil actions where neither a pre-retention nor a post-retention offer of settlement is made.

(3) WRITTEN HOURLY RATE FEE AGREEMENT.—With respect to a civil action, if a contingent fee attorney has not entered into a written agreement with a claimant at the time of retention setting forth the attorney's hourly rate, then a reasonable hourly rate shall be payable, subject to the limitations described in this section.

(4) NATURE OF DEMAND FOR COMPENSATION.—(A) With respect to a civil action, at any time after retention, a contingent fee attorney shall, on behalf of the claimant, send a demand for compensation by certified mail to an allegedly responsible party.

(B) The demand for compensation under subparagraph (A) shall contain the material facts relevant to the civil action involved and a description of the evidence determined by the contingent fee attorney to be discoverable by the alleged liable party during the course of litigation, including—

(i) the name, address, age, marital status and occupation of the claimant or of the injured or deceased party if the claimant is operating in a representative capacity;

(ii) a brief description of how the damages arose;

(iii) the names and, if known, the addresses, telephone numbers, and occupations of all known witnesses;

(iv) copies of photographs in the claimant's possession which relate to the claim for damages;

(v) the basis for claiming that the party to whom the claim is addressed is at least partially liable for causing the injury;

(vi) if the claim for damages is based upon a physical or mental injury—

(I) a description of the nature of the injury, the names and addresses of all physicians, other health care providers, and hospitals, clinics, or other medical service entities that provided medical care to the claimant or injured party including the date and nature of the service; and

(II) medical records relating to the injury and those involving a prior injury or pre-existing medical condition which an allegedly liable party would be able to introduce into evidence in a trial or, in lieu thereof, providing executed releases allowing the allegedly responsible party to obtain such

records directly from the claimant's physicians, health care providers and entities that provided medical care; and

(vii) with respect to demand for a compensation that includes an amount for medical expenses, wages lost or other special damages suffered as a consequence of the injury, relevant documentation thereof, including records of earnings if a claimant is self-employed and employer records of earnings if a claimant is employed.

(C) A claimant's attorney shall provide copies of each demand for compensation under this paragraph to the claimant and to each allegedly liable party at the time of the dispatch of the demand for compensation. Where reproduction costs would be significant relative to the size of the settlement offer, the claimant's attorney, may, in the alternative, offer other forms of access to the materials, convenient and at reasonable cost to allegedly responsible party's attorney.

(D) A contingent fee attorney who fails to file a demand for compensation under this paragraph shall not be entitled to any fee greater than 10 percent of any settlement or judgment received by the claimant client after reasonable expenses have been deducted.

(5) TIME LIMIT FOR RESPONSE SETTING FORTH SETTLEMENT OFFER.—(A) An allegedly liable party shall have 60 days from the date of the receipt of a demand for compensation under paragraph (4) to issue a response stating a settlement offer.

(B) If within 30 days after the date of the receipt of a demand for compensation under paragraph (4), an allegedly liable party notifies the attorney of the claimant that such party seeks to have a medical examination of the claimant, and the claimant is not made available for such examination within 10 days after the date of the receipt of such a request, the 60-day period described under subparagraph (A) shall be extended by one day for each day that such request is not honored after the expiration of such 10-day period. Any such extension shall also include a further period of 10 days from the date of the completion of the medical examination.

(C) A response under this paragraph shall be open for acceptance for a minimum of 30 days from the date of the receipt of such response by the attorney of the claimant and shall state whether such response expires in 30 days or remains open for acceptance for a longer period or until notice of withdrawal is given.

(D) A settlement offer in a response under this subsection may be increased during the 60-day period described under subparagraph (A) by issuing an additional response.

(E) If an additional response has been sent under this paragraph, the time for acceptance shall be 10 days from the date of the receipt of such additional response by the attorney of the claimant or 30 days from the date of the receipt of the initial response, whichever is later, unless the additional response specifies a longer period of time for acceptance as described under subparagraph (C).

(6) MATERIAL TO ACCOMPANY SETTLEMENT OFFER.—An allegedly responsible party and the attorney of such party shall include in any response stating a settlement offer under paragraph (5) copies of materials in their possession concerning the claim upon which the allegedly liable party relied in making a settlement offer, except for material which such party believes in good faith would not be discoverable by the claimant during the course of litigation. Where reproduction costs would be significant relative to the size of the settlement offer, the allegedly responsible party, may, in the alternative, offer other forms of access to the materials, convenient and at reasonable cost to claimant's attorney.

(7) EFFECT OF PRE-DEMAND SETTLEMENT OFFER.—A settlement offer under this subsection to a claimant represented by a contingent fee attorney made prior to the receipt of a demand for compensation, which is open for acceptance for 60 days or more from the time of its receipt and which conforms to the requirements of paragraph (6), shall be considered a post-retention offer and shall have the same effect under this subsection as if it were a response to a demand for compensation.

(8) PRE-RETENTION OFFER.—(A) An attorney retained after a claimant has received a pre-retention offer under this subsection may not enter into an agreement with the claimant to receive a contingent fee based upon or payable from the proceeds of the pre-retention offer which remains in effect.

(B) An attorney entering a fee agreement that would effectively result in a claimant's paying a percentage of a pre-retention offer to the attorney for prosecuting the claim shall be considered to have charged an unreasonable and excessive fee. With respect to an attorney where a pre-retention offer has been provided—

(i) the attorney may contract with a claimant to receive an hourly rate fee or fixed fee for advising the claimant regarding the pre-retention offer; or

(ii) the attorney may contract with a claimant to receive a contingent fee applicable to any amount received by a claimant, by settlement or judgment, above the amount of the pre-retention offer.

(9) POST-RETENTION OFFER WHERE A PRE-RETENTION OFFER HAS BEEN MADE.—A claimant in receipt of a pre-retention offer under this subsection which such claimant has not accepted and who later receives a post-retention offer which is accepted, is not obligated to pay the retained attorney a fee greater than the hourly rate fee calculated on the basis of the number of hours the attorney has worked on behalf of claimant in furtherance of the claimant's claim, but not exceeding 20 percent of the excess of the post-retention offer less the pre-retention offer.

(10) POST-RETENTION OFFER WHERE NO PRE-RETENTION OFFER HAS BEEN MADE.—A claimant not in receipt of a pre-retention offer under this subsection who has received a post-retention offer which is accepted, is not obligated to pay the retained attorney a fee greater than the hourly rate fee calculated on the basis of the number of hours the attorney has worked on behalf of claimant in furtherance of claimant's claim, but not exceeding 10 percent of the first $100,000, plus 5 percent of any amount above $100,000, of the accepted post-retention offer after reasonable expenses have been deducted.

(11) CALCULATION OF ATTORNEY FEE WHEN THERE IS A SUBSEQUENT RESOLUTION OF THE CLAIM.—If an allegedly liable party's post-retention settlement offer under this subsection is rejected, but a later settlement offer is accepted, or there is a judgment in favor of claimant, the claimant, irrespective of any pre-retention offer, is not obligated to pay the retained attorney a fee greater the sum of—

(A) the amount of the fee that would have been calculated under paragraph (10) had the post-retention offer been accepted but only as applied to the subsequent settlement offer or judgment up to the amount of the post-retention offer; and

(B) the product of multiplying the contingent fee percentage negotiated between the contingent fee attorney and claimant and the amount by which the subsequent settlement or judgment exceeds the post-retention offer, after reasonable expenses have been deducted.

(12) PROVISION OF CLOSING STATEMENT.—Upon receipt of any settlement or judgment under this subsection, and prior to disbursement thereof, a contingent fee attorney shall provide the claimant with a written statement detailing how the proceeds are to be distributed, including the amount of the expenses paid out or to be paid out of the proceeds, the amount of the fee, how the fee amount is calculated, and the amount due the claimant.

(13) EFFECT ON CONTRAVENING AGREEMENTS.—(A) A contingent fee attorney who enters into a fee agreement with a claimant which violates the provisions of this subsection is deemed to have charged an unreasonable and excessive fee.

(B) A claimant who has entered into an agreement with a contingent fee attorney which violates the provisions of this subsection is entitled to recover from the attorney any reasonable fees and costs incurred to establish such agreement violated the provisions of this subsection.

(C) The failure by the claimant's attorney, or the attorney for an alleged responsible party, to comply with the provisions of this subsection may be considered grounds for disciplinary proceedings and sanctions as determined appropriate by the licensing or regulatory agency or court of the State in which the claim arose.

(c) AMENDMENT TO THE FEDERAL RULES OF CIVIL PROCEDURE.—Rule 11(c) of the Federal Rules of Civil Procedure is amended—

(1) in the matter preceding paragraph (1) by striking out ''may'' and inserting in lieu thereof ''shall'';

(2) in subdivision (1)(A) in the third sentence by striking out ''may'' and inserting in lieu thereof ''shall''; and

(3) in paragraph (2)—

(A) by amending the first sentence to read as follows: ''A sanction imposed for a violation of this rule shall be sufficient to deter repetition of such conduct or comparable conduct by others similarly situated and to compensate the parties that were injured by such conduct.''; and

(B) in the second sentence by striking '', if imposed on motion and warranted for effective deterrence,''.

(d) PREVAILING PARTY COSTS AND ATTORNEYS' FEES.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in any civil action filed against any person in any Federal or State court, based on any cause of action (including, but not limited to negligence, strict or product liability, breach of implied warranty or professional malpractice) in which damages are sought for tortious physical or mental injury, property damage, or economic loss the court may award each prevailing party costs and reasonable attorneys' fees.

(2) AMOUNT OF AWARD.—An award of costs and reasonable attorneys' fees under paragraph (1) may not exceed—

(A) the actual cost incurred by the nonprevailing party or the attorneys' fee payable for services in connection with such civil action; or

(B) if no such cost was incurred by the nonprevailing party due to a contingency fee agreement, an amount equal to the reasonable costs that would have been incurred by the nonprevailing party for a noncontingent attorneys' fee payable for services in connection with such civil action.

(3) LIMITATION.—

(A) Notwithstanding paragraph (1) or (2), the court shall not award an attorney's fee in any case in which the nonprevailing party—

(i) had a taxable income of less than $75,000 in the calendar year preceding the calendar year in which the civil action was filed, if the nonprevailing party is an individual; or

(ii) had an average taxable income of less than $50,000 for the 3 calendar years preceding the calendar year in which the civil action was filed, if the nonprevailing party is not an individual.

(B) The court shall retain discretion to refuse to award or may reduce the amount awarded as an attorney's fee under paragraph (1) to the extent the court finds would be in the interests of justice.

SEC. 6. EARLY OFFER AND RECOVERY MECHANISMS.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1659. Early offer and recovery mechanisms

''(a) For purposes of this section:

''(1) The term 'allegedly liable defendant' means a person, partnership, or corporation alleged by the claimant to be responsible for at least some portion of an injury alleged by a claimant.

''(2) The term 'allowable expense' means reasonable expenses incurred for products, services, and accommodations reasonably needed for medical care, training, and other remedial treatment and care of an injured individual.

''(3) The term 'claimant' means an individual who, in his or her own right, or vicariously, is seeking compensation for tortious physical or mental injury, property damage or economic loss.

''(4) The term 'collateral benefits' means all benefits and advantages received or entitled to be received (regardless of the right of recoupment of any other entity, through subrogation, trust agreement, lien, or otherwise) by an injured individual or other entity as reimbursement of loss because of personal injury, payable or required to be paid—

''(A) in accordance with the laws of any State or the Federal Government (other than through a claim for breach of an obligation or duty);

''(B) under the terms of any health or accident insurance, wage or salary continuation plan, or disability income insurance; or

''(C) in discharge of familial obligations or support.

''(5) The term 'economic loss' means—

''(A) pecuniary loss and monetary expenses incurred by or on behalf of an injured individual as a result of tortious physical or mental injury, property damage, or economic loss, including allowable expenses, work loss, and replacement services loss, whether caused by pain and suffering or physical impairment, but not including noneconomic loss; minus

''(B) collateral benefits.

''(6) The term 'entity' includes an individual or person.

''(7) The term 'intentional misconduct' means conduct, whether by act or omission, which intentionally causes, or attempts to cause, by the one who acts or fails to act, injury or with knowledge that injury is substantially certain to follow. A person does not intentionally cause, or attempt to cause, injury if such party's act or failure to act is for the purpose of averting bodily harm to such party or another.

''(8) The term 'replacement services loss' means reasonable expenses incurred in obtaining ordinary and necessary services from others, not members of the injured individual's household or family, in lieu of those the injured individual would have performed for the benefit of the household or family, but does not include benefits received by the injured individual.

''(9) The term 'serious injury' means bodily injury which results in dismemberment, significant and permanent loss of an important bodily function, or significant and permanent scarring or disfigurement.

''(10) The term 'wanton conduct' means conduct that the allegedly responsible party must have realized was excessively dangerous, done heedlessly and recklessly, and with a conscious disregard to the consequences or the rights and safety of the claimant.

''(11) The term 'work loss' means loss of income from work the injured individual would have performed if the individual had not been injured, reduced by any income from substitute work actually performed by the individual or by income the individual would have earned in available appropriate substitute work that the individual was capable of performing but unreasonably failed to undertake.

''(b)(1) In any civil action or claim against any person, filed in any Federal or State court, based on any cause of action to recover damages or compensation for tortious physical or mental injury, property damage, or economic loss, any allegedly liable defendant shall have the option to offer, not later than 120 days after an injury or after the initiation of the liability claim, to compensate a claimant for reasonable economic loss, including future economic loss, less amounts available from collateral sources, and including reasonable hourly attorneys' fees for the claimant. A claimant who agrees in writing to such offer shall be foreclosed from bringing or continuing a civil action against any allegedly liable defendant and any other individuals or entities included under subsection (c). The claimant may extend the time for receiving the offer.

''(2) Nothing in this section shall preclude a State from enacting a requirement that compensation benefits offered under paragraph (1) shall include a minimum dollar amount in response to a claim for serious injury.

''(c) An offer under subsection (b) may include other allegedly liable defendants, individuals, or entities that were involved in the events which give rise to the civil action, regardless of the theory of liability on which the claim is based, with their consent.

''(d) Future economic damages shall be payable to an individual under this section as such damages occur.

''(e) If, after an offer is made under subsection (b), the participants in the offer dispute their relative contributions to the payments to be made to the individual, such disputes shall be resolved through binding arbitration in accordance with applicable rules and procedures established by the Attorney General of the United States.

''(f)(1) In no event shall a civil action be foreclosed under subsection (b) against any allegedly liable party if the injured individual elects to prove, beyond a reasonable doubt, that the allegedly liable party caused the injury by intentional or wanton misconduct.

''(2) This subsection shall not apply with respect to a personal injury unless the injured individual provides the allegedly liable party making an offer with a notice of such an election not later than 90 days after the date the offer of compensation benefits was made.

''(g) Nothing in this section shall be construed to effect any applicable statute of limitations of any State or of the United States.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

''1659. Early offer and recovery mechanisms.''.

SEC. 7. REFORM OF JOINT AND SEVERAL LIABILITY.

(a) DEFINITION.—As used in this section, the term ''concerted action'' or ''acting in concert'' means the participation in joint conduct by 2 or more persons who agreed to jointly participate in such conduct with actual knowledge of the wrongfulness of the conduct.

(b) IN GENERAL.—(1) Except as provided under subsection (c), joint and several liability may not be applied to any civil action or claim against any person, filed in any Federal or State court, based on any cause of action to recover damages or compensation for tortious physical or mental injury, property damage, or economic loss.

(2) A person found liable for damages in any such action—

(A) may be found liable, if at all, only for damages directly attributable to the person's pro rata share of fault or responsibility; and

(B) may not be found liable for damages attributable to the pro rata share of fault or responsibility of any other person (without regard to whether that person is a party to the action), including any person filing the action.

(c) LIMITATION.—This section shall not apply to persons acting in concert where the concerted action proximately caused the injury for which one or more persons are found liable for damages.

SEC. 8. SINGLE RECOVERY.

(a) INADMISSIBLE EVIDENCE.—In any civil action or claim against any person, filed in any Federal or State court, based on any cause of action to recover damages or compensation for tortious physical or mental injury, property damage, or economic loss, the court shall not allow the admission into evidence of proof of economic losses that have been or will be paid by—

(1) Federal, State, or other governmental disability, unemployment, or sickness programs;

(2) Federal, State, or other governmental or private health insurance programs;

(3) private or public disability insurance programs;

(4) employer wage continuation programs;

(5) any other program or compensation system, if the payment is intended to compensate the claimant for the same injury or disability which is the subject of the claim; or

(6) persons other than family members of the claimant.

(b) ADMISSIBLE EVIDENCE.—Only evidence of economic loss that has not or will not be paid by the sources described under subsection (a) shall be admissible in an action or claim covered by this section.

(c) ELIMINATION OF SUBROGATION.—An entity that is the source of the payments for losses that are inadmissible under subsection (a)—

(1) shall not recover any amount against the claimant;

(2) shall not be subrogated to the rights of the claimant against the defendant; and

(3) shall not have a lien against the claimant's judgment, on account of its payment to the claimant for economic loss.

(d) PRETRIAL DETERMINATION.—The determination of whether a claimant seeking damages or compensation has received, will receive, or is entitled to receive, payment from any one or more sources described under subsection (a) (1) through (6) shall be made by the court in pretrial proceedings.

SEC. 9. LIMITATION ON PUNITIVE DAMAGES.

(a) IN GENERAL.—Except as provided under section 1977A of the Revised Statutes (42 U.S.C. 1981a), the amount of punitive damages that may be awarded in any civil action or claim filed in any Federal or State court,

based on any cause of action to recover damages or compensation for tortious physical or mental injury, property damage, or economic loss shall not exceed the greater of—

(1) 3 times the amount awarded to the claimant for the economic injury on which such claim is based; or

(2) $250,000.

(b) APPLICATION BY COURT.—This section shall be applied by the court and shall not be disclosed to the jury.

SEC. 10. ALTERNATIVE DISPUTE RESOLUTION.

(a) GENERAL POLICY.—The policy of the United States is to encourage the creation and use of alternative dispute resolution techniques, and to promote the expeditious resolution of such actions, because the traditional litigation process is not always suited to the timely, efficient, and inexpensive resolution of civil actions.

(b) NOTICE OF AVAILABILITY OF ALTERNATIVE DISPUTE RESOLUTION.—In any civil action or claim arising under any Federal law or in any diversity action in Federal court, each attorney who has made an appearance in the case and who represents one or more of the parties to the action shall, with respect to each party separately represented, advise the party of the existence and availability of alternative dispute resolution options, including extra judicial proceedings such as minitrials, third-party mediation, court supervised arbitration, and summary jury trial proceedings.

(c) CERTIFICATION OF NOTICE.—Each attorney described under subsection (b) shall, simultaneous with the filing of a complaint or a responsive pleading, file a certification to the court that the attorney has provided the notice required under subsection (b) to the client or clients of such attorney. The attorney shall state in the certification whether such client will agree to one or more of the alternative dispute resolution techniques.

(d) AGREEMENT TO PROCEED WITH ALTERNATIVE DISPUTE RESOLUTION.—If all parties to an action agree to proceed with one or more alternative dispute resolution proceedings, the court shall issue an appropriate order governing the conduct of such proceedings. The issuance of an order governing the proceedings shall constitute a waiver, by each party subject to the order, of the right to proceed further in court.

SEC. 11. RELIABILITY OF EXPERT EVIDENCE.

Rule 702 of the Federal Rules of Evidence is amended—

(1) by striking out ''If'' and inserting in lieu thereof ''(a) IN GENERAL.—Subject to subsection (b), if''; and

(2) by adding at the end thereof the following:

''(b) ADEQUATE BASIS FOR OPINION.—Testimony in the form of an opinion by a witness that is based on scientific knowledge shall be inadmissible in evidence unless the court determines that such opinion is—

''(1) based on scientifically valid reasoning; and

''(2) sufficiently reliable so that the probative value of such evidence outweighs the dangers specified under rule 403.

(c) EXPERT OPINIONS ON NOVEL SCIENTIFIC PRINCIPLES OR DISCOVERIES.—Where testimony in the form of an opinion by a witness is sought to be used to establish a novel scientific principle or discovery, it shall be admissible only if the principle or discovery, or its scientific underpinning, is sufficiently established to have gained general acceptance in the field in which it belongs.

''(d) DISQUALIFICATION.—Testimony by a witness who is qualified as an expert under subsection (a) is inadmissible in evidence if such witness is entitled to receive any compensation directly or indirectly contingent on the legal disposition of any claim with respect to which such testimony is offered.''.

SEC. 12. EXPRESS AUTHORIZATION FOR PRIVATE RIGHT OF ACTION.

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

''§ 1368. Private right of action

''No district court shall have jurisdiction over any civil action filed by a party based on a private right of action, unless such private right of action is expressly authorized in the statute on which such action is based.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new item:

''1368. Private right of action.''.

(c) STATE COURTS.—No Federal statute shall be construed to give rise to a private right of action in a State court, unless such private right of action is expressly authorized in the statute on which such action is based.

SEC. 13. APPLICABILITY.

(a) PREEMPTION.—This Act shall preempt and supersede other Federal or State laws only to the extent any such law is inconsistent with this Act. This Act shall not preempt any Federal or State law that provides for defenses in addition to those contained in this Act, places greater limitations on the amount of attorney's fees that can be collected, or additional disclosure requirements upon attorneys, or otherwise imposes restrictions on economic, noneconomic, or punitive damages. Any issue arising under this Act that is not governed by the provisions of this Act shall be governed by applicable Federal or State law.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign or of a citizen of a foreign nation on the ground of inconvenient forum.

(c) STATE ELECTION REGARDING APPLICABILITY.—A provision of this Act shall not apply to a State if such State enacts a statute—

(1) citing the authority of this subsection; and

(2) declaring the election of such State that such provision shall not apply to the State.

SEC. 14. SEVERABILITY.

If any provision of this Act or the application of any such provision to any person or circumstance is held invalid, the remainder of this Act and the application of any provision to any other person or circumstance shall not be affected thereby.

SEC. 15. EFFECTIVE DATE.

This Act shall take effect and apply to claims or actions filed on and after the date occurring 30 days after the date of enactment of this Act.●

ORDERS FOR THURSDAY, FEBRUARY 2, 1995

Mr. HATCH. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Thursday, February 2, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak for not more than 5 minutes each, with the following Senators to speak for up to the designated times: Senator MURKOWSKI, 20 minutes; Senator CONRAD, 15 minutes; Senator DORGAN, 10 minutes; Senator CAMPBELL, 10 minutes.

I further ask unanimous consent that at 10:30 a.m. the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

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

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. HATCH. If there is no further business to come before the Senate and no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess as under the previous order.

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

There being no objection, the Senate, at 5:31 p.m., recessed until Thursday, February 2, 1995, at 9:30 a.m.